

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
of its Rules in Chapter 4901:1-16 of the Ohio) Case No. 13-2237-GA-ORD
Administrative Code, Regarding Gas)
Pipeline Safety.)

ENTRY

The Commission finds:

- (1) Ohio Adm.Code Chapter 4901:1-16 contains rules for delineating the gas pipeline safety (GPS) requirements in Ohio, as well as the means for administering and enforcing those requirements.
- (2) R.C. 119.032 requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. At this time, the Commission is reviewing the GPS rules contained in Ohio Adm.Code Chapter 4901:1-16.
- (3) R.C. 119.032(C) requires that the Commission determine:
 - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;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 to eliminate unnecessary paperwork;
 - (d) Whether the rules duplicate, overlap with, or conflict with other rules; and
 - (e) Whether the rule has an adverse impact on businesses, reviewing the rule as if it were a draft rule being reviewed under R.C. 107.52 and 107.53, and whether any such adverse impact has been eliminated or reduced.

- (4) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.
- (5) Further, pursuant to R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact.
- (6) On January 16, 2014, the Commission held a workshop to elicit comments from interested stakeholders regarding proposed revisions to the rules in Ohio Adm.Code Chapter 4901:1-16. Approximately 33 interested stakeholders attended the workshop.
- (7) The Commission's Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-16, all stakeholder feedback provided at the January 16, 2014 workshop, and recommends amendments to several rules, as shown in the attachment to this Entry (Attachment A). The proposed revisions are summarized as follows:
 - (a) Ohio Adm.Code 4901:1-16-01 - Staff recommends adding a definition for leak detection equipment as the term is used in Ohio Adm.Code 4901:1-16-04.
 - (b) Ohio Adm.Code 4901:1-16-02 - Staff recommends the references to the United States Code of federal regulations be updated to the version effective as of the date of the rule.

- (c) Ohio Adm.Code 4901:1-16-04 – Staff recommends that operators be required to evaluate reclassified leaks 30 days after the remedial action.
 - (d) Ohio Adm.Code 4901:1-16-05 - Staff recommends this rule incorporate requirements for the abandonment of inactive service lines.
 - (e) Ohio Adm.Code 4901:1-16-06 – Staff recommends an increase in the expenditure levels for construction reports and amendment of the training program requirements.
 - (f) Ohio Adm.Code 4901:1-16-15 – Staff recommends no revisions to this rule, despite the comments of interested stakeholders, in light of the Commission’s ability to grant a waiver of the rules in this chapter pursuant to Ohio Adm.Code 4901:1-16-02(E), to grant a waiver pursuant to 49 USC 60118(d) or to recognize a waiver granted in accordance with 49 USC 60118(c).
- (8) Staff’s proposed changes to Ohio Adm.Code Chapter 4901:1-16 in Attachment A and the BIA for this chapter (Attachment B) are posted at: 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 and BIA from the above website or to contact the Commission’s Docketing Division to request a paper copy. The Commission notes that several of the rules in Ohio Adm.Code Chapter 4901:1-16 were recently amended in *In the Matter of the Amendment of Chapter 4901:1-16, Ohio Administrative Code, Regarding Gas Pipeline Safety, to Implement Am. Sub. S.B. 315*, Case No. 12-2040-GA-ORD, Finding and Order (Oct. 30, 2013) (*GPS Rules Update*) and those revisions are currently pending before the Joint Committee on Agency Rule Review. Staff’s proposal, set forth in Attachment A, reflects the amendments adopted in the *GPS Rules Update* although the rules are not yet effective.
- (9) The Commission requests comments from interested persons, regarding the proposed changes to this chapter and the BIA, to assist the Commission in its review of Ohio Adm.Code Chapter

4901:1-16. Comments should be filed, via electronic filing or in hard copy, by March 28, 2014. Reply Comments should be filed by April 11, 2014.

It is, therefore,

ORDERED, That all interested persons or entities wishing to file comments with the Commission regarding the proposed rules and the BIA do so no later than March 28, 2014, and any person wishing to file reply comments do so no later than April 11, 2014. It is, further,


ORDERED, That a copy of this Entry, with the attached rules and the BIA, be submitted to CSI in accordance with R.C. 121.82. It is, further,

ORDERED, That an electronic notice or paper copy of this Entry be sent to the gas-pipeline industry list-serve and served upon all regulated gas and natural gas companies in the state of Ohio, all competitive retail gas suppliers, the Ohio Gas Association, the Ohio Oil and Gas Association, the Ohio Petroleum Council, and Ohio Consumers' Counsel, and all other interested persons of record.

