

Decision No. C13-0316

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 13R-0176GPS

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IN THE MATTER OF THE PROPOSED RULES FOUND IN THE RULES REGULATING  
GAS UTILITIES AND PIPELINE OPERATORS, 4 CODE OF COLORADO REGULATIONS  
(CCR) 723-4

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**NOTICE OF PROPOSED RULEMAKING**

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Mailed Date: March 14, 2013  
Adopted Date: March 7, 2013

**I. BY THE COMMISSION**

**A. Statement**

1. The Commission hereby issues this Notice of Proposed Rulemaking (NOPR) regarding amendments to the rules relating to the gas pipeline safety program. These rules are contained in the Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulations* (CCR) 723-4. The proposed rules, in legislative format, are attached to this NOPR and are also available on the Commission's website.

2. The NOPR amends the existing Commission pipeline safety rules by adopting the amendments to the federal safety standards for the transportation of natural gas and other gas by pipeline. These federal amendments have been promulgated by the Office of Pipeline Safety (OPS), a unit of the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the United States Department of Transportation, and are published at 49 C.F.R. Part 192. The main purpose of this NOPR is to incorporate by reference the federal amendments up to October 1, 2012. In addition, we propose deleting the definition of "immediate repair" from the rules because the rule provisions that discuss "incident" are currently adequate.

3. The statutory authority for these rules is set forth in §§ 40-2-108, 40-2-115, 40-7-117, C.R.S.

4. Rules not specifically discussed in this NOPR do not constitute a portion of this NOPR. The Commission is not proposing any changes to the rules not specifically discussed in this NOPR.

5. The proposed amendments will be published in the March 25, 2013 edition of *The Colorado Register*. Interested persons may also acquire a copy of the proposed amendments through the Commission's Electronic filing system in this proceeding, 13R-0176GPS, at: [https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=13R-0176GPS](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=13R-0176GPS); or by contacting the Administrative Support Section through Elizabeth Hayes at 303-894-2884 or [ElizabethK.Hayes@state.co.us](mailto:ElizabethK.Hayes@state.co.us).

6. An administrative law judge (ALJ) will conduct a hearing on these proposed rules and related issues at the below stated time and place. Interested persons may submit written comments on the rules, including data, views, or arguments, and present these orally at hearing unless the ALJ deems oral presentations unnecessary. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that such comments be filed no later than April 26, 2013. Reply comments should be submitted no later than May 6, 2013. The Commission prefers that interested persons submitting comments do so through its Electronic Filing System. The Commission will consider all submissions, whether oral or written.

7. In submitting their comments or replies, interested persons are invited to suggest changes that will make the subject rules more efficient, rational, or meaningful. We recognize that regulation imposes costs; therefore, suggestions concerning rules that may be unnecessary or unduly burdensome will be fully considered by the Commission.

**II. ORDER**

**A. The Commission Orders That:**

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the March 25, 2013 edition of *The Colorado Register*.

2. A hearing on these proposed rules and related matters shall be held before an Administrative Law Judge (ALJ) as follows:

DATE: May 14, 2013  
TIME: 9:00 am  
PLACE: Commission Hearing Room  
1560 Broadway, Suite 250  
Denver, CO 80202

3. The ALJ may set additional hearings to continue the discussion and comment, if necessary.

4. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the ALJ deems the oral comments unnecessary. Interested persons may file written comments in this matter before hearing. The Commission prefers that such pre-filed comments be submitted through its Electronic Filing System no later than April 26, 2013. Reply comments should be submitted by May 6, 2013.

5. This Order is effective upon its Mailed Date.

**A. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
March 7, 2013.**

( S E A L )



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JOSHUA B. EPEL

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JAMES K. TARPEY

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PAMELA J. PATTON

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Commissioners

## COLORADO DEPARTMENT OF REGULATORY AGENCIES

### Public Utilities Commission

#### 4 CODE OF COLORADO REGULATIONS (CCR) 723-4

#### PART 4

### RULES REGULATING GAS UTILITIES AND PIPELINE OPERATORS

\* \* \*

[indicates omission of unaffected rules]

#### GAS PIPELINE SAFETY

##### General Provisions

##### 4900. Scope and Applicability.

- (a) The gas pipeline safety rules prescribe requirements for construction, operation, and maintenance of pipeline facilities, and for reporting by operators. Pursuant to these rules, the Commission conducts its pipeline safety program activities under 49 U.S.C. § 60105 and § 40-2-101, C.R.S. The statutory authority permitting the Commission to enter into cooperative agreements with federal agencies, to adopt and to create rules to administer and to enforce 49 U.S.C. §§ 60101, et seq., can be found at §§ 40-2-115 and 40-7-117, C.R.S.
- (b) Rules 4900 through 497~~95~~ apply to, establish, and govern the:
  - (I) Reporting by operators of gas pipeline systems of incidents, gas related events, safety-related conditions, damage statistics, notice of major projects, and annual pipeline summary data. [rules 4910 through 4929].
  - (II) Enforcement by Staff of the Rules Regulating Gas Pipeline Safety [rules 4930 through 4949].
  - (III) Adoption of minimum safety standards for transportation of natural gas and other gas by pipeline, specific requirements for rural gathering, procedural updates, and amendment of plans or procedures, [rules 4950 through 4959].
  - (IV) Adoption of minimum safety standards for liquefied natural gas facilities [rules 4960 through 4969].
  - (V) Adoption and enforcement of a drug and alcohol-testing program [rules ~~s~~ 4970].

