

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE JOINT)
APPLICATION OF NORTHWESTERN) Docket No. GE25-001
ENERGY PUBLIC SERVICE CORPORATION,)
BLACK HILLS CORPORATION, AND)
NORTHWESTERN ENERGY GROUP, INC.)
FOR APPROVAL OF MERGER)

LIUNA’S RESPONSES TO STAFF’S FIRST SET OF DATA REQUESTS

The Laborers’ International Union of North America, the Great Plains Laborers’ District Council, and South Dakota Laborers Local 620 (collectively, “LIUNA”) submit the following responses and objections to the First Set of Data Requests served by the South Dakota Public Utilities Commission Staff (“Staff”) on May 27, 2026. These requests relate to the Prepared Direct Testimony of Randall L. Harris, filed May 15, 2026 (“Harris Direct”). These responses are provided subject to the General Objections below, which are incorporated into each response.

GENERAL OBJECTIONS

1. LIUNA objects to each request to the extent it seeks information protected by the attorney-client privilege, the work-product doctrine, or any other applicable protection. Any inadvertent disclosure is not a waiver.
2. LIUNA objects to each request to the extent it would require LIUNA or Witness Harris to render a legal opinion or statutory interpretation, which are matters of law for the Commission.
3. LIUNA objects to each request to the extent it seeks documents, studies, or data that do not exist or are not within LIUNA’s possession, custody, or control.
4. LIUNA objects to each request to the extent it mischaracterizes the Harris Direct or assumes facts not contained therein.

5. LIUNA objects to each request to the extent it is vague, ambiguous, overbroad, or unduly burdensome, or to the extent it calls for speculation or conjecture about hypothetical future events or asks LIUNA to assume facts or hypotheticals not in evidence.

6. LIUNA objects to each request to the extent it seeks to shift to LIUNA the burden of proof that SDCL 49-34A-36 places on the Joint Applicants, who bear the burden of satisfying the Commission that the Merger should be approved.

7. By providing these responses, LIUNA does not waive, and expressly reserves, all objections as to relevance, materiality, or admissibility. The following responses are provided subject to and without waiving the foregoing General Objections.

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA (LIUNA)
GE25-001

REQUEST DATE: 05/27/26
RESPONSE DATE: 06/06/26
REQUESTING PARTY: STAFF
SUBJECT:

Staff Data Request No. 1-1:

With regard to the “standard of review” referenced by Witness Harris on page 11 of his direct testimony, please: (a) State (yes/no) whether Witness Harris agrees that the statutory standards governing the Commission’s review of utility mergers are contained in SDCL 49-34A-35 and SDCL 49-34A-36; (b) If not affirmative, identify all South Dakota statutes relied upon; (c) Provide a direct quote of the statute(s) relied upon when he asserted that part of the standard of review is whether the merger is consistent with the “public interest”; (d) Define “public interest” as used on page 11.

Response to Staff Data Request No. 1-1:

LIUNA objects to subparts (a) through (d) to the extent they call for a legal opinion or statutory interpretation as beyond the scope of discovery, an invasion of the work product privilege and on the further grounds that the issue sought to be raised by the Request is a matter of law reserved to the Commission. Subject to and without waiving the this or the General Objections, LIUNA responds:

(a) Yes, with the qualification that SDCL 49-34A-35 and 49-34A-36 on their own do not encompass the entirety of the Commission’s decision criteria on whether or not the merger should be approved.

(b) Not applicable; the answer to (a) is a qualified affirmative.

(c) While the phrase “public interest” does not appear verbatim in either statute, it is fundamental to and inherent in every decision made by the Public Utilities Commission within the scope of its public utility regulatory authority that it be in in the public interest. Witness Harris used “public interest” as descriptive shorthand for the protective object of SDCL 49-34A-36 and other Commission decision criteria. The phrase “public interest” is also the Joint Applicants’ own

characterization: they represent that the Merger “is in the public interest and will not result in significant adverse impacts to NorthWestern customers in South Dakota.”¹ Witness Harris’s usage is consistent with the Applicants’ own framing of the inquiry and the requirements of law.

(d) See response to subpart (c) above.

Respondent(s):

Randall L. Harris,

William Taylor

Attachment(s):

None.