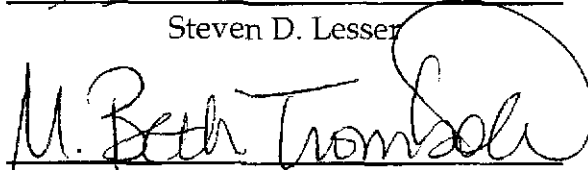
THE PUBLIC UTILITIES COMMISSION OF OHIO



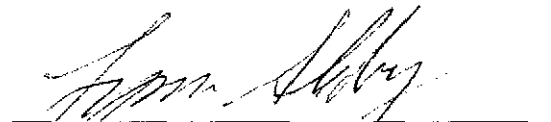
Todd A. Snitchler, Chairman




Steven D. Lesser



M. Beth Trombold



Lynn Slaby

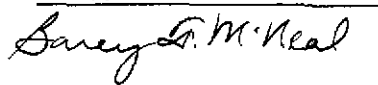


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Barcy F. McNeal
Secretary

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4901:1-16-01 Definitions.

As used in this chapter:

- (A) "Chief" means the chief of the gas pipeline safety section of the commission or his/her designee.
- (B) "Commission" means the public utilities commission of Ohio.
- (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.
- (D) "Gas" means natural gas, flammable gas, or gas which is toxic or corrosive.
- (E) "Gas gathering pipeline" means a gathering line that is not regulated under the Natural Gas Pipeline Safety Act, but includes a pipeline used to collect and transport raw natural gas or transmission quality gas to the inlet of a gas processing plant, the inlet of a distribution system, or to a transmission line.
- (F) "Gas gathering/processing plant pipeline operator" means any person that owns, operates, manages, controls, or leases, a gas gathering pipeline or a processing plant gas stub pipeline. A gas gathering/processing plant pipeline operator is not an operator as defined in paragraph (P) of this rule, but a person may be both an operator and a gas gathering/processing plant pipeline operator.
- (G) "Gas pipeline safety (GPS) proceeding" means a commission-ordered investigation of any incident, violation, or possible noncompliance with the pipeline safety code.
- (H) "Gas processing plant" means a plant that processes raw natural gas into merchantable products, including transmission quality gas or natural gas liquids, and also may include a plant that treats raw natural gas to remove impurities such as carbon dioxide, helium, nitrogen, or water.
- (I) "Gathering line" and "gathering of gas" have the same meaning as in the Natural Gas Pipeline Safety Act.
- (J) "Horizontal well" means a well that is drilled for the production of oil or gas in which the wellbore reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and the well is stimulated.

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- (K) "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) Unintentional estimated gas loss of three million cubic feet or more.
 - (4) Estimated property damage of fifty thousand dollars or more, excluding the cost of gas lost, 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 estimated cost of repairing and/or replacing other damaged property of the operator or others, or both.
- (L) "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.
- (M) "Leak detection equipment" means any device used to detect the percentage of natural gas in air.
- (N) "MAOP" means the maximum pressure at which a pipeline or segment of a pipeline may be operated under the Natural Gas Pipeline Safety Act or under sections 4905.90 to 4905.96 of the Revised Code.
- (NQ) "Master meter system" means a pipeline system that distributes gas within a contiguous property for which the system operator purchases gas 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 meter system 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 within a manufactured home, mobile home, or a building.
- (OP) "Natural Gas Pipeline Safety Act" means the Natural Gas Pipeline Safety Act of 1968, 82 Stat. 720, 49 U.S.C.A. App. 1671 et seq., ~~as amended~~, and the rules adopted

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by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act of 1968, including 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.

(PQ) "Operator" means:

- (1) A gas company as defined by division (A)(4) 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)(5) 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)(6) 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 and does not include a gas gathering/processing plant pipeline operator as defined in paragraph (F) or any person that owns, operates, manages, controls, or leases a gas gathering pipeline as defined in paragraph (E) of this rule.

