

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of)	
Chapter 4901:1-16, Ohio Administrative)	Case No. 12-2040-GA-ORD
Regarding Gas Pipeline Safety, to)	
Implement Am. Sub. S.B. 315.)	

**INITIAL COMMENTS OF THE
OHIO OIL AND GAS ASSOCIATION**

I. INTRODUCTION

On June 11, 2012, the Governor of Ohio signed into law Amended Substitute Senate Bill (“S.B. 315”), which became effective on September 10, 2012. S.B. 315, *inter alia* amended various provisions of the Ohio Revised Code, including amending the gas pipeline safety requirements to accommodate the development of midstream pipeline systems associated with the facilities to process shale natural gas, natural gas liquids and interconnection of the midstream systems with the existing natural gas transportation system. S.B. 315 also clarified which Ohio governmental agencies would oversee and regulate for safety purposes the gathering, midstream and utility gas transport facilities in Ohio.

In addition, on January 10, 2011, the Governor of Ohio issued Executive Order 2011-01K, entitled “Establishing the Common Sense Initiative.” This Executive Order sets forth several factors to be considered in the promulgation of agency rules and the review of existing agency rules. Among the factors to be considered, the Public Utilities Commission of Ohio (“Commission”) must (a) determine the impact that its rules have on small businesses; (b) attempt to balance properly the critical objectives of its regulations and the cost of compliance by the regulated parties; (c) amend or rescind rules that are unnecessary, ineffective, contradictory,

redundant, inefficient, or needlessly burdensome, and (d) amend or rescind rules that have had negative unintended consequences, or unnecessarily impede business growth.

Existing law requires further analyses in the promulgation of agency rules and the review of existing agency rules. Specifically, in accordance with Section 121.82(A), Revised Code, in the course of developing draft rules, the Commission must evaluate the rules against a business impact analysis. If there will be an adverse impact on businesses, as defined in Section 107.52, Revised Code, the agency shall incorporate features into the draft rules to eliminate or adequately reduce any adverse impact.

On August 16, 2012, the Commission held a workshop in this proceeding in order to engage interested stakeholders in a discussion about the appropriate revisions needed to incorporate the applicable provisions contained in S.B. 315 into the Ohio Administrative Code. The Ohio Oil and Gas Association Midstream Committee attended the workshop and presented its views on administrative rules to implement the gas pipeline safety requirements called for in S.B. 315.

On October 31, 2012, the Commission issued an Entry in this proceeding providing the Staff's proposal of amendments to Chapter 4901:1-16 of the Ohio Administrative Code (Appendix A) , and a business impact analysis (Appendix B) and called for initial comments from all interested parties by November 30, 2012, with reply comments due December 14, 2012.

In response to the Commission's Entry in this proceeding, The Ohio Oil and Gas Association (OOGA) as a stakeholder has reviewed both Appendix A and Appendix B and presents the following comments.

II. COMMENTS

A. Overview

OOGA believes the Commission Staff has largely captured the intent of the General Assembly in its implementation rules to S.B. 315. Most of the following comments are more in the line of clarifications or practical suggestions to better achieve the goal of safety given the way most midstream operations are or will be configured. It is clear from reading the draft proposals that the Staff both listened to the comments at the workshop and responded to the information presented at the workshop meeting when drafting the proposed rules.

B. Specific Proposed Rules

1. Proposed Rule 4901:1-16-01 (Definitions)

The definition of “operator” is a term in the proposed regulatory structure that is intended to apply to operators other than operators of gas gathering pipelines and processing plant gas stub pipelines. In subsection (P)(5), the term operator specifically excludes retail service line owners, and “gas gathering /processing plant pipeline operators.” The definition of “operator” for clarity then references “gas gathering /processing plant pipeline operators” as defined under Subsection (F) of the rule. Subsection (F) expressly addresses processing plant gas stub pipeline operators and in turn refers to gas gathering line operators. Gas gathering is specifically defined in Subsection (E) as unregulated gas gathering.

For clarity sake, Rule 4901:1-16-01(P)(5) ought to reference both Subsection (E) as well as Subsection (F). Then it would be clear that managers of gas gathering and processing plant gas stub pipelines are not “operators” as that term is defined under Rule 4901:1-16-01(P)(5) and thus do not have the reporting requirements that “operators” must follow.

With that suggested revision, Rule 4901:1-16-01(P)(5) would read as follows:

Operator does not include an ultimate consumer who owns a service line on real property of that ultimate consumer and does not include a gas gathering/processing plant pipeline operator as defined in paragraphs (F) and any person that owns, operates, manages, controls or leases a gas gathering pipeline as defined in paragraph (E) of this rule. (underlining indicates amended language to the existing rule with italicized language proposed by OOGA)

2. Proposed Rule 4901:1-16-05 (Notice and Reports of Service Failure)

Proposed Rule 4901:1-16-05(D)(1) and (2) require annual reporting of a 24-hour contact and updating emergency personnel to the Chief. Specifically, the proposed rules provide as follows:

4901:1-16-05(D)(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, business telephone and fax number, and email address of its emergency contact personnel.
- (b) Any available emergency hotline number.