- (c) Nothing in these rules shall be construed to exempt interstate or gathering pipeline operators from complying with § 9-1.5-105, C.R.S.

**4901. Definitions.**

The following definitions apply to rules 4900 through 4999~~75~~, except where a specific statute or rule provides otherwise or where the context otherwise indicates. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Chief" means the program manager of the Gas Pipeline Safety Section of the Commission.
- (b) "Damage," when used in reference to a pipeline, means the penetration or destruction of any protective coating of an underground pipeline, the partial or complete severance of an underground pipeline, or the denting or puncturing of an underground pipeline.
- (c) "Damage prevention program" means an operator's written program to prevent damage to a pipeline by excavation, as defined in 49 C.F.R. § 192.614.
- (d) "Direct sales meter" means a meter that measures the transfer of gas to a direct sales customer purchasing gas for its own consumption.
- (e) "Direct sales pipeline" means a pipeline not under the jurisdiction of the Federal Energy Regulatory Commission and which runs from an intrastate or interstate transmission pipeline, a production facility, or a gathering pipeline to a direct sales meter, pressure regulator, or emergency valve, whichever is the furthest downstream.
- (f) "Distribution pipeline" means a pipeline other than a transmission pipeline or a gathering pipeline.
- (g) "Excavation" means the moving or removing of earth by means of any tools, equipment, or explosives and includes (without limitation) auguring, boring, backfilling, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, or tunneling.
- (h) "Gas" means natural gas, flammable gas, toxic or corrosive gas, and petroleum gas.
- (i) "Gathering pipeline" means a pipeline that transports gas from a current production facility to a transmission pipeline or main.
- (j) "Hazardous facility" means a pipeline facility that, if allowed to go into operation or to remain in operation, would be hazardous to life and property.
- (k) ~~"Immediate repair" means a pipeline repair requiring immediate or emergency action where either: (I) the pipeline is a transmission pipeline and the MAOP produces a hoop stress at or above 20 percent SMYS, or (II) the pipeline is a gathering pipeline that operates at or above 125 psig.~~
- (~~k~~) "Incident" means a release of gas from a pipeline covered by 49 C.F.R § 192.1, or a release of liquefied natural gas or gas from a LNG facility, which results in any of the following:
- (I) Death or personal injury necessitating in-patient hospitalization.
- (II) Estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost.

- (III) An event that results in an emergency shutdown of a LNG facility.
  - (IV) An unintentional event resulting in an estimated gas loss of three million cubic feet or more.
  - (V) An event that is significant, in the judgment of the operator, even though it does not meet the criteria of subparagraphs (I), (II), (III), or (IV) of this paragraph.
- (~~mi~~) "Liquefied Natural Gas" or "LNG" means natural gas or synthetic gas which has methane (CH<sub>4</sub>) as its major constituent and which has been changed to a liquid.
- (~~mm~~) "LNG facility" means a pipeline facility that is used for liquefying natural gas or synthetic gas or for transferring, storing, or vaporizing liquefied natural gas.
- (~~en~~) "Main" means a distribution line that serves, or is designed to serve, as a common source of supply for more than one service line.
- (~~po~~) "Major project" means the construction of any new pipeline facility covered by 49 C.F.R § 192.1, the repair, or upgrade of a pipeline segment , that originally is estimated to cost five hundred thousand dollars or more. As used in this rule, cost includes only the direct costs associated with the construction, repair, or upgrade.
- (~~ep~~) "Master meter system" means a pipeline system for distributing gas within a definable area (for example, a mobile home park) where the operator or owner purchases gas from an outside source for delivery through a pipeline system to an end user.
- (~~fg~~) "Municipality" means a city, town, or village in the State of Colorado.
- (~~ef~~) "Natural Gas Pipeline Act" means the federal statute found at 49 U.S.C. §§ 60101, et seq., as amended.
- (~~ts~~) "Operator" means a person who is engaged in the transportation of gas, or who has the right to bury underground pipeline, or who is both engaged in the transportation of gas and has the right to bury underground pipeline. "Operator" also may include an owner, such as a pipeline corporation.
- (~~ut~~) "OPS" means the Office of Pipeline Safety, a unit of the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the United States Department of Transportation.
- (~~vu~~) "Person" means an individual, firm, joint venture, partnership, corporation, association, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.
- (~~wv~~) "Pipeline" or "pipeline system" means all parts of those physical intrastate facilities through which gas moves in transportation, including, but not limited to, pipes, valves, and other appurtenances attached to pipes, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.
- (~~xw~~) "Pipeline facility" means new and existing intrastate pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

