

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of)
the Gas Pipeline Safety Rules Contained in) Case No. 09-829-GA-ORD
Chapter 4901:1-16 of the Ohio Administrative)
Code.)

ENTRY

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies, every five years, to conduct a review of each of its rules and to determine whether to continue its rules without change, amend its rules, or rescind its rules. The current review date for the rules contained in Chapter 4901:1-16, Ohio Administrative Code (O.A.C.), is September 30, 2009. In general, the rules address gas pipeline safety.
- (2) Section 119.032(C), Revised Code, requires that the Commission determine each of the following:
 - (a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted.
 - (b) Whether the rule needs amendment or rescission to give more flexibility at the local level.
 - (c) Whether the rule needs amendment to eliminate unnecessary paperwork.
 - (d) Whether the rule duplicates, overlaps with, or conflicts with other rules.
- (3) In addition, on February 12, 2008, the governor of the state of Ohio issued Executive Order 2008-04S, entitled "Implementing Common Sense Business Regulation," (executive order) which sets forth several factors to be considered in the promulgation of rules and requires the Commission to review its existing body of promulgated rules. Specifically, among other things, the Commission must review its rules to ensure that each of its rules is

needed in order to implement the underlying statute; must amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that unnecessarily impede economic growth, or that have had unintended negative consequences; and must reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter.

- (4) Following its review, staff of the Commission recommends that the rules contained in Chapter 4901:1-16, O.A.C., should be amended to provide better consistency with similar rules applicable to other industries, as well as to clarify and correct other issues. The proposed modifications to the rules include amendments to the provisions pertaining to pipeline leaks and a change in the procedure for the payment of forfeitures and payment made pursuant to stipulation. In addition, the staff is recommending that the pressure testing standards contained in Rule 4901:1-13-05(A)(3), O.A.C., should also be included in the gas pipeline safety rules in Chapter 4901:1-16, O.A.C. Therefore, they have recommended the new rule be added as Rule 4901:1-16-15.
- (5) In making the determinations required by Section 119.032(C), Revised Code, staff considered those matters set forth in the executive order and in Section 119.032(C), Revised Code, as well as the continued need for the rules; the nature of any complaints or comments received concerning these rules; and any relevant factors that have changed in the subject matter area affected by the rules.
- (6) Staff's proposed changes to rules in Chapter 4901:1-16, O.A.C., are posted on the following website:

www.puco.ohio.gov/puco/rules

To minimize the expense of this proceeding, the Commission will serve a paper copy of only this entry. All interested persons are directed to download the proposed rules from the above website, or to contact the Commission's Docketing Division at (614) 466-4095, Monday through Friday between the hours of 7:30 a.m. and 5:30 p.m., if a paper copy of the proposed rules is required.

- (7) Those persons or entities interested in making comments should file their comments, in writing, with the Commission's docketing division by October 30, 2009. Any person or entity interested in making reply comments should file such reply comments, in writing, with the Commission's docketing division by November 20, 2009.

Pursuant to the Commission's May 7, 2008, entry in Case No. 06-900-AU-WVR, comments and replies may be filed electronically. Further information is available at <http://dis.puc.state.oh.us/> by clicking on "Electronic Filing Information & Links."

All comments filed may be viewed at:

<http://dis.puc.state.oh.us/CaseRecord.aspx?CaseNo=09-829>

Any person filing comments may request paper copies of the other comments by filing a notice of such request in this docket. All other commenters shall then serve a copy of the comments upon the requesting party via email or hard copy to the address provided.

It is therefore,

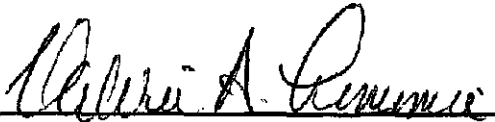
ORDERED, That any interested person or entity wishing to file comments or reply comments with the Commission regarding the proposed rules do so no later than October 30, 2009, or November 20, 2009, respectively. It is, further,

ORDERED, That a copy of this entry, without any attachments, be served upon all regulated gas and natural gas companies, the Ohio Consumers' Counsel, the Ohio Gas Association, and the Ohio Oil and Gas Association.


THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella


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Entered in the Journal

SEP 30 2008



Renee J. Jenkins
Secretary

4901:1-16-01 Definitions.