¹ Joint Application for Approval of Merger, Docket No. GE25-001 (filed Oct. 2025); see also NorthWestern Energy Group / Black Hills Corporation Form 425 (filed Oct. 28, 2025).

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REQUEST DATE: 05/27/26
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REQUESTING PARTY: STAFF
SUBJECT:

Staff Data Request No. 1-2:

With regard to the statement on pages 28 to 29 that “Mergers of this size and stated synergy magnitude typically generate pressure to consolidate vendor lists, renegotiate contractor agreements, push more work to lowest-price bidders, and standardize procurement practices across the combined footprint,” provide all source documents relied upon to support that such pressures “typically” occur.

Response to Staff Data Request No. 1-2:

LIUNA objects to this request to the extent it assumes the quoted statement is drawn from a discrete external source document. The statement is the opinion of Witness Harris, based on his professional experience and judgment regarding utility-sector consolidation. LIUNA further objects on the basis that it is not required to search for outside documents when the parties seeking merger approval have themselves described, in verified testimony offered to the Commission, in SEC-filed investor call transcripts, and in direct responses to LIUNA's data requests, the very procurement-consolidation and vendor-leverage dynamics the quoted testimony identifies. Subject to and without waiving the General Objections, LIUNA responds as follows.

The statement is grounded in Witness Harris's professional experience and is corroborated, in unusually direct terms, by the Joint Applicants' own representations made repeatedly and publicly in this proceeding and in their investor and SEC communications. The record before this Commission contains the following:

First, the Joint Applicants' own verified testimony in this docket establishes the point directly. Brian Bird, who will serve as CEO of the merged entity, said in his verified pre-filed testimony submitted to this Commission as follows: "Scale will also enable us to have influence with vendors that the larger utilities enjoy today, which will also allow us to procure goods and services at lower costs than we can attain today." He further testified: "We will be able to reduce costs in ways we

cannot do alone, which will be extremely helpful in a rising cost environment." Moreover, NorthWestern has made this same point in its own customer communications about the Merger. These are not general or abstract statements. They are representations made by the future CEO of the combined company, filed as direct testimony in this docket, and confirmed in the Joint Applicants' SEC filings,² describing in straightforward terms the procurement leverage the Merger is designed to produce.

Second, the Joint Applicants' discovery responses in this proceeding confirm that they are unwilling to commit to any contractor wage, benefit, or training standards as a condition of exercising the procurement leverage the Merger is designed to produce. See Joint Applicant's responses to LIUNA DR 1.24 and 1.35. The Joint Applicants' disclosures in the parallel Montana proceeding confirm the cost-reduction pressures the testimony describes. In a supplemental response in that proceeding, the Joint Applicants identified potential labor and non-labor savings within a \$48 million to \$70 million range, of which roughly \$36 million reflects labor "value creation" that the Applicants expect to realize over time.³ That disclosure is direct evidence that the Merger may generate the procurement-consolidation and cost-reduction pressures the testimony describes.

Finally, federal research finds that increased employer concentration suppresses worker wages and bargaining power.⁴

Respondent(s):

Randall L. Harris

² See Black Hills Corporation and NorthWestern Energy Group, Inc., Form 425 (Joint Investor Conference Call Transcript, Aug. 19, 2025), Commission File No. 000-56598 and NorthWestern Energy Group, Inc., Form 425 (BoFA Securities CEO Fireside Chat Interview Transcript, Sept. 11, 2025), Commission File No. 000-56598 (statement of Brian Bird, President and CEO of NorthWestern Energy Group, Inc., at EEI Annual Finance Conference, Sept. 11, 2025).

³ The referenced data response was designated "confidential" in the Montana proceeding. With the permission of the Joint Applicants, LIUNA will supply same. For a public account, see Arren Kimbel-Sannit, *NorthWestern, Black Hills Merger Could Mean \$36M in Labor Savings*, Daily Montanan (Apr. 10, 2026), <https://dailymontanan.com/2026/04/10/northwestern-black-hills-merger-could-mean-36m-in-labor-savings/>.

⁴ U.S. Department of the Treasury, *The State of Labor Market Competition in the U.S. Economy* (2022) (estimated wage effects on the order of 20 percent).

