



Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington DC 20590

DEPARTMENT OF TRANSPORTATION

APPLICATION

2011 GRANT PROGRAM IN SUPPORT OF NATURAL GAS PIPELINE SAFETY

The NORTH DAKOTA PUBLIC SERVICE COMMISSION hereby applies to the Department of Transportation for Federal funds appropriated for the support of Pipeline Safety Programs established under 49 U.S.C. Section 60101 et seq.

The State Agency:

Intends to submit an annual certification for calendar year 2011 to the Secretary of Transportation under 49 U.S.C. Section 60105.

The state agency plans to carry out the Pipeline Safety Program, during calendar year 2011, as described in Attachment 1, "Description of State Pipeline Safety Program". To accomplish the program, the state agency proposes to expend funds as set forth in Attachment 2, "Pipeline Safety Program Estimated Budget".

Patricia Jahn

Signature

Director, Compliance and Competitive Markets

Title

9/27/2010

Date

1 GS-10-591 Filed: 9/27/2010 Pages: 34
2011 Federal-State Gas Pipeline Safety Grant
Application

Public Service Commission

Description of State Pipeline Safety Program

Please provide a detailed description of the state's planned pipeline program for 2011

The North Dakota Public Service Commission will continue to administer the USDOT, PHMSA's Gas Pipeline Safety Program.

Staff:

North Dakota began to utilize the service of one full-time gas pipeline safety inspector beginning June 14, 2010. It is expected that this inspector will devote the equivalent of one man-year to the State's Gas Pipeline Safety Program. This inspector is attached to the Compliance and Competitive Markets Division and supervised by its director. This inspector also serves as the gas safety program manager.

Inspector Training:

The inspector is scheduled for the following training at TQ, Oklahoma City, Oklahoma:

1. PL-1250_Safety Evaluation of Gas Pipeline Systems on December 6-10, 2010.
2. PL-1297_Gas Integrity Management Protocol on January 11-14, 2011.
3. PL-3256_Pipeline Failure Investigation Techniques on February 7-11, 2011.
4. PL-3254_Joining of Pipeline Materials on February 28-March 4, 2011.
5. PL-3257_Pipeline Safety Regulation Application and Compliance Procedures on March 21-25, 2011.
6. PL-1255_Gas Pressure Regulation and Overpressure Protection on April 19-21, 2011.
7. PL-3296_Pipeline Reliability Assessment on April 26-27, 2011.
8. PL-3306_External Corrosion Direct Assessment on May 10-13, 2011.
9. PL-3291_Fundamentals of SCADA System Technology and Operation on July 18-22, 2011.

The inspector is also on the waitlist for the following training at TQ, Oklahoma City, Oklahoma:

1. PL-1245_Safety Evaluation of Distribution Integrity Management Programs
2. PL-3292_Safety Evaluation of Inline Inspection/Pigging Programs on June 6-10, 2011.
3. PL-3293_Corrosion Control Pipeline Systems on June 13-17, 2011.

Inspection Parameters:

The following briefly outlines the different types of gas pipeline safety inspections, how often they will be conducted, and on what type of operator:

Each active gas operator (intrastate transmission, gathering, or distribution) will receive one comprehensive records inspection per year (including any applicable OQ Element 9 inspections), as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator/inspection unit will receive one design, testing and construction inspection per year (one for the operator's staff, and, if time permits, one inspection for each contractor). All other operators will be monitored for construction activity and inspected if and when any such projects are scheduled as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator/inspection unit may receive any combination of the following compliance

inspections, as often as necessary within any one year period: leak surveying, corrosion control, overpressure protection/MAOP, district regulator stations, master meter jurisdiction investigation, and propane jurisdiction investigation, farm tap inspection, or meter set inspection. Necessity for any of the above special field inspections shall be determined during the annual comprehensive records inspection of each operator as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator (other than propane or master meter operators) may receive a comprehensive inspection of its written Drug and Alcohol Use Prevention Plan at least once every four years (a review of an operator's knowledge of its Plan will be done annually during the comprehensive records inspection), as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator, after having received an initial comprehensive inspection may then receive additional comprehensive inspections of its Operation and Maintenance/Emergency Response Plan/ Operator Qualification Plan/Integrity Management Plan, as stated in the Commissions Gas Pipeline Safety Inspection Plan. However, any changes made to those plans will be reviewed on an ongoing basis.

Follow-up inspections may be conducted on all active operators/inspection units on a case by case basis, and as often as necessary to ensure compliance.

The Commission will make its inspector available to OPS Central Region on a per project basis as requested by OPS for the purpose of conducting design, testing and construction inspection on any new interstate gas or liquid lines; or for other work on these systems as specified in the federal/state MOU.

Other Parameters:

Operators will be selected for inspection based upon the following criteria:

1. date elapsed since last inspection;
2. history of violations;
3. any special projects or activities being scheduled;
4. reasonable seasonal rotation; or
5. as set forth in the division's Gas Pipeline Safety Inspection Plan

Operator Training:

On-site operator training will either be scheduled as requested by each individual operator, or as determined by a gas pipeline safety inspector. The joint TQ/NDPSC operator training seminar will be scheduled at least once every two years (coordination with the State of South Dakota has been established in order to provide a joint TQ/State seminar to North Dakota operators at least once every two years).

Incidents:

Incidents, as defined in 49 CFR Part 191.3, will continue to be thoroughly investigated at the earliest possible response time as set forth in the Commissions Gas Pipeline Safety Inspection Plan; and, quickly reported to PHMSA, Central Region. In addition, Commission gas pipeline safety inspector will be available to assist PHMSA/NTSB investigators not only on intrastate gas distribution/transmission systems, but any other pipeline system jurisdictional to PHMSA.