As used in this chapter:

- ~~(A) "C.F.R." means code of federal regulations.~~
- (B) "Chief" means the chief of the gas pipeline safety section of the commission or his/her designee.
- (C) "Commission" means the public utilities commission of Ohio.
- (D) "Contiguous property" includes, but is not limited to, a manufactured home park as defined in section 3733.01 of the Revised Code; a public or publicly subsidized housing project; an apartment complex; a condominium complex; a college or university; an office complex; a shopping center; a hotel; an industrial park; and a race track.
- (E) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.
- (F) "Gathering line" is determined in the same manner as in 49 C.F.R. 192.8 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.
- ~~(G) "GPS" means gas pipeline safety.~~
- (H) "Gas pipeline safety (GPS) proceeding" means a commission-ordered investigation of any incident, violation, or possible noncompliance with the pipeline safety code.
- (I) "Incident" means an event that involves a release of gas from an intrastate gas pipeline facility and results in any of the following:
 - (1) A death.
 - (2) Personal injury requiring inpatient hospitalization.
 - (3) Estimated property damage of fifty thousand dollars or more, which is the sum of:
 - (a) The estimated cost of repairing and/or replacing the physical damage to the pipeline facility.
 - (b) The cost of material, labor, and equipment to repair the leak, including meter turn-off, meter turn-on, and light up.

- (c) The cost of gas lost by an operator or person, or both. Cost of gas lost shall not include the cost of gas in a planned operational release of gas by an operator, which is performed in compliance with the pipeline safety code.
 - (d) The estimated cost of repairing and/or replacing other damaged property of the operator or others, or both.
- (J) "Intrastate gas pipeline facility" includes any new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas either wholly or partly within this state or from an interstate gas pipeline in Ohio to a direct sales customer in Ohio buying gas for its own consumption.
- (K) "Master meter system" means a pipeline system that distributes gas to two or more buildings or residences within a contiguous property where the operator purchases gas from an outside source for resale to consumers, including tenants. Such pipeline system supplies consumers who purchase the gas directly through a meter, or by paying rent, or by other means. Master meter systems shall exclude pipelines within a manufactured home or a building, except it shall include service lines.
- (L) "Operator" means:
 - (1) A gas company as defined by division (A)(5) of section 4905.03 of the Revised Code.
 - (2) A natural gas company, including a producer of gas which does business as a natural gas company pursuant to division (A)(6) of section 4905.03 of the Revised Code.
 - (3) A pipeline company, when engaged in the business of transporting gas by pipeline as defined by division (A)(7) of section 4905.03 of the Revised Code.
 - (4) A public utility that is excepted from the definition of "public utility" under division (B) or (C) of section 4905.02 of the Revised Code, when engaged in supplying or transporting gas by pipeline within this state.
 - (5) Any person who owns, operates, manages, controls, leases, or maintains an intrastate gas pipeline facility or who engages in the transportation of gas. This includes, but is not limited to, a person who owns, operates, manages, controls, leases, or maintains a master meter system within this state.

"Operator" does not include an ultimate consumer who owns a service line on the real property of that ultimate consumer.

- (M) "Person" means any individual, corporation, business trust, estate, trust, partnership, association, firm, joint venture, or municipal corporation and includes any trustee, receiver, assignee, or personal representative thereof.
- (N) "Pipeline" means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.
- (O) "Pipeline safety code" means 49 C.F.R., 40, 191, 192, and 199 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code; sections 4905.90 to 4905.96 of the Revised Code; this chapter; and commission orders issued thereunder.
- (P) "Safety audit" is defined as set forth in section 4905.90 of the Revised Code.
- (Q) "Safety inspection" includes the following inspections, surveys, and testing of a master meter system which are authorized by the pipeline safety code, and includes mapping, (if accurate maps are not available from the operator), and pipe locating, (if the operator could not locate pipelines in its system).
 - (1) Testing of cathodic protection of metallic pipelines.
 - (2) Sampling of combustible gas to determine the proper concentration of odorant in distribution pipelines, unless records of the natural gas company performing the safety inspection show that the concentration of odorant in the gas transported to or near the master meter system conforms with the pipeline safety code.
 - (3) Gas leak surveys.
 - (4) Inspection and servicing of pressure regulating devices.
 - (5) Testing or calculation of required capacity of pressure relief devices.
 - (6) Inspection and servicing of critical valves.
 - (7) Inspection of underground vaults housing pressure regulating/limiting equipment and ventilating equipment.

- (R) "Staff" means the commission employees to whom responsibility has been delegated for enforcing and administering the ~~GPS-gas pipeline safety~~ requirements contained in this chapter and the Revised Code.
- (S) "Synthetic Natural Gas" means gas formed from feedstocks other than natural gas, including coal, oil, or naphtha.
- (T) "Transportation of gas" means:
 - (1) The gathering, transmission, or distribution of gas by pipeline, or the storage of gas within this state.
 - (2) The movement of gas through regulated gathering lines, but does not include the gathering of gas in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area, (including a subdivision, business, shopping center, or community development), or any similar populated area.
- ~~(U) "U.S.C." means United States code.~~

4901:1-16-02 Purpose and scope.