- (yx) "Production facility" means flowline and associated equipment used at a wellsite in producing, extracting, recovering, lifting, stabilizing, initial separating and/or treating, initial dehydrating, disposal, and above ground storing of liquid hydrocarbons, associated liquids, and associated natural hydrocarbon gases. A production facility may include flowlines up to a central delivery point directly associated with a specific producing field. To be a production facility under this definition, a flowline must be used in the process of extracting hydrocarbons and associated liquids from the ground or from facilities where hydrocarbons are produced or must be used for disposal or injection in reservoir maintenance or recovery operations.
- (zy) "Propane gas system" means a pipeline system serving ten or more structures from a single tank.
- (aaz) "Roadway" means a main public artery, highway, or interstate highway.
- (bbaa) "Service line" means a distribution line that transports gas, or is designed to transport gas, from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a single meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is furthest downstream, or at the connection to customer piping if there is no meter.
- (eebb) "Service regulator" means the device on a service line that controls the pressure of gas delivered from a higher pressure to the pressure provided to the customer. A service regulator may serve one customer or multiple customers through a meter header or manifold.
- (ddcc) "Specified Minimum Yield Strength" or "SMYS" means:
- (I) For steel pipe manufactured in accordance with a listed specification, the yield strength specified as a minimum in that specification.
  - (II) For steel pipe manufactured in accordance with an unknown or unlisted specification, the yield strength determined in accordance with 49 C.F.R. § 192.107(b).
- (eedd) "Staff" means the Staff of the Gas Pipeline Safety Section of the Commission.
- (ffee) "Transmission pipeline" means a pipeline, other than a gathering pipeline or distribution pipeline, that does one of the following:
- (I) Transports gas from a gathering pipeline or storage facility to a distribution center, or storage facility.
  - (II) Operates at a hoop stress of 20 percent or more of SMYS.
  - (III) Transports gas within a storage field.
  - (IV) Is a direct sales pipeline serving a large volume customer not downstream of a distribution center, which may include, but not be limited to, factories and power plants.
- (ggff) "Transportation of gas" means the gathering, transmission, distribution, or storage of gas within the State of Colorado that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act.

**4902. Incorporation by Reference.**

- (a) The Commission adopts by reference the minimum federal safety standards for the transportation of natural gas and other gas by pipeline of the OPS that are published in 49 C.F.R. Part 192 (October 1, 201~~02~~92). This incorporation by reference does not include later amendments to, or editions of, 49 C.F.R. Part 192.
- (b) The Commission adopts by reference the federal safety standards for liquefied natural gas facilities of the OPS that are published in 49 C.F.R. Part 193 (October 1, 201~~02~~92). This incorporation by reference does not include later amendments to, or editions of, 49 C.F.R. Part 193.
- (c) The Commission hereby adopts by reference the drug and alcohol testing program of the OPS published in 49 C.F.R. Parts 40 and 199 (October 1, 201~~02~~92). This incorporation by reference does not include later amendments to, or editions of, 49 C.F.R. Parts 40 and 199.
- (d) Any material incorporated by reference in this rule may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards may be examined at any state public depository library.

**4903. Conflict.**

In the event of a conflict between the provisions of 49 C.F.R. Parts 40, 192, 193, or 199 and the rules 4900 through 49~~9975~~9975 regarding the administrative, the enforcement, and the reporting requirements, the rules 4900 through 49~~9975~~9975 shall apply.

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[indicates omission of unaffected rules]

**4911. Telephonic Reports.**

- (a) As soon as possible after discovery, but generally not to exceed two hours after discovery, an operator must telephonically report any incident to the Staff at (303) 894-2854 and to the National Response Center of the U.S. Department of Transportation at (800) 424-8802 or electronically at <http://www.nrc.uscg.mil>.
- (b) The operator of a pipeline, including a gathering pipeline in a class 1, 2, 3, or 4 area, of a LNG system, of a master meter system, or of a propane system, must telephonically report to the Staff at (303) 894-2854, within two hours after discovery, any of the following events:
  - ~~(I) — An immediate repair, as defined in paragraph 4901(k).~~
  - (II) A gas leak that occurs on the pipeline, the LNG system, the master meter system, or the propane system and that results in the evacuation of 50 or more people from a normally occupied building or property.

- (III) A gas leak that occurs on the pipeline, the LNG system, the master meter system, or the propane system and that results in the closure of a roadway or railroad.
- (c) A telephonic report made pursuant to paragraphs (a) or (b) of this rule must include the following information:
- (I) The name and telephone number of the operator and the contact.
  - (II) The location of the incident or event.
  - (III) The date and time of the incident or event.
  - (IV) The number of fatalities and personal injuries, if any.
  - (V) All other significant facts that are known by the person making the report that are relevant to the cause of the incident or event and the extent of the damage.
  - (VI) The National Response Center control number, if known.

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[indicates omission of unaffected rules]