Record Keeping:

The Program Manager will maintain the following computerized gas safety records:

- a) Year-to-date tally reports of the gas safety program, which includes the operator name and address, type of inspection, date(s) of inspection, number of inspection units and person days assigned to the inspection, number and date of probable violations and proposed compliance orders issued, number and amount of civil penalties proposed, number of violations found or rescinded by the Commission, number and amount of civil penalties assessed by the Commission, date civil penalties were collected,

date(s) of various orders issued in the case, any pertinent comments about the case, and the total number of Warning Letters issued;

b) A 10-year history by operator of gas safety violations found by the Commission for all jurisdictional natural gas and propane operators in the state; and

c) Document forms for the following:

- 1) notice of probable violation and cover letter;
- 2) warning letter; and
- 4) all types of inspection forms.

In addition to the above records, the Program Manager will also maintain "in" and "out" correspondence files, staff training files, budget files, purchase files, division safety inspection files, monthly time summary, mileage logs, and any other records deemed necessary by the Commission.

All record retentions shall conform to NDCC 54-46-05.

Damage Prevention:

On August 12, 2009, the Commission began enforcement of the State's excavation damage laws. The Commission has the ability to receive written complaints from utility operators, excavators, and members of the public; process those complaints under various applicable sections of the North Dakota Century Code; administer civil penalties; and keep records as required. The Commission will liaison with the ND One-Call Board during any complaint case. A ND Damage Prevention Plan was developed and approved by the Commission under the requirements of the ND Damage Prevention Law, under 49 CFR Part 192 and under 49 CFR Part 198; the nine elements of the PIPES Act; and the best practices of the Common Ground Alliance. The gas pipeline safety inspector will administer training on this program to the various stakeholders and the public in conjunction with the ND One-Call Board as so directed by the Commission.

Pipeline Safety Program Estimated Budget - Calendar Year 2011

DIRECT COSTS

Compensation for Personnel Services (A-87 #8)

A.	Supervisory personnel who are directly engaged in the administration of the Pipeline Safety Program.....	\$9,100.00
A1.	Supervisory fringe benefits.....	\$2,800.00
B.	Inspection/Investigation personnel who conduct pipeline safety inspections, failure investigations and review plans, etc.....	\$52,100.00
B1.	Inspection/Investigation fringe benefits.....	\$18,700.00
C.	Administrative personnel whose duties are directly related to the Pipeline Safety Program.....	\$4,600.00
C1.	Administrative fringe benefits.....	\$1,900.00
D.	Damage Prevention/Technical personnel include damage prevention personnel, GIS personnel and other technical personnel directly related to the pipeline safety program.....	\$0.00
D1.	Damage Prevention/Technical fringe benefits.....	\$0.00

Activities

Audit costs and related services (A-87 #04).....	\$0.00
Communication costs (A-87 #07).....	\$900.00
Maintenance, operations and repairs (A-87 #25).....	\$0.00
Memberships, Subscriptions and professional activity costs (A-87 #28).....	\$150.00
*Professional Services(i.e. Studies and Research) (A-87 #32).....	\$200.00
Publication and printing costs (A-87 #34).....	\$1,200.00
Rental costs of building and equipment (A-87 #37).....	\$0.00
Training and Education (A-87 #42).....	\$15,000.00
Travel Costs (A-87 #43).....	\$18,000.00

Materials

*Motor Vehicles (A-87 #15).....	\$0.00
*Office Equipment (A-87 #15).....	\$1,500.00
Safety Clothing (A-87 #26).....	\$300.00
Supplies (A-87 #26).....	\$750.00
*Testing Equipment(A-87 #15).....	\$0.00

Other(Specify):

INDIRECT COSTS (A-87 Attachment C, D, E)

Indirect costs incurred by State Agency(i.e. Public Utilities Commission, Public Service Commission, State Corporation Commission).	\$8,920.00
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TOTAL ESTIMATED COSTS	\$136,120.00
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*Please see next page for details if applicable.

Budget Page Notes

Contracts, Subcontracts and Subgrants:

By October 1, 2010, agencies must have in place a framework to collect and report to USAspending.gov information pertaining to subcontracts and subgrants as mandated by the Federal Funding Accountability and Transparency Act (Public Law 109-282). In order to comply with this order, it is required that any subcontracts and subgrants awarded by the State Agency be reported to PHMSA within 30 days of award. This information will be collected electronically in FedSTAR starting in 2011, until that time hardcopies of awarded subcontracts and subgrants should be sent to:

ATTN: GWENDOLYN M. HILL
U.S. Department of Transportation
Pipeline & Hazardous Materials Safety Administration Pipeline Safety, PHP-50
1200 New Jersey Avenue, SE Second Floor E22-321
Washington, D.C. 20590

Standard General Assurances

The Applicant hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements, including EO 12372, if applicable, A-102, A-110, and applicable cost principles, as they relate to the application, acceptance, and use of Federal funds for this Federally assisted project. Also, the Applicant assures and certifies that it will comply with all requirements imposed by the Federal grantor agency concerning special requirements of the law, program requirements, and other administrative requirements. In addition, the Applicant assures and certifies with respect to the grant that:

1. It possesses legal authority to apply for the grant; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the Applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representatives of the Applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with:
 - a. Title VI of the Civil Rights Act of 1964 (PL 88-352, 42 USC 2000-d), which prohibits discrimination on the basis of race, color, or national origin, in programs and activities receiving Federal financial assistance.
 - b. Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance.
 - c. The Age Discrimination Act of 1975 enacted as an amendment to the Older Americans Act (PL 94-135), which prohibits unreasonable discrimination based on age in the delivery of services and benefits supported with Federal funds.
 - d. Title IX of the Education Amendments of 1972 (20 USC 1681, et seq.), which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by the educational institution).
3. Should grantee's actions result in the relocation of person pursuant to the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (PL 91-646; USC 4601, et seq.), it will provide for fair and equitable treatment of persons displaced as a result of Federal and Federally assisted programs as required by the Act.
4. It will comply with the provision of the Hatch Act which limits the political activity of State and local government employees.
5. It will comply with the minimum wage and maximum hours of the Federal Fair Labor Standards Act (29 USC 201) as they apply to employees of institutions of higher education, hospitals, other nonprofit organizations, and to employees of State and local governments who are not employed in integral operations in areas of traditional government functions.
6. It will establish safeguards to prohibit employees from using their positions for a purpose that is, or gives the appearance of being, motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
7. It will give Federal grantor or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, documents, related to grant, including the records of contractors and subcontractors performing under the grant.

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8. It will ensure, pursuant to Executive Order 11738, that the facilities under its ownership, lease, or supervision, which shall be utilized in the accomplishments of the project are not listed on the Environmental Protection Agency (EPA) list of violating facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

9. It will comply, to the extent possible, with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857, et seq.), and Section 308 of the Federal Water Pollution Control Act (33 USC 1251, et seq.), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder.

10. It will comply with provisions of Executive Order 11990, relating to protection of wetlands.

11. It will comply with provisions of Executive Order 11988, relating to floodplain management.

12. It will comply with standards for environmental quality control that may be prescribed pursuant to responsibilities of the Federal Government under the National Environmental Policy Act of 1996 (PL 91-190) and Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991.

13. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (PL 93-234, 42 USC 4106 and 4128, 87 Stat. 975), which requires on or after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. (The phrase 'Federal financial assistance' includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.)

14. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 USC 469a-1, et seq.), by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR 800.8) by the grantee's activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

15. It will comply with PL 93-348 as implemented by Part 46 of Title 45 (45 CFR 46, 42 USC 2891) regarding the protection of human subjects involved in research, development, and related activities supported by the grant.

16. It will comply with the Laboratory Animal Welfare Act of 1966 (PL 89-544, as amended, 7 USC 2131, et seq.) and regulations promulgated thereunder by the Secretary of Agriculture (9 CFR Subchapter H) pertaining to the care, handling and treatment of warm blooded animals held or used for research, training, or activities supported by Federal awards.

17. It will comply with the equal opportunity clause prescribe by Executive Order 11246, as amended, and will require that its subrecipients include the clause in all construction contracts and subcontractors which have or are expected to have an aggregate value within a 12-month period exceeding \$10,000, in accordance with Department of Labor regulations at 41 CFR Part 60.

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18. It will include, and will require that subrecipients include, the provision set forth in 29 CFR 5.5(c) pertaining to overtime and unpaid wages in any nonexempt nonconstruction contract which involves the employment of mechanics and laborers (including watchman, guards, apprentices, and trainees) if the contract exceeds \$2,000.

19. It will arrange to have the required financial and compliance audit made within the prescribed audit reporting cycle, and agrees that failure to furnish an acceptable audits as determined by the cognizant Federal audit agency may be basis for denial and /or refunding of Federal funds.

The person or persons whose signature(s) appear(s) below is/are authorized to sign this application, and to commit the Applicant to the above provisions.

Name and Address of Organization	<u>North Dakota</u> <u>NORTH DAKOTA PUBLIC SERVICE COMMISSION</u> <u>600 E Boulevard 12th Fl</u> <u>Bismarck, ND 58505-0480</u>
Title of the Official	<u>Director, Compliance & Competitive Markets</u>
Signature of the Official	<u>Patrick John</u>
Date	<u>9/27/2010</u>

Standard DOT Title VI Assurance

The (Title of Recipient) (hereinafter referred to as the 'Recipient') HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000-42, USC 2000d 4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation --Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of , or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance for the Department of Transportation, including the Pipeline and Hazardous Materials Safety Administration and HEREBY GIVES ASSURANCES THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) of the Regulations, a copy of which is attached (Attachment 4 (a)).

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to the Pipeline Safety Grant Program:

1. The Recipient agrees that each 'program' and each 'facility' as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to 'program') conducted, or will be (with regard to a 'facility') operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with the Pipeline Safety Grant Program and, in adapted form, in all proposals for negotiated agreements:

The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat./252, 42 USC 2000d to 2000-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. That the Recipient shall insert clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.
4. That the Recipient shall insert clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.

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7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Pipeline Safety Grant Program; and (b) for the construction or use of or access to space on, or under real property acquired or improve under the Pipeline Safety Grant Program.

8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures of improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services of benefits; or (b) the period during which the Recipient retains ownership or possession of the property.

9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable Guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed of pursuant to the Act, the Regulations, and this assurance.

10. The Recipient agrees that the United States has right to seek judicial enforcement with regard to any matter arising under the Act, Regulations, and this assurance.

THIS ASSURANCE is given consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date of hereof to the Recipient be the Department of Transportation under the Pipeline Safety Grant Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants in the Pipeline Safety Grant Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the recipient.

