

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)
 Amendment of Rule 4901:1-16-02, Ohio) Case No. 09-85-GA-ORD
 Administrative Code, to Incorporate Recent)
 Changes in Federal Regulations.)

ENTRY

The Commission finds:

- (1) Chapter 4901:1-16, Ohio Administrative Code (O.A.C.), contains rules for delineating the gas pipeline safety (GPS) requirements in Ohio, as well as the means for administering and enforcing those requirements.
- (2) Our rules in Chapter 4901:1-16, O.A.C., incorporate Code of Federal Regulation (C.F.R.) requirements. According to Rule 4901:1-16-02, the C.F.R. is identified as being effective as of February 13, 2008.
- (3) We believe it is appropriate to update Rule 4901:1-16-02, O.A.C., so that it incorporates recent changes to the C.F.R. To accomplish that update, we propose to delete the date in paragraph (D) of Rule 4901:1-16-02 and insert November 17, 2008, instead.
- (4) Inasmuch as this proposed change is fairly straight forward, we find that a full comment cycle is unnecessary. Instead, we will adopt the changes in this rule (as reflected in the attachment to this entry) and forward the adopted rule to the Joint Committee on Agency Rule Review, unless we receive an objection in this docket by February 25, 2009. If an objection is filed, we will evaluate it and make any necessary determinations thereafter.
- (5) By initiating this docket, we do not intend to conduct a substantive review of the entire GPS chapter or debate the content of other parts of the GPS chapter. We are interested in simply updating the effective date of the incorporated federal regulations. As noted in prior decisions, we intend to periodically conduct updates so that our administrative rules keep pace, as well as possible, with changes at the federal level. Nothing in conducting this update is intended to circumvent the five-year review required by Section 119.032, Revised Code.

It is, therefore,

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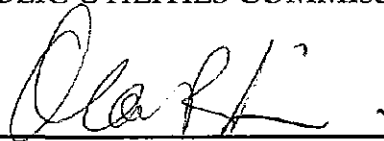
ORDERED, That the attached Rule 4901:1-16-02, O.A.C., be adopted, provided no objections are received by February 25, 2009. It is, further,

ORDERED, That, unless an objection is filed by February 25, 2009, a copy of the rule attached to this entry will 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 adopted rule be effective on the earliest day permitted by law. Unless otherwise ordered by the Commission, the review date for the rules in Chapter 4901:1-16, O.A.C., remains September 30, 2009. It is, further,

ORDERED, That a copy of this entry be served upon all natural gas companies regulated by the Commission, all operators in Ohio, all interested persons of record in Case No. 00-2043-GA-ORD, Ohio Gas Association, Ohio Oil and Gas Association, Southeastern Ohio Oil and Gas Association, Ohio Consumers' Counsel, Ohio Municipal League, Ohio Apartment Association, Northeast Ohio Apartment Association, Mid-Ohio Apartment Association Inc., and Ohio Manufactured Housing Association.

THE PUBLIC UTILITIES COMMISSION OF OHIO



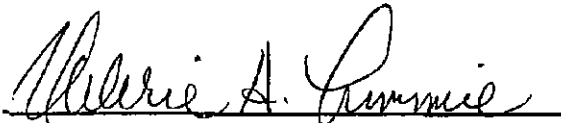
Alan R. Schriber, Chairman



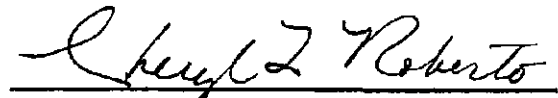
Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

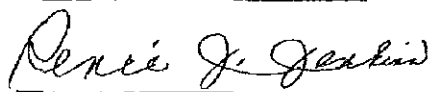


Cheryl L. Roberto

JWK;geb

Entered in the Journal

FEB 11 2009



Renee J. Jenkins
Secretary

***** DRAFT – NOT FOR FILING *****

4901:1-16-02 **Purpose and scope.**

(A) The rules contained in this chapter prescribe:

- (1) 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 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 13~~ **NOVEMBER 17, 2008**.