(QR) "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.

(RS) "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.

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(~~ST~~) "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.

(~~FU~~) "Processing plant gas stub pipeline" means a gas pipeline that transports transmission quality gas from the tailgate of a gas processing plant to the inlet of an interstate or intrastate transmission line and that is considered an extension of the gas processing plant, is not for public use, and is not regulated under the Natural Gas Pipeline Safety Act.

(~~UV~~) "Raw natural gas" means hydrocarbons that are produced in a gaseous state from gas wells and that generally include methane, ethane, propane, butanes, pentanes, hexanes, heptanes, octanes, nonanes, and decanes, as well as other naturally occurring impurities like water, carbon dioxide, hydrogen sulfide, nitrogen, oxygen, and helium.

(~~VW~~) "Raw natural gas liquids" means naturally occurring hydrocarbons contained in raw natural gas that are extracted in a gas processing plant and liquefied and generally include mixtures of ethane, propane, butanes, and natural gasoline.

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

(~~XY~~) "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.

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(7) Inspection of underground vaults housing pressure regulating/limiting equipment and ventilating equipment.

(YZ) "Staff" means the commission employees to whom responsibility has been delegated for enforcing and administering the gas pipeline safety requirements contained in this chapter and the Revised Code.

(ZAA) "Synthetic Natural Gas" means gas formed from feedstocks other than natural gas, including coal, oil, or naphtha.

(AABB) "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas within this state.

4901:1-16-02 Purpose and scope.

(A) The rules contained in this chapter prescribe:

- (1) 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 gas pipeline safety proceedings to:

- (1) Investigate and determine an operator's or a gas gathering/processing plant pipeline operator's compliance with applicable sections of the pipeline safety code.
- (2) Investigate and determine whether intrastate gas pipeline facilities are 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 operators or by staff and gas gathering/processing plant pipeline operators.
- (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.

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- (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 and gas gathering/processing plant pipeline operators shall comply with the applicable 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 August 15, 2011~~ at the time of the effective date of this rule.
- (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 United States department of transportation gas pipeline safety regulations.

- (A) The commission hereby adopts the gas pipeline safety regulations of the 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 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.

- (A) Each operator and gas gathering/processing plant pipeline operator shall establish and maintain all plans, records, reports, information, and maps necessary to ensure compliance with applicable sections of 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) Each operator and gas gathering/processing plant pipeline operator shall provide and make available its plans, records, reports, information, and maps, as the

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commission, its staff, or its authorized representative(s) may require to administer and enforce the pipeline safety code.

- (C) Each operator and gas gathering/processing plant pipeline operator shall 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) Each operator and gas gathering/processing plant pipeline operator shall 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, each operator shall 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, each operator and gas gathering/processing plant pipeline operator shall 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) Each operator shall 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) Each operator shall classify all hazardous leaks immediately and classify all other leaks within two business days of discovery, utilizing the following:
 - (1) A grade-one 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 classification represents an indication of leakage recognized as being nonhazardous at the time of detection, but requires scheduled repair based upon the severity and/or location of the leak.

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- (3) A grade-three 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 the corresponding leak(s) from above, each operator shall take the following actions:
- (1) Take immediate and continuous action on leaks classified as grade one to protect life and property until the condition is no longer hazardous. 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. All leaks reclassified after performing a physical action must be evaluated after 30 days to verify the reclassification.

- (2) Repair or clear 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. Leaks classified as grade two shall be reevaluated at least once every six months until cleared.
- (3) Reevaluate leaks classified as grade three during the next scheduled survey or within fifteen months from the date of the last inspection, whichever is sooner,

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and continue to reevaluate such leaks on that same frequency until 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; abandonment of inactive service lines; 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 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.
- (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 United States 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)

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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 and gas gathering/processing plant pipeline 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 and gas gathering/processing plant pipeline 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

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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) Abandonment of service lines.