4901:1-16-05(D)(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 email address of its emergency contact personnel. (underlining indicates amended language to the existing rule)

OOGA understands why it would preferable to have a designated person whom the Staff could contact in the case of emergency. Unfortunately, that is just not practical. To start, an operator typically does not have the same person available due to shift rotation as well as

different people being responsible for specific areas or regions of a system. Further, pipeline operators develop and routinely update emergency response plans. These documents are fluid, being frequently updated and revised due to staff changes, lessons learned, training and various other issues in addition to implementing changes to follow new regulatory requirements. As proposed, an operator would have to provide a long list of people separated by time, shift, and area and constantly update those lists. Not only is that impractical - it also is cumbersome. What the Staff needs is an emergency number, and when that is called – presumably during an emergency – the operator on the other end of the call can introduce himself or herself or direct them to a third person who may be better suited to address the particular safety issues that need to be addressed.

Thus, OOGA proposes that instead of contacting the Commission every time a change is made, an operator keeps on file basic corporate information that includes a single emergency number. By focusing on the emergency response number, not a particular person, the appropriate person or company representatives will be available at all times. Further, to streamline the emergency process, the single contact number should also be the number located on pipeline markers which is manned 24 hours per day, seven days a week. That would allow immediate contact by Commission field staff if they detect a problem.

Bottom line, in an emergency simpler is better and a single contact number is better than lists of contact persons which would have to account for geography, time shifts and work schedules.

3. Proposed Rules 4901:1-16-06

Given the definition of “operator” it is clear that entities who expand gas gathering pipelines or processing plant pipelines would not have to file construction reports. For the sake of clarity though OOGA would like to see an affirmative provision to that effect. OOGA suggests adding the following paragraph to the rule:

4901:1-16-06 (E)

Construction reports will not be required for additions to gas gathering pipelines and processing plant gas stub pipelines.
(underlining indicates amended language to the existing rule)

4. Proposed Rules 4901:1-16-12

Rule 4901:1-16-12 addresses Commission proceedings. The only changes the Staff has proposed to this rule is the addition of gas gathering and processing plant pipeline operators. Subsection (F) of the rule is the section that addresses Commission proceedings for pipeline safety code infractions. The pipeline safety code though is a voluminous document, most of which would not apply to gas gathering and process plant pipeline operators. Thus, in the first sentence of Subsection (F) where the phrase “pipeline safety code” appears in the rule, the words “an applicable provision of” should be inserted. Thus the first sentence would read “If, after 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....”

5. Proposed Rules 4901:1-16-15

A. Subsection (C)

OOGA does not object to Staff Proposed Rule 4901:1-16-15(C), which establishes a new requirement for pipeline operators that they report the proposed Maximum Allowable Operating

Pressure (MAOP) of the pipeline on the pipeline construction report 21 days prior to the commencement of the pipeline. Specifically, Proposed Rule 4901:1-16-15(C) states in certain part:

“Not later than twenty-one days prior to commencement 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:

(2) The MAOP of the pipeline; (underlining indicates amended language to the existing rule)

The problem with the rule is not the intent or the need for Staff to know the MAOP, the problem is the timing. As a general rule, the actual MAOP will not be known prior to installation and testing, which usually occurs after construction. Thus, the actual MAOP cannot be listed 21 days in advance of construction. OOGA believes that there is an easy fix for this issue. OOGA suggests that the word “design” be inserted between “the” and “MAOP” so that it is clear that the actual MAOP is not required prior to construction and the appropriate testing. Item (2) would then read “The design MAOP of the pipeline.” This edit is consistent with the language in the existing form for pre-construction notice. If in fact the testing produces a different MAOP, the operator will address that in the completion report addressed in Subsection D below.

OOGA also proposes a minor clarification edit to the rule. Specifically, the phrase “of construction” should be added after the word “commencement” in the first sentence. This addition clarifies that the notice should be submitted prior to construction versus prior to commencement of operation.

With both proposed revisions, the rule would read as follows:

“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:

(2) The *design* MAOP of the pipeline; (underlining indicates amended language to the existing rule with language in italics proposed by OOGA)

B. Subsection (D)

Subsection D of the rule addresses the completion report. The operator of a gathering line subject to the new rules must file a report no later than 60 days after construction of a new, gathering line which is governed by the new rules. Specifically the proposed Rule 4901:1-16-15(D) provides:

“Not later than sixty days after 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 route and operating information.”
(Underlining indicates this is language which is not in the current rules)

OOGA agrees that there should be a completion report and that it should provide operating information. The problem with the proposed rule is that it is vague so OOGA members are not sure what constitutes “operating information.” OOGA suggests that in lieu of “operating information” the following list of items be substituted:

- The name of the pipeline owner and operator
- The date of service
- A confirmation of the MAOP (see part A above for OOGA’s explanation as to why the final MAOP may be different than what is in the preconstruction report).

III. CONCLUSION

For the reasons presented above, OOGA requests that the Commission amend the Staff's proposed rules for Chapter 4901:1-16 as noted above.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served via electronic mail on the following persons below this 30th day of November, 2012 and will be served via electronic mail on all those who submit initial comments in this case.



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Summary: Comments Initial Comments electronically filed by M HOWARD PETRICOFF on behalf of Ohio Oil and Gas Association