Dated 9/27/2010

North Dakota
NORTH DAKOTA PUBLIC SERVICE COMMISSION

Recipient



(Signature of Authorized Official)

Appendix A
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APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the 'contractor') agrees as follows:

1. **Compliance with Regulations:** The contractor shall comply with the Regulations relative to Nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter, 'DOT') Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases or equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurement of Material and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of material or leases equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (Recipient) or the Pipeline and Hazardous Materials Safety Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the (Recipient), or the Pipeline and Hazardous Materials Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (Recipient) shall impose such sanctions as it or the Pipeline and Hazardous Materials Safety Administration may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs 1 through 6 in every subcontractor, including procurement of materials and leases of equipment unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the (Recipient) or the Pipeline and Hazardous Materials Safety Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (Recipient) to enter into such litigation to protect the interest of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

APPENDIX B

A. The following clauses shall be included in any and all deeds affecting or recording the transfer of real property, structures, or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program) and the policies and procedures prescribed by the Pipeline and Hazardous Materials Safety Administration of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 USC 2000d to 2000d-4), does hereby remise, release, quitclaim, and convey unto the (Name of the Recipient) all the right, title, and interest of the Department of Transportation in an to said lands described in Exhibit 'A' attached hereto and made a part hereof.

(HABENDUM CLAUSE) TO HAVE AND TO HOLD said lands and interests therein unto (Name of Recipient) and its successor forever, subject however, to the covenants, conditions, restrictions, and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the (Name of the Recipient), its successor, and assigns.

The (Name of the Recipient), in consideration on the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors, and assigns, that (1) no person shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [and]* (2) that the (Name of the Recipient) shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs in the Department of Transportation-- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and (3) [that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.]*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes

APPENDIX C

The following clauses shall be included in all deeds, licenses, leases, permits or similar instruments entered in to by the Recipient pursuant to the provisions of Assurance 6(a).

The (grantee, licensee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and lease add 'as a covenant running with the land') that in the event facilities are constructed, maintained, or otherwise operated on the said property describe in this (deed, license, lease, permit, etc..) For a purpose for which a provision of similar services or benefits, the (grantee, license, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulation, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs in the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (licenses, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right of re-enter said lands and facilities thereon, and above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and it assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the Recipient pursuant to the provisions of Assurance 6(b).

The (grantee, licensee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration thereof, does hereby covenant and agree [in the case of deeds, and leases add 'as a covenant running with the land'] that (1) no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, or national origin shall be excluded form participation, denied the benefits or, otherwise be subjected to discrimination, (3) that the (grantee, licenses, lessee, permittee, etc.), shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of the Transportation--Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That in the breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossesses said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds.)*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.



*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights of 1964.

APPENDIX D

TITLE 49--TRANSPORTATION

Subtitle A--Office of the Secretary of Transportation

PART 21--NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION--EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964--Table of Contents

Sec. 21.3 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the types of Federal financial assistance listed in appendix A to this part. It also applies to money paid, property transferred, or other Federal financial assistance extended after the effective date of this part pursuant to an application approved before that effective date. This part does not apply to:

- (1) Any Federal financial assistance by way of insurance or guaranty contracts;
- (2) Money paid, property transferred, or other assistance extended under any such program before the effective date of this part, except where such assistance was subject to the title VI regulations of any agency whose responsibilities are now exercised by this Department;
- (3) Any assistance to any individual who is the ultimate beneficiary under any such program; or
- (4) Any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in Sec. 21.5(c).

The fact that a program or activity is not listed in appendix A to this part shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to appendix A to this part.

(b) In any program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving that assistance, the nondiscrimination requirement of this part shall extend to any facility located wholly or in part in that space.

[35 FR 10080, June 18, 1970, as amended at 68 FR 51389, Aug. 26, 2003]

Sec. 21.5 Discrimination prohibited.

- (a) *General.* No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.
- (b) Specific discriminatory actions prohibited:
- (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin.
 - (i) Deny a person any service, financial aid, or other benefit provided under the program;
 - (ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;
 - (iii) Subject a person to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
 - (iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
 - (v) Treat a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program;
 - (vi) Deny a person an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program; or

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- (vii) Deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.
- (2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of person to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program; may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.
 - (3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.
 - (4) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.
 - (5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.
 - (6) Examples demonstrating the application of the provisions of this section to certain programs of the Department of Transportation are contained in appendix C of this part.
 - (7) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where prior discriminatory practice or usage tends, on the grounds of race, color, or national origin to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the applicant or recipient must take affirmative action to remove or overcome the effects of the prior discriminatory practice or usage. Even in the absence of prior discriminatory practice or usage, a recipient in administering a program or activity to which this part applies, is expected to take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the grounds of race, color, or national origin.
- (c) Employment practices:
- (1) Where a primary objective of a program of Federal financial assistance to which this part applies is to provide employment, a recipient or other party subject to this part shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). Such recipient shall take affirmative action to insure that applicants are employed, and employees are treated during employment, without regard to their race, color, or national origin. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.
 - (2) Federal financial assistance to programs under laws funded or administered by the Department which have as a primary objective the providing of employment include those set forth in appendix B to this part.
 - (3) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of paragraph (c)(1) of this section shall apply to the employment

practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

- (d) A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the grounds of race, color, or national origin; or if the purpose is to, or its effect when made will, substantially impair the accomplishment of the objectives of this part.

[35 FR 10080, June 18, 1970, as amended by Amdt. 72-2, 38 FR 17997, July 5, 1973]

Sec. 21.7 Assurances required.

(a) *General.*

- (1) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by, an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. Every program of Federal financial assistance shall require the submission of such an assurance. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended to the program. In the case where the assistance is sought for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith. The Secretary shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.
- (2) In the case where Federal financial assistance is provided in the form of a transfer of real property, structures, or improvements thereon, or interest therein, from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property or interest therein from the Federal Government is involved, but property is acquired or improved under a program of Federal financial assistance, the recipient shall agree to include such covenant in any subsequent transfer of such property. When the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the Secretary, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Secretary may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to subordinate such right of reversion to the lien of such mortgage or other encumbrance.