- (A) The rules contained in this chapter prescribe:
 - (1) ~~GPS-Gas pipeline safety~~ and drug and alcohol testing requirements to protect the public safety.
 - (2) Procedures for the staff to administer and enforce the pipeline safety code.
- (B) This chapter also governs ~~GPS-gas pipeline safety~~ proceedings to:
 - (1) Investigate and determine an operator's compliance with the pipeline safety code.
 - (2) Investigate and determine whether an operator's intrastate gas pipeline facility is hazardous to human life or property, as provided in 49 U.S.C. 60112, as effective on the date referenced in paragraph (D) of this rule.
 - (3) Review settlement agreements and stipulations by the staff and the operator.
 - (4) Issue and enforce compliance orders.

- (5) Issue emergency orders without notice or prior hearing when immediate action is needed to protect the public safety.
 - (6) Assess forfeitures.
 - (7) Direct the attorney general to seek enforcement of commission orders, including orders assessing forfeitures, and to seek appropriate remedies in court to protect the public safety.
- (C) All operators shall comply with the rules of this chapter.
- (D) Each citation contained with this chapter that is made to a section of the United States code or a regulation in the code of federal regulations is intended, and shall serve, to incorporate by reference the particular version of the cited matter that was effective on November 17, 2008.
- (E) **The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.**

4901:1-16-03 **Adoption of ~~U.S.~~ United States department of transportation gas pipeline safety regulations.**

- (A) The commission hereby adopts the ~~GPS~~ **gas pipeline safety** regulations of the ~~U.S.~~ **United States** department of transportation contained in 49 C.F.R. 40, 191, 192 and 199 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.
- (B) Telephone notice and report requirements applicable to gathering lines, **pursuant to** ~~(per division (C) of section 4905.91 of the Revised Code)~~, are set forth in rule 4901:1-16-05 of the Administrative Code.

4901:1-16-04 **Records, maps, inspections, and leak classifications.**

Each operator shall:

- (A) Establish and maintain all plans, records, reports, information, and maps necessary to ensure compliance with the pipeline safety code, and keep such plans, records, reports, information, and maps in Ohio at the operator's headquarters or appropriate company office(s) readily available for inspection, examination, and copying by the commission, its staff, or its authorized representative(s).

- (B) Provide and make available its plans, records, reports, information, and maps, as the commission, its staff, or its authorized representative(s) may require to administer and enforce the pipeline safety code.
- (C) Permit the commission, its staff, and authorized representative(s) to: enter and inspect its premises, operations, and intrastate gas pipeline facilities; and inspect, examine, and copy its plans, records, reports, information, and maps, which the commission, its staff, or its authorized representative(s) may require to administer and enforce the pipeline safety code.
- (D) Make its premises, operations, and intrastate gas pipeline facilities readily accessible to the commission, its staff, and its authorized representative(s).
- (E) Except for an operator of a master meter system, establish and maintain maps of the operator's service area which identify the operator's intrastate gas pipeline facilities, excluding service lines as defined in 49 C.F.R. 192.3 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.
- (F) Unless otherwise provided by this chapter, establish and retain records for three years to show compliance with the requirements of 49 C.F.R. 192 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.
- (G) Retain records of each leak survey, as required by 49 C.F.R. 192.723 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, for five years.
- (H) Classify all hazardous leaks immediately and classify all other leaks within two business days of discovery, utilizing the following ~~standards for leak classification, monitoring, and repair~~:
 - (1) A grade~~—one leak—classification~~ represents an indication of leakage **presenting** an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous.
 - (2) A grade~~—two leak—classification~~ represents an indication of leakage ~~is that~~ recognized as being nonhazardous at the time of detection, but requires scheduled repair based upon the severity and/or location of the leak.
 - (3) A grade~~—three leak—classification~~ represents an indication of leakage ~~is that~~ recognized as **being** nonhazardous at the time of detection and can be reasonably expected to remain nonhazardous.