- (1) Each operator shall conduct an annual assessment of all service lines that have been inactive for more than one year and take immediate action to protect persons or property if any inactive service line is found to be unsafe. If the inactive service line is determined unsafe, the operator shall retire and physically abandon the line within three months of that determination. An inactive service line is considered unsafe when it presents a threat of serious harm to persons or property
- (2) In instances where a service line has been inactive for more than two years, and for which there are no definite plans for future use or the reasonable possibility for future use, the operator shall retire and physically abandon the line within six months of that determination.
- (3) A physically abandoned service line shall be, at a minimum, disconnected from the gas supply at the main, the service line shall be purged and the open pipe ends shall be sealed.

- (GH) The forms required by this rule shall be available at the commission's docketing division and electronically on the commission's website at <http://www.puco.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 an expenditure of either:

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- (1) More than ~~two~~five hundred thousand dollars.
- (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~~one hundred 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) ~~he~~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) In accordance with the training program requirements pursuant to the Pipeline Safety Regulations, Subpart N 49 C.F.R. 192.801 through 192.809, distribution operators shall incorporate new construction, including riser installation, as a part of their operator qualification requirements.
- (E) The forms required by this rule shall be available at the commission's docketing division and electronically on the commission's website at <http://www.puco.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.

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- (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 <http://www.puco.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.
 - (3) A gas pipeline facility damaged by a natural disaster, such as flooding, or by excavation activities near or at the gas pipeline facility.

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- (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.
 - (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.
 - (3) Gas pipeline safety investigative reports under rule 4901:1-16-12 of the Administrative Code.
- (B) The staff shall make service upon an operator or gas gathering/processing plant pipeline operator by certified United States mail, courier service, or personal

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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 or gas gathering/processing plant pipeline 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 or gas gathering/processing plant pipeline operator to the commission.
 - (2) If the operator or gas gathering/processing plant pipeline operator has not disclosed its service address or business address to the commission, service shall be made at any business address of the operator or gas gathering/processing plant pipeline 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.

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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 may issue with the notice of probable noncompliance or separately thereafter:
 - (1) A proposed compliance order.
 - (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 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 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.

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 proceeding brought pursuant to rule 4901:1-16-12 of the Administrative Code in order to modify or include

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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 proceeding, from seeking a finding of hazardous facility not listed in the notice or amended notice, 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 or gas gathering/processing plant pipeline 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 gas gathering/processing plant pipeline 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.
- (B) If the settlement agreement and/or stipulation provides for the payment of a forfeiture, compromise forfeiture, or other payment by the operator or gas gathering/processing plant pipeline operator of one thousand dollars or less, the agreement shall be fully binding upon the commission and the operator or gas gathering/processing plant pipeline 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.

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- (D) Where the operator or gas gathering/processing plant pipeline operator has demonstrated to the staff that the violation(s) listed in the notice, or amended notice, of probable noncompliance or gas pipeline safety investigative report has been corrected and where the operator or gas gathering/processing plant pipeline 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 or gas gathering/processing plant pipeline operator's history of violations in determining the appropriate forfeiture for any future violation.
- (E) If the operator or gas gathering/processing plant pipeline 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 or gas gathering/processing plant pipeline operator when approved by the commission.

4901:1-16-12 Commission proceedings.

- (A) The commission may initiate a 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 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 gas pipeline safety proceeding, the staff shall file with the commission and serve upon the operator or gas gathering/processing plant pipeline operator a written report of investigation in each gas pipeline safety proceeding within ninety days after service of the entry which initiates the gas pipeline safety proceeding. The 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 or gas gathering/processing plant pipeline operator policies and practices; and the staff's recommendations.

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- (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 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 or gas gathering/processing plant pipeline operator has violated or is violating an applicable provision of 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 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.

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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 of Ohio," and shall be mailed or delivered to:

"Public Utilities Commission of Ohio

180 East Broad Street

Columbus, Ohio 43215-3793"

- (B) The commission shall deposit such payments in the state treasury to the credit of the general revenue fund.
- (C) No operator or gas gathering/processing plant pipeline 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 Gas gathering pipelines and processing plant stub pipelines.

