

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

The Commission finds:

- (1) Sections 111.15 and 119.032, Revised Code, require the Commission to conduct a review, every five years, of its rules and to determine whether to continue its rules without change, amend its rules, or rescind its rules. The rules in Chapter 4901:1-16, Ohio Administrative Code (O.A.C.), in general, address the gas pipeline safety (GPS) standards.
- (2) Section 119.032(C), Revised Code, requires the Commission to determine all of the following:
 - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted.
 - (b) Whether the rules need amendment or rescission to give more flexibility at the local level.
 - (c) Whether the rules need amendment or rescission to eliminate unnecessary paperwork.
 - (d) Whether the rules duplicate, overlap with, or conflict with other rules.
- (3) In making its review, an agency is required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules.
- (4) In addition, on February 12, 2008, the governor of the state of Ohio issued Executive Order 2008-04S, entitled "Implementing Common

Sense Business Regulation," 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.

- (5) By entry issued September 30, 2009, the Commission issued staff-proposed revisions and suggestions for comment for Chapter 4901:1-16, O.A.C. The staff recommended certain changes to the rules in order to provide better consistency with similar rules applicable to other industries, as well as to clarify and correct other issues.
- (6) Initial comments were filed in this docket on October 30, 2009, by: the East Ohio Gas Company d/b/a Dominion East Ohio and Vectren Energy Delivery of Ohio, Inc. (jointly referred to as DEO/VEDO); the Office of the Ohio Consumers' Counsel (OCC); Duke Energy Ohio (Duke); the Ohio Gas Company (OGC); and the Ohio Gas Association (OGA). Reply comments were filed on November 20, 2009, by: OCC; OGC; and DEO/VEDO.
- (7) The Commission will address the more relevant comments below. Throughout this order, references or citations to comments will be designated as "initial" for initial comments and "reply" for reply comments. The Commission would also note that some minor, noncontroversial changes have been incorporated into the amended rules without Commission comment. Any recommended change that is not discussed below or incorporated into the amended rules should be considered denied.

Rule 4901:1-16-01 - Definitions

- (8) Paragraph (K) - This paragraph sets forth a definition of "master meter system."

Duke recommends that the term "master meter system" be placed in quotations throughout the definition.

The Commission finds Duke's recommendation unnecessary; and therefore, denies the request. However, during the Commission's review of this paragraph, we discovered that this definition is not in conformity with the definition of "master meter system" contained in Section 4905.90(F), Revised Code. Accordingly, the Commission elects to modify paragraph (K) to conform to the definition found in Section 4905.90(F), Revised Code.

Rule 49901:1-16-02 – Purpose and scope

- (9) Paragraph (D) – On a periodic basis, the Commission updates the effective date of the federal regulations to coincide with the most recent amendments on the federal level. Therefore, in this paragraph the Commission updates the effective date of the incorporated federal regulations to reflect the most recent update.

Rule 4901:1-16-04 – Records, maps, inspections, and leak classification

- (10) Paragraph (I) – This paragraph, and its subsections, explain the various leak classifications and the required action to be taken upon discovery of a leak of a specific classification. Staff proposes expanding this section to further clarify the action to be taken upon the discovery of a specific grade of leak.

- (a) OGA recommends that subsection (2) be amended to modify the requirement that grade two leaks shall be reevaluated at least once every six months "at intervals not to exceed seven and one-half months" (OGA at 2). DEO/VEDO supports this recommendation (DEO/VEDO at 3).

The Commission finds that OGA's recommendation which requires leaks to be evaluated at least once every six months, at intervals not to exceed seven and one-half months, is unnecessary as there is no justification for extending the interval for leak evaluation from six to seven and one-half months. Therefore, this request should be denied.

- (b) OGA also notes the inconsistency between subparagraphs (2) and (3) of this paragraph, and suggests that, in subparagraph (2) the rule should be amended to provide that leaks will be evaluated until "there is no longer any indication of leakage, the leak

is reclassified, or the pipeline is replaced" (OGA at 2). OGA's suggestion would create consistency between subparagraphs (2) and (3). DEO/VEDO, OGC, and Duke concur in this recommendation (DEO/VEDO at 3, OGC at 2, Duke at 2).