(I) Upon discovery of ~~any~~ **the corresponding leak(s) from above**, take the following actions:

- (1) ~~(1) —~~ Take immediate and continuous action on ~~grade one leaks classified as leaks~~ **grade one** to protect life and property and ~~continuous action until the condition is no longer hazardous. This may require but is not limited to implementation of the operator's emergency plan.~~ Continuous action is defined as having personnel at the scene of the leak with leak detection equipment attempting to locate the source of the leak and taking action to prevent migration into structures, sewers, etc. If the hazardous condition associated with the leaks classified as grade one is eliminated, such as by venting, temporary repair, etc., but the possibility of the hazardous condition returning exists, the condition must be monitored as frequently as necessary, but at least once every eight hours, to protect life and property until the possibility of the hazardous condition returning no longer exists.

Leaks classified as grade one may be reclassified by performing a physical action to the pipeline (clamp, replacement, tape wrap, etc.) or pipeline facility. Reclassification must be in accordance with the criteria in paragraph (H) of this rule and by an individual who is qualified to classify leaks under the company's operator qualification plan. Venting, holes, aerators, or soil purging of a leak are not considered physical actions to the pipeline. If a leak is reclassified after performing a physical action, the timeframe for any required repair(s) and/or reevaluation(s) at the resulting classification will be calculated from the date the leak was reclassified.

- (2) Repair or clear ~~grade two leaks classified leaks as~~ **grade two** no later than fifteen months from the date the leak is discovered, unless the pipeline containing the leak is replaced within twenty-four months from the date the leak is discovered. If a replacement project that will clear a leak classified as grade two is cancelled after the fifteenth month after classification of the leak(s), the associated leak(s) must be cleared within forty-five days of the cancellation of the project, not to exceed twenty-four months from the date of the leak classification. Grade-two leaks shall be reevaluated at least once every six months until cleared.
- (3) Reevaluate ~~leaks grade three classified as grade three leaks~~ during the next scheduled survey or within fifteen months from the date of the last inspection, (whichever is sooner), and continue to reevaluate such leaks on that same frequency until ~~the leak is repaired or there is no longer any indication of leakage, the leak is reclassified, or the pipeline is replaced.~~

4901:1-16-05 Notice and reports of service failures and incidents; twenty-four hour contacts; one-call participation; post-incident testing; and cast iron pipeline program.

(A) Telephone notice of incidents and service failures.

- (1) Operators shall provide telephone notice to the chief on all incidents, as defined in rule 4901:1-16-01 of the Administrative Code, within two hours of discovery. This includes any telephone notice which is required to be made to the ~~U.S.~~ United States department of transportation pursuant to 49 C.F.R. 40, 191, 192, and 199 as referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code. Telephone notice requires personal contact with the chief or good faith efforts to make personal contact for all incidents. Operators unable to make personal contact with the chief shall leave a message on the commission's incident line, which is ~~(1-614)-~~466-7542.**
- (2) Operators shall provide telephone notice to the chief on all service failures, which involve an interruption of service to one hundred or more customers for a period of two hours or more, within two hours after discovery. Telephone notice requires personal contact with the chief or good faith efforts to make personal contact for all qualifying service failures. Operators unable to make personal contact with the chief shall leave a message on the commission's incident line, which is ~~1-(614)-~~466-7542.**

(B) Written reports regarding incidents and service failures.

- (1) All written reports required to be made to the ~~U.S.~~ United States department of transportation pursuant to the regulations in 49 C.F.R. 40, 191, 192, and 199 as referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, shall be submitted concurrently to the chief.:**
- (2) Within thirty days after the service failure is discovered, each operator shall submit a written report to the chief on the "service failure report form" provided by the commission.**
- (3) For each incident report and each service failure report required by the pipeline safety code, each operator shall also submit a final written report of the cause(s) of the incident or service failure, where ascertainable, and actions taken to minimize the possibility of a recurrence of such an incident or service failure, where appropriate. The final report shall be submitted to the chief within sixty days after discovery of the incident or service failure, unless the operator:**