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REQUEST DATE: 05/27/26
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REQUESTING PARTY: STAFF
SUBJECT:

Staff Data Request No. 1-3:

With regard to “Local Hire and Reporting” (page 28): (a) Assuming a qualified local contractor and a qualified non-local contractor compete for the same project and the local bid is higher, does Witness Harris agree a local-hiring preference could result in the higher-cost local contractor being selected? (b) If not affirmative, explain; (c) If affirmative, did Witness Harris consider the potential cost increase, and if yes provide all studies/workpapers; (d) If affirmative, would the cost difference be eligible for recovery from customers?

Response to Staff Data Request No. 1-3:

LIUNA objects to the premise posed in subpart (a) (and because of the way the DR is written, concomitantly (b) through (d)) as assuming facts not in evidence, calling for speculation, requiring assumption of a hypothetical not based on facts in evidence, all of which is inherently beyond the scope of discovery; to subpart (c) on the grounds further grounds that it is argumentative, and to subpart (d) to the extent it seeks a legal or ratemaking conclusion that is not within the scope of the matters in issue in this proceeding and solely within the province of the Commission. Subject to and without waiving the General Objections, LIUNA responds:

(a) and (b). No. Witness Harris does not agree, and LIUNA does not concede that the recommended condition results in, or could result in, an increase in costs. The request’s hypothetical rests on an assumed but unstated premise, namely that the qualified local contractor is necessarily “higher-cost,” that LIUNA does not accept. Mr. Harris’ recommended condition is a value-weighting preference, not a mandate, quota, or guaranteed premium; by its terms it does not require the selection of any higher-priced bid. There is no evidence that securing a skilled, locally based workforce increases total project cost, to the contrary experience indicates otherwise. LIUNA therefore does not concede an increase in costs to customers.

This conclusion is reinforced by basic ratemaking principles. Rates are not a pass-through of whatever a utility spends, rather they are set through a revenue requirement, principally the allowed return on rate base, plus operating expenses, depreciation, and taxes. Contractor labor is only one small and variable component of either a rate base or a revenue requirement. Construction labor is a minority part of total construction cost, and a smaller minority still of total project cost and of the revenue requirement. The authorized return on equity has a far greater effect on customer bills than contractor labor; return on equity comprises on the order of 15 to 20 percent of a typical bill, such that even a fraction-of-a-percentage-point change in return on equity applied to a multi-billion-dollar rate base exceeds any plausible labor differential from a discretionary local-hire preference.⁵ Whether any prudently incurred cost is recovered, and how cost and risk are allocated between shareholders and ratepayers, lies within the Commission’s discretion. Pass-through is not automatic, and LIUNA does not concede otherwise.

The premise that a local-hire or skilled-workforce standard raises total project cost is not supported by the empirical record. Construction labor is a minority of total construction cost, and a smaller minority still of total project cost and an even smaller component of rate base. A more highly skilled, locally based workforce offsets higher hourly rates through greater productivity, lower turnover, fewer schedule delays, less rework, and improved safety.

The proposed condition is a value-weighting preference rather than a mandate, quota, or guaranteed premium, and the published research, provided with this response, confirms that securing a skilled local workforce does not raise total cost:

- Duncan, Hinkel & Manzo, *The Impact of Montana’s Prevailing Wage Law* (2023): “90 percent of peer-reviewed studies find” no effect on the cost of public works.⁶

⁵ Rocky Mountain Institute, *Rebalancing Return on Equity* (2024) (each one-percentage-point reduction in allowed ROE would save U.S. customers on the order of \$4 billion annually); see NARUC, *Electric Utility Cost Allocation Manual* (revenue requirement = allowed return times rate base, plus operating expenses, depreciation, and taxes).

⁶ Kevin Duncan, Matthew Hinkel & Frank Manzo IV, *The Impact of Montana’s Prevailing Wage Law: Effects on Costs, Training, and Economic Development* (Feb. 14, 2023).