The Commission finds that the recommendation to replace with word "cleared" in subparagraph (2) with the language contained in subparagraph (3) does not account for the distinction in the severity of leaks classified as grade two and grade three and the necessary action taken upon discovery. Therefore, this request should be denied.

Rule 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

- (11) Paragraphs (A)(1) and (B)(1) – These paragraphs refer to notices and reports made to the United States Department of Transportation pursuant to various sections of the Code of Federal Regulations (C.F.R.) and reference Rule 4901:1-16-02(D), O.A.C.

Duke recommends that these paragraphs be revised to clearly delineate that the cross-reference to Rule 4901:1-16-02(D), O.A.C., only relates to the effective date of the C.F.R. Duke points out that this revision would be consistent with other rules in this chapter that reference Rule 4901:1-16-02(D), O.A.C. (Duke at 3-4.)

The Commission finds that Duke's request is well made and should be granted.

- (12) Paragraph (B) – This paragraph provides the requirements for the filing of written reports regarding incidents and service failures. Staff did not propose any substantive changes to this section.

OCC recommends that this paragraph be modified to require that all written reports filed with the Commission be publicly filed, instead of being filed with staff. OCC argues that this is necessary to assure that the public has access to information on matters that may directly relate to public safety. (OCC at 2-3.)

In response, OGC asserts that public docketing of incident and service failure reports is unnecessary and will cause increased costs for natural gas companies, including the costs of preparing and

submitting these reports to docketing. OGC also asserts that public docketing of incident and service failure reports will invite litigation and cause natural gas companies to incur the costs associated with litigation over each new report. (OGC reply at 2.) Furthermore, DEO/VEDO note that customers have the right to file service/safety complaints with the Commission and staff can initiate formal pipeline safety proceedings based on reports filed with the Commission (DEO/VEDO at 3).

The Commission believes that requiring the companies to provide this information to staff in accordance with this rule is consistent with the Commission's general supervisory powers under Section 4905.06, Revised Code. In order to carry out our statutory responsibilities, it is essential that the Commission and its staff be kept apprised via the reports required by this paragraph of the day-to-day matters that may impact gas pipeline safety in Ohio. With this in mind, the Commission finds that OCC's request is unnecessary and could be overly burdensome. Therefore, this request should be denied.

Rule 4901:1-16-06 – Construction reports

- (13) Paragraph (C) – As proposed by staff, this paragraph requires that each operator submit a list of important additions completed during the proceeding calendar year, or a statement that it did not complete any important additions during the proceeding calendar year, on the annual report form provided by the Commission.
- (a) OGA recommends that paragraph (C) be amended to include a provision that, if a company is participating in an accelerated mainline replacement program (AMRP) that requires yearly reporting, the reporting requirements of the AMRP will supersede the requirements of this rule (OGA at 2-3). DEO/VEDO agree with the comments by the OGA stating that the "important additions" required by this rule will duplicate the information included in the companies' annual AMRP reports; therefore, DEO/VEDO request permanent waivers of the annual reporting requirement of Rule 4901:1-16-06(C) (DEO/VEDO at 3).

OCC states, in response to the comments of DEO/VEDO and OGA, that regardless of a

companies' participation in an AMRP, yearly construction reports should be publicly filed. In support of its assertion, OCC claims that AMRP programs may be for a limited time or have requirements different from the filing of construction reports; therefore, participation in an AMRP program should not excuse a company from filing construction reports. (OCC reply at 2-3.)

With respect to the recommendations of OGA and DEO/VEDO that this rule be amended to include a provision exempting companies participating in an AMRP from the requirements of this rule, the Commission finds that this is an unnecessary change to the rule. As OCC points out, AMRPs may be for a limited time. Furthermore, not all of the companies have AMRPs in place. Therefore, while the Commission acknowledges that some of the efforts may be duplicative, we believe that it is necessary that all companies file construction reports as part of their annual report filings. The Commission notes that those companies that have AMRPs and believe that the information required under this rule is identical to the information provided in their annual AMRP reports are free to file an application for a waiver of a rule (WVR) requesting a waiver of the requirement in this rule that the information be submitted as part of their annual reports. With regard to the request by DEO/VEDO for a permanent waiver, if they wish to pursue this request they should file an appropriate WVR application. Therefore, the Commission finds that the requests by OGA and DEO/VEDO should be denied.