- (a) For good cause, shows more time is needed.
 - (b) Submits interim reports at intervals of not more than sixty days until a final report is submitted.
- (4) Except for an operator of a master meter system, each operator shall submit an annual written report of incidents and service failures for the preceding calendar year {or state that no incidents or service failures occurred during the preceding calendar year} on the "annual report form" provided by the commission. This annual report shall be submitted to the chief not later than March fifteenth of each year.
- (C) Each natural gas company and pipeline company shall register the location of all of its underground utility facilities with a protection service that serves the area where the facilities are located, as provided in division (A) of section 3781.26 of the Revised Code. "Underground utility facilities" and "protection service" shall have the same meaning as in section 3781.25 of the Revised Code.
- (D) Twenty-four hour contact report.
 - (1) Each operator shall submit a twenty-four hour contact report to the chief not later than March fifteenth of each year. This written report shall contain:
 - (a) The name(s), business address(es), business telephone and fax number(s), and e-mail addresses of its emergency contact personnel.
 - (b) Any available emergency hotline number.
 - (2) Each operator shall, within a reasonable time, notify the chief in writing of any change in emergency contact personnel name(s), business address, business telephone, fax number, emergency hotline number, and/or e-mail address of its emergency contact personnel.
- (E) To the extent necessary to carry out its responsibilities under the pipeline safety code, the commission or its staff may require testing of any intrastate gas pipeline facility which is involved in an incident. After making a good faith effort to negotiate a mutually acceptable plan with the owner of the pipeline facility, the commission or its staff may require the operator or choose an independent laboratory to test such pipeline facility.
- (F) Each operator shall establish a program to identify, repair and replace, {as necessary}, its cast iron distribution pipeline system which is detrimental to the public safety. This program shall include, but not be limited to, disturbing cast iron pipe,

maintenance history, leak history, major street or highway reconstruction or repaving, construction activity, depth of cover, soil type, traffic loading, operating conditions, year of manufacture, type of pipe, amount of graphitization, vibrations, impact forces, earth movement, backfilling after undermining, and water leaks or sewer failures in the area.

- (G) The forms required by this rule shall be available at the commission's docketing division and electronically on the commission's website at www.puc.ohio.gov.

4901:1-16-06 Construction reports.

- (A) Each operator shall submit reports for each important addition of its intrastate gas pipeline facilities. As used in this rule, an "important addition" means construction or alteration of an operator's intrastate gas pipeline facility in a single project which involves **either** an expenditure of:

- (1) More than two hundred thousand dollars;~~or~~.
- (2) An amount which is more than ten per cent of the value of the operator's intrastate gas pipeline facility, provided such amount exceeds thirty thousand dollars.

As used in this rule, a "single project" means the installation, construction, or alteration of a contiguous section of gas pipeline facility within a defined time-frame.

- (B) Each operator shall submit three reports for each important addition on the form provided by the commission. Each report shall be submitted to the chief as follows:

- (1) The first report not later than twenty-one days before construction work will start;
- (2) The second report not later than seven days after construction work has started;
- (3) The third report not later than seven days after construction work has been completed.

- (C) Except for an operator of a master meter system, each operator shall submit a list of important additions completed during the preceding calendar year (or state it did not complete important additions during the preceding calendar year) on the **annual report** form provided by the commission. This annual report shall be submitted to the chief not later than March fifteenth of each year.

- (D) The forms required by this rule shall be available at the commission's docketing division and electronically on the commission's website at www.puc.ohio.gov.

4901:1-16-07 Master meter systems and safety inspections.

- (A) Each operator of a master meter system shall establish and maintain maps which identify its distribution pipeline system.
- (B) Each operator of a master meter system shall file an annual report on its system on the form provided by the commission. This **annual** report shall be submitted to the chief not later than March fifteenth of each year. The form required by this rule shall be available at the commission's docketing division and electronically on the commission's website at www.puc.ohio.gov.

(C) Safety inspections.

- (1) Unless otherwise provided in this paragraph, each operator of a master meter system shall conduct safety inspections as required by the pipeline safety code.
- (2) The commission may direct or order a natural gas company which distributes gas to a master meter system to perform a safety inspection on that system when the public interest so requires, or when an operator of a master meter system:
- (a) Has violated paragraph (B) or (C)(1) of this rule; or
 - (b) Requests an inspection.

The staff shall notify such natural gas company by letter and mail a copy of the notice to the operator of the master meter system. The letter shall specify the inspections, surveys, and testing required for the safety inspection of the master meter system.

- (3) Each operator of a master meter system shall permit employees and agents of the natural gas company performing the safety inspection to review the operator's maps and records.
- (4) Each natural gas company shall submit a report of its findings of the safety inspection to the chief within thirty days after the inspection.
- (D) A natural gas company may terminate service to a master meter system or a gas pipeline facility within a master meter system, in compliance with divisions (G) and

(H)(1) of section 4905.94 of the Revised Code, for the following unsafe conditions, gas leaks, and other safety hazards on that system or gas pipeline facility within that system:

- (1) Grade one leaks according to rule 4901:1-16-04 of the Administrative Code;
- (2) A fire or explosion near or at a gas pipeline facility; and
- (3) A gas pipeline facility damaged by a natural disaster, (such as flooding), or by excavation activities near or at the gas pipeline facility.

(E) The natural gas company may recover all reasonable, actual expenses incurred for performing a safety inspection by direct billing the operator of the master meter system.