- (b) *Continuing Federal financial assistance.* Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this part applies (including the programs listed in appendix A to this part) shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application:
- (1) Contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and
 - (2) provide or be accompanied by provision for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part.

[35 FR 10080, June 18, 1970, as amended at 68 FR 51389, Aug. 26, 2003]

Sec. 21.9 Compliance information.

- (a) *Cooperation and assistance.* The Secretary shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.
- (b) *Compliance reports.* Each recipient shall keep such records and submit to the Secretary timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Secretary may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part. In general recipients should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.
- (c) *Access to sources of information.* Each recipient shall permit access by the Secretary during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or person fails or refuses to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.
- (d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Secretary finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

[35 FR 10080, June 18, 1970, as amended by Amdt. 72-2, 38 FR 17997, July 5, 1973]

Sec. 21.11 Conduct of investigations.

- (a) *Periodic compliance reviews.* The Secretary shall from time to time review the practices of recipients to determine whether they are complying with this part.
- (b) *Complaints.* Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this part may by himself or by a representative file with the Secretary a written complaint. A complaint must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary.

- (c) *Investigations.* The Secretary will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation will include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.
- (d) *Resolution of matters.*
- (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the Secretary will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in Sec. 21.13.
 - (2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section the Secretary will so inform the recipient and the complainant, if any, in writing.
- (e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

[35 FR 10080, June 18, 1970, as amended by Amdt. 72-2, 38 FR 17997, July 5, 1973]

Sec. 21.13 Procedure for effecting compliance.

- (a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to: (1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.
- (b) *Noncompliance with Sec. 21.7.* If an applicant fails or refuses to furnish an assurance required under Sec. 21.7 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph. However, subject to Sec. 21.21, the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application approved prior to the effective date of this part.
- (c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until:
- (1) The Secretary has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means;
 - (2) There has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part;
 - (3) The action has been approved by the Secretary pursuant to Sec. 21.17(e); and
 - (4) The expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action.

Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

- (d) *Other means authorized by law.* No action to effect compliance with title VI of the Act by any other means authorized by law shall be taken by this Department until:
- (1) The Secretary has determined that compliance cannot be secured by voluntary means;
 - (2) The recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and
 - (3) The expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

Sec. 21.15 Hearings.

- (a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by Sec. 21.13(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:
- (1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the Secretary that the matter be scheduled for hearing or
 - (2) Advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and Sec. 21.13(c) and consent to the making of a decision on the basis of such information as is available.
- (b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the Secretary unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the Secretary, or at his discretion, before a hearing examiner appointed in accordance with section 3105 of title 5, United States Code, or detailed under section 3344 of title 5, United States Code.
- (c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.
- (d) *Procedures, evidence, and record.*
- (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 554 through 557 of title 5, United States Code, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.
 - (2) Technical rules of evidence do not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

- (e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules or procedures not inconsistent with this part. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with Sec. 21.17.

[35 FR 10080, June 18, 1970, as amended at 68 FR 51389, Aug. 26, 2003]

Sec. 21.17 Decisions and notices.

- (a) *Procedure on decisions by hearing examiner.* If the hearing is held by a hearing examiner, the hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may, within 30 days after the mailing of such notice of initial decision, file with the Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary may, on his own motion, within 45 days after the initial decision, serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of notice of review, the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall, subject to paragraph (e) of this section, constitute the final decision of the Secretary.
- (b) *Decisions on record or review by the Secretary.* Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the Secretary conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a written copy of the final decision of the Secretary shall be sent to the applicant or recipient and to the complainant, if any.
- (c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to Sec. 21.15, a decision shall be made by the Secretary on the record and a written copy of such decision shall be sent to the applicant or recipient, and to the complainant, if any.
- (d) *Rulings required.* Each decision of a hearing examiner or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.
- (e) *Approval by Secretary.* Any final decision by an official of the Department, other than the Secretary personally, which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Secretary personally, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.
- (f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such programs to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Secretary that it will fully comply with this part.
- (g) *Post termination proceedings.*
- (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

- (2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the Secretary determines that those requirements have been satisfied, he shall restore such eligibility.
- (3) If the Secretary denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying who it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record in accordance with rules or procedures issued by the Secretary. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (g)(1) of this section.

While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

[35 FR 10080, June 18, 1970, as amended at 68 FR 51389, Aug. 26, 2003]

Sec. 21.19 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

Sec. 21.21 Effect on other regulations, forms, and instructions.

- (a) *Effect on other regulations.* All regulations, orders, or like directions issued before the effective date of this part by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the grounds of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for a recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part may be considered to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction before the effective date of this part. Nothing in this part, however, supersedes any of the following (including future amendments thereof):
- (1) Executive Order 11246 (3 CFR, 1965 Supp., p. 167) and regulations issued thereunder or
 - (2) Any other orders, regulations, or instructions, insofar as such orders, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.
- (b) *Forms and instructions.* The Secretary shall issue and promptly make available to all interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.
- (c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in Sec. 21.17), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the Secretary of this Department.

[35 FR 10080, June 18, 1970, as amended at 68 FR 51389, Aug. 26, 2003]

Sec. 21.23 Definitions.