- Independent Project Analysis, Inc., *Quantifying the Value of Union Labor* (2022): an owner-side analysis finding a more highly skilled workforce associated with roughly four percent lower total project cost notwithstanding higher hourly pay.⁷
- Duncan, Case & Manzo, *Evidence from the Minneapolis-Saint Paul Metropolitan Area* (2024): a skilled-wage standard substantially reduces the bid gap between local contractors and lower-wage out-of-state bidders, including those bidding in from South Dakota.⁸

The Joint Applicants themselves tout the value of a local workforce. In its October 31, 2025 Notice of Intent for the proposed Aberdeen energy conversion facility, NorthWestern represents that construction “will generate significant economic impact for Aberdeen, the surrounding community, and South Dakota,” estimating that “\$100 million of the total construction costs will be for resident workers and local materials” on the approximately \$276 million project, and touting “secondary benefits to the local community, such as construction workers living and spending in the community” during the projected two-year construction period.⁹ NorthWestern likewise represents that South Dakota operations will “remain locally managed, with employees continuing to serve the communities where they work, live, and raise their families,”¹⁰ and it has publicized that its Bob Glanzer Generating Station in Huron employed “more than 150 workers” and “provided support for the Huron, S.D. economy.”¹¹ The Applicants thus assign substantial value to the use of resident, local workers, precisely what the recommended condition is designed to secure. The condition mirrors the Local Hire and Reporting provisions the Applicants already accepted in the Montana and Nebraska settlements (Exhibits RH-1 and RH-2). Witness Harris developed no independent workpaper quantifying the hypothetical’s cost and to the knowledge of the Intervenors, none exists.

NorthWestern has also itself quantified, in reports it commissioned and produced in this docket, the substantial economic benefit its South Dakota operations generate in-state. NorthWestern’s

⁷ Independent Project Analysis, Inc., *Quantifying the Value of Union Labor in Construction Projects* (Dec. 2022).

⁸ Kevin Duncan, Adam Case & Frank Manzo IV, *Construction Management and Economics*, vol. 42, no. 8 (2024).

⁹ NorthWestern Energy’s Notice of Intent to Apply for Permit for an Energy Conversion Facility at Aberdeen, South Dakota (filed Oct. 31, 2025), at 3, PUC Docket EL25-038.

¹⁰ NorthWestern Energy / Black Hills Corporation merger announcement (Oct. 28, 2025).

¹¹ NorthWestern Energy, Bob Glanzer Generating Station news release (June 3, 2022) (“about a \$90 million project”).

Circle Analytics economic-impact report and accompanying Division Roll Up report show that, in 2024, the Company's South Dakota operations generated approximately \$264.0 million in gross economic output, of which an estimated \$131.1 million was retained within South Dakota, including roughly \$55.3 million in labor income supporting approximately 1,115 South Dakota jobs.¹² By the Company's own measure, the dollars paid to its South Dakota workforce multiply within the State, which is precisely the local economic benefit the recommended Local Hire condition is designed to preserve, and which an award to a lower-wage, out-of-state contractor would instead export.

(c) Subpart (c) is predicated by its terms on an affirmative answer to subpart (a), and the answer to subpart (a) is "No." Without waiving that point, the potential for cost effects was considered, the published research relied upon is identified above, and Witness Harris developed no independent study or workpaper quantifying the cost of the hypothetical as posed, because none exists.

(d) Subpart (d) is likewise predicated on an affirmative answer to subpart (a) and is therefore not applicable by its terms. Subject to the objection above and without waiving, whether any prudently incurred cost is recovered from customers is committed to the Commission's ratemaking authority and prudence review; and for the reasons stated above, LIUNA does not concede any automatic pass-through to customers.

Respondent(s):

Randall L. Harris

Attachment(s):

- Attachment Staff 1-3a: Duncan, Hinkel & Manzo, The Impact of Montana's Prevailing Wage Law (2023).
- Attachment Staff 1-3b: Independent Project Analysis, Inc., Quantifying the Value of Union Labor in Construction Projects (2022).

¹² NorthWestern Energy, Economic Impact Report prepared by Circle Analytics, Inc. (2025) (produced as Attachment LIUNA 1.20a); NorthWestern Energy, 2024 Division Roll Up Report (produced as Attachment LIUNA 1.20c). NorthWestern's prior-year reports show comparable figures (2023: approximately \$268.8 million in output, \$133.4 million retained, and 1,135 South Dakota jobs).

- Published studies cited but not reproduced are identified by full citation in the footnotes. The Applicants' Notice of Intent, Circle Analytics report, and Division Roll Up report are already of record (the latter two produced as Attachments LIUNA 1.20a and 1.20c).