(F) Tariffs.

(1) Each natural gas company may file an application with the commission for approval of a schedule of rates and charges for its customers to recover the reasonable and actual expenses of:

- (a) Performing safety inspections;
- (b) Disconnecting and reconnecting service to a master meter system under this rule.

(2) A natural gas company may recover expenses under its tariff if:

- (a) The company direct billed the operator of the master meter system;
- (b) The company made a good faith effort and followed regular procedures in collecting the debt; and
- (c) The operator failed to pay the bill within ninety days.

(G) Nothing in this rule relieves an operator of a master meter system from complying with this chapter.

4901:1-16-08 Service of notices and investigative reports.

(A) This rule governs service of:

- (1) Notices of probable noncompliance, proposed compliance orders, proposed forfeitures and amendments thereto under rule 4901:1-16-09 of the Administrative Code.
 - (2) Notices of hazardous facility and amendments thereto under rule 4901:1-16-10 of the Administrative Code; and.
 - (3) ~~GPS~~ **Gas pipeline safety** investigative reports under rule 4901:1-16-12 of the Administrative Code.
- (B) ~~S~~**The staff shall make service upon an operator by certified United States mail, courier service, or personal service. Service is effective upon receipt by any employee, agent of, or person designated by the operator. Unless otherwise provided in this paragraph, service upon an operator shall be made at the address designated as the service address in the operator's most recent annual report to the chief.**
- (1) If the service address is not disclosed on the most recent annual report or has changed since the most recent annual report was submitted to the chief, service shall be made at any business address disclosed in documents or papers submitted by the operator to the commission.
 - (2) If the operator has not disclosed its service address or business address to the commission, service shall be made at any business address of the operator.
- (C) If service under paragraph (B) of this rule is returned with an endorsement showing failure of delivery, or is not returned within twenty-one days, then service may be made by ordinary United States mail and is effective on the date of mailing.

4901:1-16-09 Notice of probable noncompliance; proposed compliance order; and/or proposed forfeiture.

- (A) After an inspection or investigation, the staff may issue a notice of probable noncompliance.
- (B) ~~S~~**The staff may issue with the notice of probable noncompliance or separately thereafter:**
 - (1) A proposed compliance order; and.
 - (2) A proposed forfeiture.
- (C) The staff may issue an amended notice of probable noncompliance, proposed compliance order, or proposed forfeiture at any time prior to the commencement of a

~~GPS-gas pipeline safety~~ proceeding brought pursuant to rule 4901:1-16-12 of the Administrative Code, in order to modify or include additional probable noncompliances or violations, facts, proposed forfeitures and proposed compliance orders. This rule should not be construed to prevent the staff, during the course of a ~~GPS-gas pipeline safety~~ proceeding, from seeking a finding of violations not listed in the notice or amended notice of probable noncompliance, ~~(or from rescinding or refraining from seeking a finding of violations)~~, or from seeking a compliance order or proposed forfeiture that varies from previous notices issued under this rule, provided that the staff's proposed findings and/or violations relate to the same incident, investigation, or safety audit(s).

- (D) Any notice of probable noncompliance, proposed compliance order, proposed forfeiture, or amendments thereto shall be served pursuant to rule 4901:1-16-08 of the Administrative Code.
- (E) The staff findings contained in the notice of probable noncompliance, proposed compliance order, or proposed forfeiture represent the results of the staff investigation. Such findings are not intended to represent the views of the commission or otherwise bind the commission.

4901:1-16-10 Hazardous pipeline facilities: inspection and notice.

- (A) After an inspection or investigation, the staff may issue a notice of hazardous facility. The notice may include a proposed compliance order.
- (B) The staff may issue an amended notice or proposed compliance order at any time prior to the commencement of a ~~GPS-gas pipeline safety~~ proceeding brought pursuant to rule 4901:1-16-12 of the Administrative Code in order to modify or include additional hazards, facts, and proposed compliance orders. This rule should not be construed to prevent the staff, during the course of a ~~GPS-gas pipeline safety~~ proceeding, from seeking a finding of hazardous facility not listed in the notice or amended notice, ~~(or from rescinding or refraining from seeking a finding of hazardous facilities)~~, or from seeking a compliance order that varies from previous notices issued under this rule, provided that the staff's proposed findings and/or violations relate to the same incident, investigation, or safety audit(s).
- (C) Any notice of hazardous facility, proposed compliance order, or amendments thereto shall be served pursuant to rule 4901:1-16-08 of the Administrative Code.
- (D) The staff findings contained in the notice and proposed compliance order represent the results of the staff investigation. Such findings are not intended to represent the views of the commission or otherwise bind the commission.