Unless the context requires otherwise, as used in this part:

- (a) *Applicant* means a person who submits an application, request, or plan required to be approved by the Secretary, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

- (b) *Facility* includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.
- (c) *Federal financial assistance* includes:
- (1) Grants and loans of Federal funds;
 - (2) The grant or donation of Federal property and interests in property;
 - (3) The detail of Federal personnel;
 - (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
 - (5) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.
- (d) *Primary recipient* means any recipient that is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.
- (e) *Program or activity* and *program* mean all of the operations of any entity described in paragraphs (e)(1) through (4) of this section, any part of which is extended Federal financial assistance:
- (1) (i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or
(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;
 - (2) (i) A college, university, or other postsecondary institution, or a public system of higher education; or
(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;
 - (3) (i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—
(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or
(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or
(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or
 - (4) Any other entity which is established by two or more of the entities described in paragraph (e)(1), (2), or (3) of this section.
- (f) *Recipient* may mean any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.
- (g) *Secretary* means the Secretary of Transportation or, except in Sec. 21.17 (e), any person to whom he has delegated his authority in the matter concerned.

[35 FR 10080, June 18, 1970, as amended at 68 FR 51389, Aug. 26, 2003]

Appendix A to Part 21--Activities to which This Part Applies

1. Use of grants made in connection with Federal-aid highway systems (23 U.S.C. 101 *et seq.*).
2. Use of grants made in connection with the Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*).
3. Use of grants in connection with the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391-1409, 1421-1425).

4. Lease of real property and the grant of permits, licenses, easements and rights-of-way covering real property under control of the Coast Guard (14 U.S.C. 93 (n) and (o)).
5. Utilization of Coast Guard personnel and facilities by any State, territory, possession, or political subdivision thereof (14 U.S.C. 141(a)).
6. Use of Coast Guard personnel for duty in connection with maritime instruction and training by the States, territories, and Puerto Rico (14 U.S.C. 148).
7. Use of obsolete and other Coast Guard material by sea scout service of Boy Scouts of America, any incorporated unit of the Coast Guard auxiliary, and public body or private organization not organized for profit (14 U.S.C. 641 (a)).
8. U.S. Coast Guard Auxiliary Program (14 U.S.C. 821-832).
9. Use of grants for the support of basic scientific research by nonprofit institutions of higher education and nonprofit organizations whose primary purpose is conduct of scientific research (42 U.S.C. 1891).
10. Use of grants made in connection with the Federal-aid Airport Program (secs. 1-15 and 17-20 of the Federal Airport Act, 49 U.S.C. 1101-1114, 1116-1120).
11. Use of U.S. land acquired for public airports under:
 - a. Section 16 of the Federal Airport Act, 49 U.S.C. 1115; and
 - b. Surplus Property Act (sec. 13(g) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(g), and sec. 3 of the Act of Oct. 1, 1949, 50 U.S.C. App. 1622b).
12. Activities carried out in connection with the Aviation Education Program of the Federal Aviation Administration under sections 305, 311, and 313(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1346, 1352, and 1354(a)).
13. Use of grants and loans made in connection with Urban Mass Transportation Capital Facilities Grant and Loan Program--Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602).
14. Use of grants made in connection with Urban Mass Transportation Research and Demonstration Grant Program--Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1605).
15. Use of grants made in connection with Urban Mass Transportation Technical Studies Grant Program--Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1607a).
16. Use of grants made in connection with Urban Mass Transportation Managerial Training Grant Program--Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1607b).
17. Use of grants made in connection with Urban Mass Transportation Grants for Research and Training Programs in Institutions of Higher Learning--Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1607c).
18. Use of grants made in connection with the High Speed Ground Transportation Act, as amended (49 U.S.C. 631-642).

Appendix B to Part 21--Activities to Which This Part Applies When a Primary Objective of the Federal Financial Assistance is to Provide Employment

1. Appalachia Regional Development Act of 1965 (40 U.S.C. App. 1 *et seq.*).

Appendix C to Part 21--Application of Part 21 to Certain Federal Financial Assistance of the Department of Transportation

Nondiscrimination on Federally Assisted Projects

(a) *Examples.* The following examples, without being exhaustive, illustrate the application of the nondiscrimination provisions of this part on projects receiving Federal financial assistance under the programs of certain Department of Transportation operating administrations:

(1) *Federal Aviation Administration.*

- (i) The airport sponsor or any of his lessees, concessionaires, or contractors may not differentiate between members of the public because of race, color, or national origin in furnishing, or admitting to, waiting rooms, passenger holding areas, aircraft tiedown areas, restaurant facilities, restrooms, or facilities operated under the compatible land use concept.