- (A) All gas gathering/processing plant pipeline operators shall comply with the applicable pipe design requirements of 49 C.F.R. 192(C), as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, for all gas gathering pipelines and processing plant gas stub pipelines that are completely constructed on or after the effective date of Section 4905.911, Revised Code, and that transport gas produced by a horizontal well.
- (B) A gas gathering/processing plant pipeline operator shall do all of the following:
- (1) Design, install, construct, initially inspect, and initially test the pipeline in accordance 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, if the pipeline is new, replaced, relocated, or otherwise changed;
 - (2) Control corrosion according to requirements of 49 C.F.R. 192(I), as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, if the pipeline is metallic;
 - (3) Establish and carry out a damage prevention program under 49 C.F.R. 192.614, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;

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- (4) Establish and carry out a public education program under 49 C.F.R. 192.616, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;
 - (5) Establish the MAOP of the pipeline under 49 C.F.R. 192.619, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;
 - (6) Install and maintain pipeline markers according to the requirements for transmission lines under 49 C.F.R. 192.707, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code;
 - (7) Perform leakage surveys according to requirements in 49 C.F.R. 192.706, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code; and
 - (8) Retain a record of each required leakage survey conducted under paragraph (B)(7) of this rule and 49 C.F.R. 192.706, as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code, for five years or until the next leakage survey is completed, whichever time period is longer.
- (C) Not later than twenty-one days prior to commencement of construction of the pipeline, any person who plans to construct a pipeline subject to paragraphs (A) and (B) of this rule after the effective date of section 4905.911, Revised Code, shall submit to the pipeline safety division of the public utilities commission a form approved by the division that includes all of the following information:
- (1) The route of the proposed pipeline;
 - (2) The design MAOP of the pipeline;
 - (3) The outside diameter of the pipeline;
 - (4) The wall thickness of the pipeline;
 - (5) The material that the pipeline will be made of; and
 - (6) The yield strength of the pipeline.
- (D) Not later than sixty days after the completion of construction of a pipeline subject to paragraph (C) of this rule, the gas gathering/processing plant pipeline operator shall submit to the public utilities commission division of pipeline safety an explanation of the constructed pipeline's route and operating information. Operating information shall be submitted to the pipeline safety division of the

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public utilities commission on a form approved by the division that includes all of the following information:

- (1) The route of the pipeline;
- (2) The class location of the pipeline;
- (3) The length of the pipeline;
- (4) The MAOP of the pipeline;
- (5) The outside diameter of the pipeline;
- (6) The wall thickness of the pipeline;
- (7) The yield strength of the pipeline; and
- (8) A description of the complete pipeline, including compressor stations.

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Attachment B

The Common Sense Initiative

Business Impact Analysis

Agency Name: Public Utilities Commission of Ohio (PUCO)

Attention: Angela Hawkins, Legal Director

Phone: 614-466-0122 Fax: 614-728-8373

Angela.Hawkins@puc.state.oh.us

Regulation/Package Title: Ohio Adm. Code Chapter 4901:1-16 Gas Pipeline Safety

Rule Number(s):

1. Amended Rules:

4901:1-16-01, 4901:1-16-02, 4901:1-16-04, 4901:1-16-05, 4901:1-16-06, 4901:1-16-07, and 4901:1-16-15.

2. No Change Rules:

4901:1-16-03, 4901:1-16-08, 4901:1-16-09, 4901:1-16-10, 4901:1-16-11, 4901:1-16-12, 4901:1-16-13, and 4901:1-16-14.

Date: 2/26/2014

Rule Type:

☐ New

☒ Amended

☒ 5-Year Review

☐ Rescinded

☒ No Change

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Regulatory Intent**1. Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

The revision of the rules in Ohio Adm.Code Chapter 4901:1-16 are made in accordance with R.C. 119.032 which requires all state agencies to conduct a review of their rules at least once every 5 years.

In this 5-year review of the rules, Staff recommends amendments to: incorporate a definition for leak detection equipment in Ohio Adm.Code 4901:1-16-01, to standardize the evaluation of leaks; update the reference to the code of federal regulation applicable to the version in effect as of the effective date of the Ohio Adm.Code 4901:1-16-02; and direct operators to revisit reclassified leaks 30 days after a repair to verify that the repair adequately supports reclassification of the leak at Ohio Adm.Code 4901:1-16-04. Further, the gas pipeline safety provisions at Ohio Adm. Code 4901:1-16-05 have been revised to include procedures for the abandonment of service lines that have been inactive and are unlikely to be used in the foreseeable future. The proposed revision to Ohio Adm. Code 4901:1-16-06 increases the minimum expenditure level for the submission of construction reports to better reflect current industry standards.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

The amendments to the rules in Ohio Adm.Code Chapter 4901:1-16 are authorized consistent with R.C. 4901.13, 4905.03 to 4905.04, and 4905.90 to 4905.96. The specific statutory authority for the changes in each rule is listed in the chart below.