- (b) OCC suggests that the reporting requirements contained in paragraph (C) be amended to include reporting of the cost of the project, as well as a requirement that the report be filed publicly with the Commission. In support of its recommendation, OCC maintains that the public would benefit from knowing what investment operators are making in gas pipeline facilities. (OCC at 3-4.)

In response to OCC's suggestion that gas companies publicly file their construction reports and include the cost of any reported construction in the report, DEO/VEDO assert that this requirement is unnecessary. Specifically, DEO/VEDO assert that the four largest local distribution companies (LDCs) in Ohio are currently operating under Commission-approved AMRPs that require yearly reporting of information pertaining to pipeline additions and costs. (DEO/VEDO reply at 4.)

Initially, the Commission notes that, as pointed out by DEO/VEDO, the LDCs that have AMRPs must file cases on an annual basis and the costs of the projects addressed in this rule are reviewed within the context of those cases. For the other LDCs, consideration and review of the costs of those companies' projects may be done within the context of a base rate case or another appropriate proceeding brought before the Commission. Moreover, OCC has an opportunity to participate in any of the aforementioned proceedings. Therefore, the Commission finds that OCC's recommendation is unnecessary and should be denied.

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

- (14) Paragraphs (A) and (C) – Paragraph (A) provides that, after an inspection or investigation, the staff may issue a notice of probable noncompliance and Paragraph (C) provides that the staff may issue an amended notice of probable noncompliance, proposed compliance order, or proposed forfeiture.

OCC recommends that the notice of probable noncompliance be filed in a public docket. OCC asserts that it has an interest in potential compliance issues that directly affect consumers. (OCC at 4.)

OGC states, in its reply comments, that OCC does not establish any deficiencies in the current reporting system and provides no reason why the current reporting system should be modified. OGC asserts that, under the current system, staff has the authority to open a formal case, if compliance issues cannot be resolved more

informally. Finally, OGC argues that requiring every notice of probable noncompliance to be formally filed could jeopardize the current process and the atmosphere of cooperation currently in place between the companies and staff. (OGC reply at 3.) DEO/VEDO also contend that notices of probable noncompliance need not be publicly filed, instead relying on the discretion of staff to pursue formal action in a public docket, where necessary (DEO/VEDO reply at 5).

The Commission believes that it is essential, and in keeping with the exercise of our supervisory powers, that we are able to work informally with companies in order to ensure that the public safety is protected. We believe that requiring the filing of all notices under this rule would prove to be unnecessary and overly burdensome. Moreover, the Commission does not find any deficiencies with the current configuration of the rule, which relies on the discretion of staff to open a formal case, if the need arises. Accordingly, OCC's request should be denied.

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

- (15) Paragraph (A) – This paragraph provides that, after an inspection or investigation, the staff may issue a notice of hazardous facility.

OCC recommends that this rule be amended to require staff to file the notice of hazardous facility in a public docket. In support of its recommendation, OCC asserts that, without public filing of notices of hazardous facilities, the public will remain unaware of those hazards. (OCC at 5.)

OGC responds to OCC's suggestion, by stating that OCC does not demonstrate any deficiencies in the current system and provides no reason why the current system should be modified (OGC reply at 2-3). DEO/VEDO also contend that notices of hazardous facilities need not be publicly filed, where staff has discretion to pursue formal action in a public docket, when necessary (DEO/VEDO reply at 5).

As with our determination in finding (14), the Commission does not find any deficiencies with the current configuration of the rule, which relies on the discretion of staff to open a formal case. We find that requiring the filing of such notices could unnecessarily delay the timely delivery of the notices and prove to be unduly burdensome. Accordingly, OCC's request should be denied.

Rule 4901:1-16-15 – Pressure Testing Standards

- (16) This new rule proposed by staff incorporates the pressure testing standards contained in the minimum gas service standards contained in Rule 4901:1-13-05(A)(3), O.A.C. into the GPS rules.