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GE25-001

REQUEST DATE: 05/27/26
RESPONSE DATE: 06/06/26
REQUESTING PARTY: STAFF
SUBJECT:

Staff Data Request No. 1-4:

Please provide the “empirical research” referenced on page 31: “Empirical research on the construction industry consistently links the use of a well-trained, apprenticeship-based workforce with materially lower rates of serious injuries, fatalities, and OSHA violations, and conversely associates inadequately trained labor with a higher incidence of preventable incidents and project failures on large, high-hazard projects.”

Response to Staff Data Request No. 1-4:

Subject to and without waiving the General Objections, the statement reflects Witness Harris’s professional experience and a broad, multi-disciplinary body of published research. Representative sources, provided where they are published studies, include:

- Manzo, Jekot & Bruno (ILEPI, 2021): analyzing 37,000-plus OSHA construction inspections, union (apprenticeship-trained) worksites were approximately 19 percent less likely to incur a violation, with 34 percent fewer violations per inspection.¹³
- Li, Zorigtbaatar, Pleités, Fenn & Philips (2019): repeal of skilled-wage standards was associated with statistically significant increases in construction injuries and disabling injuries.¹⁴

¹³ Frank Manzo IV, Michael Jekot & Robert Bruno, The Impact of Unions on Construction Worksite Health and Safety: Evidence from OSHA Inspections, Illinois Economic Policy Institute & Project for Middle Class Renewal, Univ. of Illinois (Nov. 30, 2021).

¹⁴ Zhi Li et al., The Effect of Prevailing Wage Law Repeals and Enactments on Injuries and Disabilities in the Construction Industry, Public Works Management & Policy (2019).

- Duncan & Ormiston (ICERES): a peer-reviewed survey linking trained, apprenticeship-based labor to better worksite outcomes and documenting construction’s disproportionate share of fatalities.¹⁵
- Zoorob (2018): a peer-reviewed study finding that a one-percentage-point increase in unionization is associated with approximately a 2.8 percent decline in occupational fatalities, and that right-to-work laws are associated with a roughly 14 percent increase in occupational mortality, which is direct evidence that union representation reduces worker deaths.¹⁶
- Sokas et al. (2009): an intervention-effectiveness study in the building trades demonstrating that structured hazard-awareness training, of the kind delivered through apprenticeship, measurably improves worksite safety performance.¹⁷
- Kaskutas et al. (2010): a needs-assessment and training study among apprentice carpenters showing that targeted fall-prevention training reduces exposure to construction’s leading cause of death.¹⁸
- van der Molen et al. (2018, Cochrane Review): an authoritative systematic review of interventions to prevent construction-worker injuries, synthesizing the peer-reviewed evidence on training and safety interventions in the industry.¹⁹
- U.S. Bureau of Labor Statistics, *Census of Fatal Occupational Injuries and Survey of Occupational Injuries and Illnesses*: federal data identifying construction among the highest-fatality industries and documenting the “fatal four” hazards that apprenticeship safety training is designed to prevent.²⁰

¹⁵ Kevin Duncan & Russell Ormiston, *Prevailing Wage Laws: What Do We Know?*, Institute for Construction Economic Research.

¹⁶ Michael Zoorob, Does ‘Right to Work’ Imperil the Right to Health? The Effect of Labour Unions on Workplace Fatalities, *Occupational and Environmental Medicine*, vol. 75, no. 10 (2018).

¹⁷ Rosemary K. Sokas et al., An Intervention Effectiveness Study of Hazard Awareness Training in the Construction Building Trades, *Public Health Reports*, vol. 124, Suppl. 1, at 161-168 (2009).

¹⁸ Vicki Kaskutas et al., Changes in Fall Prevention Training for Apprentice Carpenters Based on a Comprehensive Needs Assessment, *Journal of Safety Research* (2010).

¹⁹ Henk F. van der Molen et al., Interventions to Prevent Injuries in Construction Workers, *Cochrane Database of Systematic Reviews* (2018).

²⁰ U.S. Bureau of Labor Statistics, *Census of Fatal Occupational Injuries and Survey of Occupational Injuries and Illnesses* (annual).