Appendix D
NORTH DAKOTA PUBLIC SERVICE COMMISSION

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- (ii) The airport sponsor and any of his lessees, concessionaires, or contractors must offer to all members of the public the same degree and type of service without regard to race, color, or national origin. This rule applies to fixed base operators, restaurants, snack bars, gift shops, ticket counters, baggage handlers, car rental agencies, limousines and taxis franchised by the airport sponsor, insurance underwriters, and other businesses catering to the public at the airport.
 - (iii) An aircraft operator may not be required to park his aircraft at a location that is less protected, or less accessible from the terminal facilities, than locations offered to others, because of his race, color, or national origin.
 - (iv) The pilot of an aircraft may not be required to help more extensively in fueling operations, and may not be offered less incidental service (such as windshield wiping), than other pilots, because of his race, color, or national origin.
 - (v) No pilot or crewmember eligible for access to a pilot's lounge or to unofficial communication facilities such as a UNICOM frequency may be restricted in that access because of his race, color, or national origin.
 - (vi) Access to facilities maintained at the airport by air carriers or commercial operators for holders of first-class transportation tickets or frequent users of the carrier's or operator's services may not be restricted on the basis of race, color, or national origin.
 - (vii) Passengers and crewmembers seeking ground transportation from the airport may not be assigned to different vehicles, or delayed or embarrassed in assignment to vehicles, by the airport sponsor or his lessees, concessionaires, or contractors, because of race, color, or national origin.
 - (viii) Where there are two or more sites having equal potential to serve the aeronautical needs of the area, the airport sponsor shall select the site least likely to adversely affect existing communities. Such site selection shall not be made on the basis of race, color, or national origin.
 - (ix) Employment at obligated airports, including employment by tenants and concessionaires shall be available to all regardless of race, creed, color, sex, or national origin. The sponsor shall coordinate his airport plan with his local transit authority and the Urban Mass Transportation Administration to assure public transportation, convenient to the disadvantaged areas of nearby communities to enhance employment opportunities for the disadvantaged and minority population.
 - (x) The sponsor shall assure that the minority business community in his area is advised of the opportunities offered by airport concessions, and that bids are solicited from such qualified minority firms, and awards made without regard to race, color, or national origin.
- (2) *Federal Highway Administration.*
- (i) The State, acting through its highway department, may not discriminate in its selection and retention of contractors, including without limitation, those whose services are retained for, or incidental to, construction, planning, research, highway safety, engineering, property management, and fee contracts and other commitments with person for services and expenses incidental to the acquisition of right-of-way.
 - (ii) The State may not discriminate against eligible persons in making relocation payments and in providing relocation advisory assistance where relocation is necessitated by highway right-of-way acquisitions.
 - (iii) Federal-aid contractors may not discriminate in their selection and retention of first-tier subcontractors, and first-tier subcontractors may not discriminate in their selection and retention of second-tier subcontractors, who participate in Federal-aid highway construction, acquisition of right-of-way and related projects, including those who supply materials and lease equipment.
 - (iv) The State may not discriminate against the traveling public and business users of the federally assisted highway in their access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed on, over or under the right-of-way of such highways.
 - (v) Neither the State, any other persons subject to this part, nor its contractors and subcontractors may discriminate in their employment practices in connection with highway construction projects or other projects assisted by the Federal Highway Administration.
 - (vi) The State shall not locate or design a highway in such a manner as to require, on the basis of race, color, or national origin, the relocation of any persons.
 - (vii) The State shall not locate, design, or construct a highway in such a manner as to deny reasonable access to, and use thereof, to any persons on the basis of race, color, or national origin.

(3) *Urban Mass Transportation Administration.*

- (i) Any person who is, or seeks to be, a patron of any public vehicle which is operated as a part of, or in conjunction with, a project shall be given the same access, seating, and other treatment with regard to the use of such vehicle as other persons without regard to their race, color, or national origin.
- (ii) No person who is, or seeks to be, an employee of the project sponsor or lessees, concessionaires, contractors, licensees, or any organization furnishing public transportation service as a part of, or in conjunction with, the project shall be treated less favorably than any other employee or applicant with regard to hiring, dismissal, advancement, wages, or any other conditions and benefits of employment, on the basis of race, color, or national origin.
- (iii) No person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of service of transportation service furnished as a part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin.
- (iv) The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin.

(b) *Obligations of the airport operator*

- (1) *Tenants, contractors, and concessionaires.* Each airport operator shall require each tenant, contractor, and concessionaire who provides any activity, service, or facility at the airport under lease, contract with, or franchise from the airport, to covenant in a form specified by the Administrator, Federal Aviation Administration, that he will comply with the nondiscrimination requirements of this part.
- (2) *Notification of beneficiaries.* The airport operator shall: (i) Make a copy of this part available at his office for inspection during normal working hours by any person asking for it, and (ii) conspicuously display a sign, or signs, furnished by the FAA, in the main public area or areas of the airport, stating that discrimination based on race, color, or national origin is prohibited on the airport.
- (3) *Reports.* Each airport owner subject to this part shall, within 15 days after he receives it, forward to the Area Manager of the FAA Area in which the airport is located a copy of each written complaint charging discrimination because of race, color, or national origin by any person subject to this part, together with a statement describing all actions taken to resolve the matter, and the results thereof. Each airport operator shall submit to the area manager of the FAA area in which the airport is located a report for the preceding year on the date and in a form prescribed by the Federal Aviation Administrator.

[35 FR 10080, June 18, 1970, as amended by Amdt. 21-1, 38 FR 5875, Mar. 5, 1973; Amdt. 21-3, 40 FR 14318, Mar. 31, 1975]

Opportunity Title:	DOT PHMSA 2011 Natural Gas Base Grant
Offering Agency:	Pipeline & Hazardous Material Safety Administration
CFDA Number:	20.700
CFDA Description:	Pipeline Safety Program Base Grants
Opportunity Number:	DOT-PH-PHP-11-NG
Competition ID:	
Opportunity Open Date:	08/01/2010
Opportunity Close Date:	09/30/2010
Agency Contact:	Carrie Winslow PHMSA Grant Team E-mail: carrie.winslow@dot.gov Phone: 617-494-3318

This electronic grant application is intended to be used to apply for this specific Federal funding opportunity. For more information, please visit the Grants.gov website.

If the Federal funding opportunity listed is not the opportunity for which you want to apply, please do not click the "Apply" button. If you click on the "Apply" button at the end of this session, you will have to go to the Grants.gov website to find the funding opportunity for which you want to apply.

This opportunity is only open to organizations, applicants who are submitting grant applications on behalf of a company, state, local or tribal government, academia, or other type of organization.

* **Application Filing Name:** ND Base Grant

Mandatory Documents

Move Form to Complete

Move Form to Delete

Mandatory Documents for Submission

Application for Federal Assistance (SF-424)
Budget Information for Non-Construction Program

Optional Documents

Move Form to Submission List

Move Form to Delete

Optional Documents for Submission

Instructions

1. Enter a name for the application in the Application Filing Name field.

- This application can be completed in its entirety offline; however, you will need to login to the Grants.gov website during the submission process.
- You can save your application at any time by clicking the "Save" button at the top of your screen.
- The "Save & Submit" button will not be functional until all required data fields in the application are completed and you clicked on the "Check Package for Errors" button and confirmed all data required data fields are completed.