Rule	Statutory Authority – Ohio Revised Code
4901:1-16-01	
4901:1-16-02	4901.13
4901:1-16-04	4905.91
4901:1-16-05	4905.911
4901:1-16-06	
4901:1-16-15	

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

The revisions in Ohio Adm.Code Chapter 4901:1-16 are being proposed consistent with the agency's regulation of natural gas, including federal requirements found in the Natural Gas

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Pipeline Safety Act of 1968, 82 Stat. 720, 49 U.S.C.A. App. 1671 et seq., as well as rules adopted by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act of 1968.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The regulation includes provisions not specifically required by the federal government, but specifically required by the state of Ohio.

- 5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The rules contained in this chapter prescribe gas pipeline safety and drug and alcohol testing requirements to protect the public safety, as well as procedures for the Commission to administer and enforce the gas pipeline safety code and the Natural Gas Pipeline Safety Act of 1968.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The rules contained in this chapter govern gas pipeline safety proceedings to investigate and determine an operator's compliance with the pipeline safety code, as well as to investigate and determine whether an operator's intrastate gas pipeline facility is hazardous to human life or property. This means the Commission will measure the success of this regulation in terms of positive results from investigations of pipeline facilities to ensure compliance with the gas pipeline safety code.

Development of the Regulation

- 7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Commission conducted a workshop on January 16, 2014, to receive feedback from interested stakeholders and the general public as a part of the review of Ohio Adm.Code Chapter 4901:1-16, Case No. 13-2237-GA-ORD. The entry providing notice of the workshop was served upon all gas and natural gas companies in the state of Ohio, all competitive retail gas suppliers, the Ohio Gas Association, the Ohio Oil and Gas Association, the Ohio Petroleum Council and the Ohio Consumers' Counsel, and other interested persons, including members of the general public, who have subscribed to the Commission's gas pipeline industry electronic mail list. The Commission's gas-pipeline industry electronic

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mail list includes over 360 subscribers. Thirty-three individuals attended the workshop, including representatives from: Duke Energy, Dominion East Ohio, Vectren, XTO Energy, city of Hamilton, Ohio, Ohio Gas Company, Ohio Oil & Gas Association, KNG Energy, Columbia Gas, UTI, Ohio Gas Association, Ohio Consumers' Counsel, Flexpipe Systems, FlexSteel Pipeline, and Plastics Pipe Institute.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Recommendations were provided by stakeholders at the workshop in Case No. 13-2237-GA-ORD held on January 16, 2014. Some of the recommendations are as follows:

- 1) It was recommended that Ohio Adm.Code 4901:1-16-04(I)(1) be revised to permit operators to check temporary repairs to grade one (hazardous) leaks daily rather than every eight hours, as the rule currently requires, until a permanent repair is made. This recommendation was not incorporated into the proposed rules by Staff. Staff believes the recommendation unnecessarily increases the risk to the public.
- 2) It was recommended that Ohio Adm.Code 4901:1-16-06(A)(1) be revised to increase the expenditure level before a construction report is required to \$500,000 and apply only to the addition of mains. This stakeholder recommendation was adopted with regards to the increase in the expenditure level.
- 3) At the workshop, several commenters endorsed the recommendation that Ohio Adm.Code 4901:1-16-15 be clarified to indicate whether the materials that can be used for gas gathering lines /processing plant pipelines is limited to the materials in 49 C.F.R. 192, or other materials, as approved by the Pipeline and Hazardous Materials Safety Administration (PHMSA) or the Commission pursuant to a motion for waiver. This recommendation is covered under Ohio Adm.Code 4901:1-16-02(E), which provides that the Commission may waive requirements of the chapter, other than a requirement mandated by statute, for good cause shown.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

No scientific data was considered in the amendment of the rules or the measurable outcomes of the rules. In adopting revisions to Ohio Adm.Code Chapter 4901:1-16, O.A.C., the Commission takes into account feedback from stakeholders and the general public regarding the effectiveness and efficiency of the currently effective rules and how the rules can be improved. In addition to the workshop, stakeholder and public feedback can be made directly to the Commission by filing comments or comments from such entities as the Ohio Consumers' Counsel, any gas or natural gas company in the state of Ohio, any competitive retail gas supplier, the Ohio Gas Association, the Ohio Petroleum Council, the Ohio Oil and Gas Association, any member of the general public, or any other entity.