- U.S. Department of Labor / OSHA materials recognizing that registered apprenticeship and joint labor-management training reduce construction injuries and fatalities.

Taken together, these reflect a consistent, well-replicated empirical record rather than an isolated result.

Respondent(s):

Randall L. Harris

Attachment(s):

- Attachment Staff 1-4a: Manzo, Jekot & Bruno, The Impact of Unions on Construction Worksite Health and Safety (ILEPI / PMCR, 2021).
- Attachment Staff 1-4b: Li et al., The Effect of Prevailing Wage Law Repeals and Enactments on Injuries and Disabilities in the Construction Industry (2019).
- Attachment Staff 1-4c: Duncan & Ormiston, Prevailing Wage Laws: What Do We Know? (ICERES).
- Remaining peer-reviewed studies (Zoorob 2018; Sokas 2009; Kaskutas 2010; van der Molen 2018) and federal BLS and OSHA materials are identified by full citation in the footnotes and are publicly available.

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA (LIUNA)
GE25-001

REQUEST DATE: 05/27/26
RESPONSE DATE: 06/06/26
REQUESTING PARTY: STAFF
SUBJECT:

Staff Data Request No. 1-5:

Please complete the Adverse Impact Schedule enclosed as Attachment A, separately identifying each significant adverse impact to South Dakota customers LIUNA contends is likely to occur as a result of the proposed Merger (Columns B through K). If LIUNA contends that no significant adverse impacts to South Dakota customers have a likelihood of occurring, please state so affirmatively in lieu of completing the Adverse Impact Schedule.

Response to Staff Data Request No. 1-5:

LIUNA objects to Data Request No. 1-5 in its entirety. The request asks LIUNA to identify, quantify, and contemplate hypothetical events that are entirely suppositional and theoretical, and that depend on the future conduct of third parties not within LIUNA's knowledge or control. A demand that an intervenor enumerate and quantify speculative future harms is not a proper data request and beyond the scope of permissible discovery. The request calls for guesswork, speculation and conjecture, is argumentative, and improperly attempts to shift onto LIUNA the burden of proof that SDCL 49-34A-36 places squarely on the Joint Applicants.²¹ The Adverse Impact Schedule further seeks information (Columns B through K) that is not within LIUNA's possession and that, by its nature, cannot be quantified by LIUNA, because the Joint Applicants do not track or specify contractor wages, benefits, or training.²²

Subject to and without waiving these objections, LIUNA states: LIUNA does not categorically oppose the proposed Merger provided the Commission adopts the workforce conditions recommended in the Harris Direct Testimony, which are materially identical to those the Joint

²¹ SDCL 49-34A-36 (Commission "shall approve" unless it finds "a likelihood of significant adverse impacts to customers in this state"); the Joint Applicants, not the intervenors, bear the burden of demonstrating the Merger satisfies that standard.

²² Joint Applicants' Responses to LIUNA's First Set of Data Requests, DRs 1.19 and 1.24.

Applicants have already accepted in the Montana and Nebraska settlements (Exhibits RH-1 and RH-2).

As to the basis for the recommended conditions, high-hazard gas and electric construction and maintenance work is governed by training and qualification standards, both federal and South Dakota, precisely because lapses in workforce training and supervision cause preventable harm. These include the PHMSA operator-qualification rules (adopted to reduce pipeline “incidents caused by human error”), welder-qualification and integrity-management standards, and OSHA’s electrical and trenching requirements, all of which South Dakota incorporates or supplements.²³ The recommended conditions ensure that the Joint Applicants’ pursuit of “enhanced synergies” does not erode the compensation, training, and qualifications of the workforce performing that work. The compensation condition calls only for market wages, not union wages.

Respondent(s):

Randall L. Harris

Attachment(s):

None.

²³ 49 C.F.R. Part 192, Subparts N & O and §§ 192.225, 192.227, 192.915; 64 Fed. Reg. 46,853 (Aug. 27, 1999); 29 C.F.R. § 1910.269 and Part 1926, Subpart P; SDCL ch. 49-34B and ARSD 20:10:37 (adopting 49 C.F.R. Parts 191, 192, 193, 199); SDCL ch. 49-7A (one-call); SDCL ch. 49-41B and ARSD 20:10:22 (siting / DANR environmental permitting).