2. Open and complete all of the documents listed in the "Mandatory Documents" box. Complete the SF-424 form first.

- It is recommended that the SF-424 form be the first form completed for the application package. Data entered on the SF-424 will populate data fields in other mandatory and optional forms and the user cannot enter data in these fields.

- The forms listed in the "Mandatory Documents" box and "Optional Documents" may be predefined forms, such as SF-424, forms where a document needs to be attached, such as the Project Narrative or a combination of both. "Mandatory Documents" are required for this application. "Optional Documents" can be used to provide additional support for this application or may be required for specific types of grant activity. Reference the application package instructions for more information regarding "Optional Documents".

- To open and complete a form, simply click on the form's name to select the item and then click on the => button. This will move the document to the appropriate "Documents for Submission" box and the form will be automatically added to your application package. To view the form, scroll down the screen or select the form name and click on the "Open Form" button to begin completing the required data fields. To remove a form/document from the "Documents for Submission" box, click the document name to select it, and then click the <= button. This will return the form/document to the "Mandatory Documents" or "Optional Documents" box.

- All documents listed in the "Mandatory Documents" box must be moved to the "Mandatory Documents for Submission" box. When you open a required form, the fields which must be completed are highlighted in yellow with a red border. Optional fields and completed fields are displayed in white. If you enter invalid or incomplete information in a field, you will receive an error message.

3. Click the "Save & Submit" button to submit your application to Grants.gov.

- Once you have properly completed all required documents and attached any required or optional documentation, save the completed application by clicking on the "Save" button.
- Click on the "Check Package for Errors" button to ensure that you have completed all required data fields. Correct any errors or if none are found, save the application package.
- The "Save & Submit" button will become active; click on the "Save & Submit" button to begin the application submission process.
- You will be taken to the applicant login page to enter your Grants.gov username and password. Follow all onscreen instructions for submission.

Application for Federal Assistance SF-424

* 1. Type of Submission:

- Preapplication
 Application
 Changed/Corrected Application

* 2. Type of Application:

- New
 Continuation
 Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

* 3. Date Received:

Completed by Grants.gov upon submission.

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State: 09/27/2010

7. State Application Identifier: ND100927-0430

8. APPLICANT INFORMATION:

* a. Legal Name: NORTH DAKOTA PUBLIC SERVICE COMMISSION

* b. Employer/Taxpayer Identification Number (EIN/TIN):

45-0309764

* c. Organizational DUNS:

802744946

d. Address:

* Street1: 600 E Boulevard 12th Fl

Street2: Street 2

* City: Bismarck

County/Parish:

* State:

ND: North Dakota

Province:

* Country:

USA: UNITED STATES

* Zip / Postal Code: 58505-0480

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Mr.

* First Name:

Patrick

Middle Name:

* Last Name:

Fahn

Suffix:

Title: Division Director

Organizational Affiliation:

* Telephone Number: 701-328-4077

Fax Number:

* Email: pfahn@nd.gov

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

Pipeline & Hazardous Material Safety Administration

11. Catalog of Federal Domestic Assistance Number:

20.700

CFDA Title:

Pipeline Safety Program Base Grants

*** 12. Funding Opportunity Number:**

DOT-PH-PHP-11-NG

* Title:

DOT PHMSA 2011 Natural Gas Base Grant

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

*** 15. Descriptive Title of Applicant's Project:**

NORTH DAKOTA PUBLIC SERVICE COMMISSION Base Grant

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:*** a. Applicant b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:* a. Start Date: * b. End Date: **18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="108,896.00"/>
* b. Applicant	<input type="text" value="0.00"/>
* c. State	<input type="text" value="27,224.00"/>
* d. Local	<input type="text" value="0.00"/>
* e. Other	<input type="text" value="0.00"/>
* f. Program Income	<input type="text" value="0.00"/>
* g. TOTAL	<input type="text" value="136,120.00"/>

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?** a. This application was made available to the State under the Executive Order 12372 Process for review on b. Program is subject to E.O. 12372 but has not been selected by the State for review. c. Program is not covered by E.O. 12372.*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)** Yes No

If "Yes", provide explanation and attach

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

 ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:Prefix: * First Name: Middle Name: * Last Name: Suffix: * Title: * Telephone Number: Fax Number: * Email: * Signature of Authorized Representative: * Date Signed:

BUDGET INFORMATION - Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1. Base Grant		\$	\$	108,896.00	27,224.00	136,120.00
2.						
3.						
4.						
5. Totals		\$	\$	108,896.00	27,224.00	136,120.00

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1) Base Grant	(2)	(3)	(4)	
a. Personnel	\$ 65,800.00	\$	\$	\$	\$ 65,800.00
b. Fringe Benefits	23,400.00				23,400.00
c. Travel	33,000.00				33,000.00
d. Equipment	1,800.00				1,800.00
e. Supplies	3,000.00				3,000.00
f. Contractual	200.00				200.00
g. Construction	0.00				
h. Other	0.00				
i. Total Direct Charges (sum of 6a-6h)	127,200.00				\$ 127,200.00
j. Indirect Charges	8,920.00				\$ 8,920.00
k. TOTALS (sum of 6i and 6j)	\$ 136,120.00	\$	\$	\$	\$ 136,120.00
7. Program Income		\$	\$	\$	\$

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8. Base Grant	\$	\$	\$	\$	\$
9.					
10.					
11.					
12. TOTAL (sum of lines 8-11)	\$	\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS				
Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$
14. Non-Federal	\$			
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16. Base Grant	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	
22. Indirect Charges:	
23. Remarks:	