4901:1-16-11 Settlement agreements and stipulations.

- (A) If the staff and operator reach agreement regarding any of the following: the occurrence of a noncompliance; the occurrence of a hazardous condition of a facility; the violation of a commission order; a compliance order or remedy; or the amount of a forfeiture, compromise forfeiture, or other payment, the agreement may be reduced to writing in a settlement agreement and/or stipulation. Such agreement shall be signed by the operator or its attorney and an authorized representative of the staff. Except as otherwise provided in paragraphs (B) and (E) of this rule, the settlement agreement and/or stipulation shall not be effective until
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- ~~(1) The stipulation it is filed with the commission for approval in a GPS proceeding or other proceeding; and~~
- ~~(2) The stipulation is approved by and made the order of the commission.~~
- (B) If the settlement agreement and/or stipulation provides for the payment of a forfeiture, compromise forfeiture, or other payment by the operator of one thousand dollars or less, the agreement shall be fully binding upon the commission and the operator upon its execution.
- (C) Unless contained in or otherwise provided in a settlement agreement and/or stipulation, no statement or conduct during settlement negotiations is admissible in any other commission proceeding regarding the noncompliance, hazardous facility, or violation.
- (D) Where the operator has demonstrated to the staff that the violation(s) listed in the notice, (or amended notice), of probable noncompliance or **GPS-gas pipeline safety** investigative report has been corrected and where the operator submits full payment of the proposed forfeiture prior to the execution of a written settlement agreement and/or stipulation, or final commission order, the violation(s) listed in such notice of probable noncompliance shall be considered by the commission as part of the operator's history of violations in determining the appropriate forfeiture for any future violation.
- (E) If the operator pays a proposed forfeiture or more than one thousand dollars without executing a written settlement agreement and/or stipulation, the payment shall be fully binding upon the commission and the operator when approved by ~~and made the order of the commission.~~

4901:1-16-12 Commission proceedings.

- (A) The commission may initiate a ~~GPS-gas pipeline safety~~ proceeding after:
- (1) An incident has occurred.
 - (2) A notice of probable noncompliance is served.
 - (3) A notice of hazardous facility is served.
- (B) The commission shall conduct ~~GPS-gas pipeline safety~~ proceedings in accordance with Chapter 4901-1 of the Administrative Code.
- (C) Unless otherwise ordered by the commission or an attorney examiner assigned to the ~~GPS-gas pipeline safety~~ proceeding, the staff shall file with the commission and serve upon the operator a written report of investigation in each ~~GPS-gas pipeline safety~~ proceeding within ninety days after service of the entry which initiates the ~~GPS-gas pipeline safety~~ proceeding. The ~~GPS-gas pipeline safety~~ investigative report shall include: staff findings on any alleged incident, noncompliances, hazardous conditions, or violation of a commission order, (whether included in any initial notice or amended notice); staff's findings on operator policies and practices; and the staff's recommendations.
- (D) The commission shall hold an evidentiary hearing to consider the alleged incident(s), noncompliances, hazardous conditions, and violations of a commission order. The hearing may include evidence on the issues of corrective action and compliance orders, forfeitures, enforcement of a commission order, and other remedies.
- (E) ~~SThe~~ staff shall prove the occurrence of an incident, noncompliance, hazardous condition of a facility, or violation of a commission order by a preponderance of the evidence.
- (F) If, after a hearing, the commission finds an operator has violated or is violating the pipeline safety code, the commission may consider all factors set forth in section 4905.95 of the Revised Code, including when determining the amount of any proposed civil forfeiture. In addition, the commission may order an operator to terminate service to an operator of a master meter system who has violated the pipeline safety code.
- (G) This rule shall not apply to emergency orders approved by the commission under paragraph (C) of rule 4901:1-16-13 of the Administrative Code.

4901:1-16-13 Emergency proceedings.

- (A) The commission may initiate an emergency ~~GPS~~ **gas pipeline safety** proceeding consistent with section 4905.95 of the Revised Code.
- (B) The commission shall conduct such proceedings in accordance with Chapter 4901-1 of the Administrative Code, except where inconsistent with this rule.
- (C) Prior to a hearing under this rule, the commission may, without notice, find an emergency exists, may order the attorney general to seek remedies as provided in section 4905.96 of the Revised Code, and shall provide for an expedited hearing to begin no later than thirty days thereafter.

The order shall remain in effect no longer than forty days after the date it was approved.