Duke recommends that the pressure testing standards not be included in Chapter 4901:1-16, O.A.C. Specifically, Duke argues that nothing in this chapter relates to customer-owned house lines; therefore, it is inappropriate to include a rule on the topic in the GPS rules. (Duke at 4.) In addition to advancing suggestions similar to those made by Duke, OGC submits that inclusion of the pressure testing standards in the GPS rules may result in duplicative or conflicting requirements within the Ohio Administrative Code (OGC at 2). DEO/VEDO also assert, in their comments, that the inclusion of pressure testing standards in the GPS rules is unnecessary, contrary to law, and likely to result in confusion (DEO/VEDO at 4-7). OGA also recommends not including the pressure testing standards in the GPS rules (OGA at 3-4).

OCC did not oppose the inclusion of the pressure testing standards in this chapter, but instead proposed modifications to the rule (OCC at 5-7). In addition, OCC points out that none of the other commentators stated a valid reason why the pressure testing standards should not be included in the GPS rules (OCC reply at 3-6).

In response to OCC's recommendation, DEO/VEDO argue that any modifications made to Rule 4901:1-16-15, O.A.C., that are not contained in Rule 4901:1-13-05, O.A.C., would create conflicting requirements. Furthermore, DEO/VEDO assert that, if OCC's modifications are to be addressed, they should be addressed in Rule 4901:1-13-05, O.A.C., and Rule 4901:1-16-15, O.A.C., should not be included in the GPS rules (DEO/VEDO reply at 6-7).

Upon consideration of the comments, the Commission agrees that regulation of the customer-owned house lines should not be moved to the Chapter 4901:1-16, O.A.C., as recommended by staff in this case. Rather, we conclude that the pressure testing rules should continue to be part of Chapter 4901:1-13, O.A.C., and, therefore, any proposed modifications to these rules should be provided by parties within the context of our review of Chapter 4901:1-13, O.A.C. Accordingly, the requests of Duke, DEO/VEDO, OGA, and

OGC should be granted and staff's proposed new Rule 4901:1-16-15, O.A.C., should not be adopted.

- (17) Upon considering staff's proposal and the initial and reply comments, the Commission concludes that existing Rules 4901:1-16-01 through 4901:1-16-14, O.A.C., should be amended; therefore, the attached rules, that have been amended to reflect the Commission's determinations herein, should be adopted.

It is, therefore,

ORDERED, That the attached amended rules be adopted. It is, further,

ORDERED, That the attached amended rules contained in Chapter 4901:1-16, O.A.C., be filed with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the final rules be effective on the earliest day permitted by law. Unless otherwise ordered by the Commission, the review date for these rules shall be September 30, 2014. It is, further,

ORDERED, That a copy of this finding and order, with the attached rules, be served upon all regulated gas or natural gas companies, all certified retail natural gas service suppliers, and all parties of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO



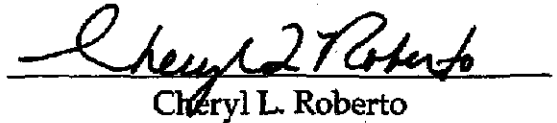
Alan R. Schriber, Chairman

Paul A. Centolella



Steven D. Lesser

Valerie A. Lenthie



Cheryl L. Roberto

KLS:dah

Entered in the Journal

APR 14 2010Renee J. Jenkins
Secretary

***** DRAFT - NOT YET FILED *****

4901:1-16-01 **Definitions.**

As used in this chapter:

~~(A)~~ "C.F.R." means ~~code of federal regulations~~.

~~(B)~~~~(A)~~ "Chief" means the chief of the gas pipeline safety section of the commission or his/her designee.

~~(C)~~~~(B)~~ "Commission" means the public utilities commission of Ohio.

~~(D)~~~~(C)~~ "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)~~~~(D)~~ "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

~~(F)~~~~(E)~~ "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)~~~~(F)~~ "Gas pipeline safety (GPS) ~~GPS~~ proceeding" means a commission-ordered investigation of any incident, violation, or possible noncompliance with the pipeline safety code.

~~(I)~~~~(G)~~ "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.

~~(D)~~(H) "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)~~(I) "Master meter system" means a pipeline system that distributes gas to two or more buildings or residences within a contiguous property for which where the system 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. The term includes a master Master meter system systems as defined in 49 C.F.R. 191.3, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code. The term excludes a pipeline shall exclude pipelines within a manufactured home, mobile home, or a building, except it shall include service lines.