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- 10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternatives were considered as the rules in Ohio Adm.Code Chapter 4901:1-16 are to carryout federal and Ohio gas pipeline safety regulations.

- 11. Did the Agency specifically consider a performance-based regulation? Please explain.**
Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No performance-based regulations were considered.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Commission has reviewed other Ohio regulations and did not find any duplication of regulations.

- 13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The Commission's plan is for the Service Monitoring and Enforcement Division to implement and adopt measures that will ensure consistent and predictable application of the regulation.

Adverse Impact to Business

- 14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**

The scope of the business community impacted by the proposed revisions to Ohio Adm.Code Chapter 4901:1-16 includes any business engaged in the operation, design, construction, installation, or inspection of gas lines or infrastructure. Any negative financial impact to the business community would be offset by an incrementally greater increase in safety and security of the operation, design, construction, installation, and inspection of the natural gas infrastructure of the state of Ohio.

- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

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The proposed revisions were drafted in an effort to reduce, where feasible, or minimize any adverse impact on business, while maintaining the operational safety of the natural gas infrastructure of the state of Ohio. Affected businesses may incur additional costs to assess service lines and to abandon unsafe inactive service lines but the Staff does not believe that the impact is “adverse.” Staff believes this assessment can be incorporated into the operator’s current system evaluation process.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The rules have been reviewed in an effort to minimize any adverse impact on business, where feasible, while ensuring the public safety. Gas pipeline safety staff works with regulated entities to effectuate and minimize the cost of compliance. The Commission expects that the amendment of Ohio Adm.Code 4901:1-16-06, which increases the expenditure levels before a construction report is required, to reduce the cost of compliance. The Commission recognizes affected businesses will incur costs to comply with the amendment of Ohio Adm.Code 4901:1-16-05, which introduces provisions for the abandonment of service lines. The Staff proposes a procedure for the abandonment of service lines to address public safety and property damage as a result of fire and explosions at vacant and abandoned properties.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Commission did not make a determination that the regulatory intent justifies the adverse impact to the regulated business community; rather the Commission determined that the existing regulations and the proposed amendments to Ohio Adm.Code Chapter 4901:1-16 are essential but balanced to ensure the operational safety of the natural gas infrastructure and the citizens of the state of Ohio.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, there is not an exemption or alternative means of compliance for small businesses. With one exception (Ohio Adm.Code 4901:1-16-15), the rules in Ohio Adm.Code Chapter 4901:1-16 do not provide any exemptions or alternative means of compliance. The rules address gas pipeline safety to ensure that intrastate gas pipeline facilities are not hazardous or dangerous.

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Accordingly, an exemption from compliance would not be appropriate and could pose hazard or danger to the public. In regard to the amendment to Ohio Adm.Code 4901:1-16-15, Staff proposes that the rule be amended to clarify, similar to federal regulations, applicants may file a motion for a waiver to demonstrate an alternative means to comply with the rule.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The focus of the 5-year review process was not on seeking penalties for paperwork or first-time offenses. Fines and penalties for violating Ohio Adm.Code Chapter 4901:1-16 may only be ordered by the Commission after notice and hearing. The Commission will fully comply with R.C. 119.14 and not seek to recover administrative fines or civil penalties on any small business for a first-time paperwork violation, unless such violation falls within one of the exceptions set forth in paragraph (C) of R.C. 119.14.

18. What resources are available to assist small businesses with compliance of the regulation?

The Commission works with small businesses to ensure compliance with the rules. In Commission Case No. 12-2237-GA-ORD, interested stakeholders and the general public, including small businesses, were invited to participate in a workshop to discuss potential revisions to the rules, including addressing any negative effects on business. Small businesses may contact the Commission at any time and may comment on the proposed revisions during the comment period.