4901:1-16-14 Payment of forfeitures and payments made pursuant to stipulation.

- (A) All forfeitures ordered by the commission or any payments made pursuant to stipulation shall be paid by certified check or money order made payable to "~~Treasurer, State of Ohio~~ **Public Utilities Commission of Ohio**," and shall be mailed or delivered to:

~~"Attorney General of Ohio, Public Utilities Section"~~ **Public Utilities Commission of Ohio**

180 East Broad Street

~~Ninth Floor~~

Columbus, Ohio 43215-3793"

- (B) The ~~attorney general of Ohio or his/her designee~~ **Commission** shall deposit such payments in the state treasury to the credit of the general revenue fund.
- (C) No operator may recover any forfeiture or other payment made pursuant to stipulation in any pending or subsequent proceeding before the commission.

4901:1-16-15 Pressure Testing Standards.

- (A) Prior to initial operation or reestablishing residential or nonresidential gas service, including after an outage, the gas piping downstream of the meter shall be tested with a service drop installed for a gas appliance to determine that no leaks exist.

Testing may be accomplished by pressure testing or dial testing as set forth in paragraphs (A)(1) to (A)(4) of this rule.

- (1) When pressure testing, the test pressure shall be measured with a manometer or with a pressure measuring device designed and calibrated to read, record, or indicate a pressure loss due to leakage during the pressure test period.
- (2) For new house lines at new installations, a pressure test shall be conducted at no less than one and one-half times the proposed maximum working pressure, but not less than three pounds per square inch gauge. Consideration shall be given to accommodate the manufacturer's inlet pressure specifications for connected appliances. Appliances may need to be isolated during the pressure test to prevent damage. All appliance drops shall be tested at a minimum of operating pressure. The test duration shall be no less than one-half hour for each five hundred cubic feet of pipe volume or fraction thereof. When testing a system having a volume less than ten feet or a system in a single-family dwelling, the test duration shall be a minimum of ten minutes. The duration of the test shall not be required to exceed twenty-four hours.
- (3) For existing house lines when reestablishing gas service, a pressure test shall be conducted at operating pressure for a duration of no less than three minutes. When gas service has been off for less than thirty days, such as, during an outage, a dial test at operating pressure may be used in place of a pressure test. The duration of the dial test shall be no less than: five minutes for meters which have minimum registering dials showing one-fourth or one-half cubic foot; seven minutes for meters which have a minimum registering dial showing one cubic foot; ten minutes for meters which have a minimum registering dial showing two cubic feet; twenty minutes for meters which have a minimum registering dial showing five cubic feet; and thirty minutes for meters which have a minimum registering dial showing ten cubic feet.
- (4) Prior to the reestablishment of service when gas has been disconnected or discontinued in a service line, the service line shall be tested in accordance with 49 C.F.R. 192 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Ohio Administrative Code. Bare steel services operating at a pressure less than one pound per square inch gauge shall be tested at a minimum of ten pounds per square inch gauge for a duration of no less than five minutes. Bare steel service lines that have been previously abandoned shall not be returned to service. For purposes of this rule, "abandoned" shall mean pipe that was not intended to be used again for

supplying of gas or natural gas, including a deserted pipe that is closed off to future use.

- (5) If a residential or small commercial customer complies with all pertinent tariff requirements and the gas or natural gas company cannot complete the requested service installation or service upgrade as set forth in paragraph (A)(1) or (A)(2) of rule 4901:1-13-05 of the Ohio Administrative Code, the gas or natural gas company shall promptly notify the customer of the delay, the reasons for the delay, the steps being taken to complete the work, and the probable completion date. If a rescheduled completion date cannot be met, the customer shall be promptly notified. If the rescheduled completion date is delayed more than five business days, written notification shall be given to the customer including the reason(s) for the delay, the steps being taken to complete the work and the new rescheduled completion date. This notification process shall be repeated as necessary. Each subsequent missed completion date shall count as a missed service installation or upgrade for purposes of calculating performance under paragraph (A)(1) or (A)(2) of rule 4901:1-13-05 of the Ohio Administrative Code.
- (6) If the gas or natural gas company fails to complete the requested service installation or upgrade as set forth in paragraph (A)(1) or (A)(2) of rule 4901:1-13-05 of the Ohio Administrative Code, as a result of a military action, war, insurrection, riot, or strike or a failure by the residential or small commercial customer or the customer's agent to provide access to the premises when necessary, such failure shall be reported but not be included in the monthly percentage calculation for this rule. Each gas or natural gas company must justify and document in its records each instance where it applied any of the exceptions listed in this paragraph.