~~(L)~~(J) "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.

~~(A)(K)~~ "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.

~~(A)(L)~~ "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.

~~(P)(M)~~ "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)(N)~~ "Safety audit" is defined as set forth in section 4905.90 of the Revised Code.

~~(P)(O)~~ "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)~~(P) "Staff" means the commission employees to whom responsibility has been delegated for enforcing and administering the gas pipeline safety ~~GPS~~ requirements contained in this chapter and the Revised Code.
- ~~(S)~~(Q) "Synthetic Natural Gas" means gas formed from feedstocks other than natural gas, including coal, oil, or naptha.
- ~~(T)~~(R) "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.

***** DRAFT - NOT YET FILED *****

4901:1-16-02

Purpose and scope.

(A) The rules contained in this chapter prescribe:

- (1) Gas pipeline safety GPS 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 gas pipeline safety GPS 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 February 2, 2010~~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.

***** DRAFT - NOT YET FILED *****

4901:1-16-03

**Adoption of United States ~~U.S.~~ department of transportation
gas pipeline safety regulations.**

- (A) The commission hereby adopts the gas pipeline safety ~~GPS~~ regulations of the United States ~~U.S.~~ 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.

***** DRAFT - NOT YET FILED *****

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:~~
 - (I) A ~~grade-one classification~~ ~~grade-one leak~~ 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 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 grade-three-leak is that classification represents an indication of leakage 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 leak, take the following actions:

- (1) Take immediate and continuous action on grade-one leaks classified as 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 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~~ leaks classified as grade two shall be reevaluated at least once every six months until there is no longer any indication of leakage, the leak is reclassified, or the pipeline is replaced cleared.

- (3) Reevaluate leaks classified as grade three ~~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.

***** DRAFT - NOT YET FILED *****

**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 effective on the date 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(~~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(~~614~~)-466-7542.**

(B) Written reports regarding incidents and service failures.

- (1) All written reports required to be made to the ~~United States~~ U.S. department of transportation pursuant to the regulations 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, 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.

***** DRAFT - NOT YET FILED *****

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 an expenditure of either:

(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 ~~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.

***** DRAFT - NOT YET FILED *****

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~~, ~~survey~~ 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, ~~and~~

(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, ~~and~~

(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, ~~and~~

(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.

***** DRAFT - NOT YET FILED *****

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) Gas pipeline safety ~~GPS~~ investigative reports under rule 4901:1-16-12 of the Administrative Code.

(B) ~~The staff~~ 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.

***** DRAFT - NOT YET FILED *****

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) ~~The staff~~ 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 gas pipeline safety GPS 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 gas pipeline safety GPS proceeding, from seeking a finding of violations not listed in the notice or amended notice of probable noncompliance, ~~(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.

***** DRAFT - NOT YET FILED *****

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 gas pipeline safety GPS 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 gas pipeline safety GPS proceeding, from seeking a finding of hazardous facility not listed in the notice or amended notice, from (or 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.

***** DRAFT - NOT YET FILED *****

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 it is filed with the commission and approved by the commission.
- ~~(1) The stipulation 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 gas pipeline safety GPS 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.~~

***** DRAFT - NOT YET FILED *****

4901:1-16-12

Commission proceedings.

- (A) The commission may initiate a gas pipeline safety GPS 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 gas pipeline safety GPS 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 gas pipeline safety GPS proceeding, the staff shall file with the commission and serve upon the operator a written report of investigation in each gas pipeline safety GPS proceeding within ninety days after service of the entry which initiates the gas pipeline safety GPS proceeding. The gas pipeline safety GPS 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) The staff ~~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.

***** DRAFT - NOT YET FILED *****

4901:1-16-13

Emergency proceedings.

- (A) The commission may initiate an emergency gas pipeline safety GPS 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.

***** DRAFT - NOT YET FILED *****

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 "Public Utilities Commission Treasurer, State of Ohio," and shall be mailed or delivered to:

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

180 East Broad Street

~~Ninth Floor~~

Columbus, Ohio 43215-3793"

- (B) The ~~commission attorney general of Ohio or his/her designee~~ 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.