

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Amendment of)	
Rules 4901:1-16-01 and 4901:1-16-02,)	
Ohio Administrative Code, to)	Case No. 11-5391-GA-ORD
Incorporate Recent Changes in)	
Federal Regulations Regarding Gas)	
Pipeline Safety.)	

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. Our rules in Chapter 4901:1-16, O.A.C., incorporate Code of Federal Regulation (C.F.R.) requirements.
- (2) In order to more closely mirror the changes made in the gas pipeline safety regulations contained in C.F.R. Part 191.3, the Commission believes that the definition of "incident" contained in Rule 4901:1-16-01(G), O.A.C., should be revised as set forth in the attached rules.
- (3) In addition, according to Rule 4901:1-16-02(D), O.A.C., the C.F.R. is identified as being effective as of February 2, 2010. The Commission believes it is appropriate to update Rule 4901:1-16-02(D), 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 August 15, 2011, instead.

- (4) Inasmuch as these proposed changes are fairly straight forward, we find that a full comment cycle is unnecessary. Instead, we will adopt the changes in these rules, as reflected in the attachment to this entry, and forward the adopted rules to the Joint Committee on Agency Rule Review, unless we receive an objection in this docket by November 9, 2011. 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 and incorporating the above changes as of the effective date of the 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,

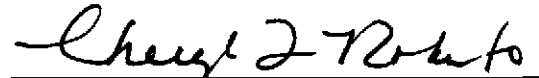
ORDERED, That the attached Rules 4901:1-16-01 and 4901:1-16-02, O.A.C., be adopted, provided no objections are received by November 9, 2011. It is, further,

ORDERED, That, unless an objection is filed by November 9, 2011, a copy of the rules 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 rules 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, 2014. It is, further,

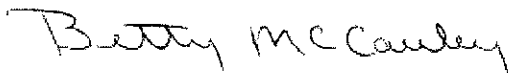
ORDERED, That a copy of this entry be served upon all natural gas companies regulated by the Commission, all operators in Ohio, all interested persons of record in Case No. 09-829-GA-ORD, Ohio Gas Association, Ohio Oil and Gas Association, Southeastern Ohio Oil and Gas Association, Ohio Consumers' Counsel, Ohio Municipal League, Ohio Apartment Association, Northeast Ohio Apartment Association, and Ohio Manufactured Housing Association.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman
Paul A. Centolella
Steven D. Lesser
Andre T. Porter
Cheryl L. Roberto

CMTP/sc

Entered in the Journal

OCT 18 2011Betty McCauley
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) "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.
- (F) "Gas pipeline safety (GPS) proceeding" means a commission-ordered investigation of any incident, violation, or possible noncompliance with the pipeline safety code.
- (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) Unintentional estimated gas loss of three million cubic feet or more.
 - ~~(3)~~(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 cost of gas lost by an operator or person, or both. Cost of gas lost~~

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~~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)(c) The estimated cost of repairing and/or replacing other damaged property of the operator or others, or both.
- (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.
- (I) "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.
- (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.

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

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

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equipment and ventilating equipment.

(P) "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.

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

(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.

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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 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~~ August 15, 2011.

(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.