

Decision No. C05-1012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 05R-336GPS

IN THE MATTER OF EMERGENCY AMENDMENTS TO THE RULES RELATING TO THE
GAS PIPELINE SAFETY PROGRAM, 4 CCR 723-11, PART I, III-VI.

DECISION ADOPTING EMERGENCY RULES

Mailed Date: August 24, 2005

Adopted Date: August 24, 2005

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of emergency rules amending the Commission's Rules, relating to the Gas Pipeline Safety Program, 4 *Code of Colorado Regulations* (CCR) 723-11. The emergency rules will amend the existing state pipeline safety rules by adopting federal amendments up to October 1, 2004. For the reasons set forth in this decision, we now adopt on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth in § 24-4-103, C.R.S.) the rules appended to this order as Attachment A. We take this action in accordance with the provisions of § 24-4-103(6), C.R.S.

2. Generally, the purpose of the rules adopted by this order is to bring the Gas Pipeline Safety Rules up to date and in compliance with amended safety rules applicable to the U.S. Department of Transportation, 49 U.S.C. § 60105 et seq., and the statutory authority for adoption of these rules as set forth in § 40-2-115, C.R.S.

3. The rules attached to this order shall be effective immediately upon the mailed date of this decision, and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

II. ORDER

A. The Commission Orders That:

1. The rules appended to this decision as Attachment A are hereby adopted as emergency rules consistent with the above discussion.

2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 24, 2005.**

(SEAL)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

Commissioners

COMMISSIONER CARL MILLER
ABSENT.

**(4 CCR 723-11) PART I. RULES GOVERNING THE FILING OF REPORTS
RELATING TO GAS PIPELINE SAFETY (REFERENCE 49 CFR 191)**

RULE (4 CCR) 723-11-1. DEFINITIONS.

As used in these rules and in the ~~RSPA (Research and Special Programs Administration)~~ PHMSA (Pipeline and Hazardous Materials Safety Administration) Forms referenced in these rules--

723-11-1.1 "Commission" means the Public Utilities Commission of the State of Colorado.

723-11-1.2 "Direct Sales Pipeline" means a pipeline from an interstate or intrastate gas pipeline to a direct sales meter or to the connection with a direct sales customer's piping, whichever is farther downstream. A direct sales meter is the meter that measures the transfer of gas to a direct sales consumer purchasing gas for its consumption.

723-11-1.3 "Gas" means natural gas, flammable gas, gas which is toxic or corrosive, and petroleum gas as defined in § 192.11(c), 49 C.F.R.

723-11-1.4 "Gathering pipeline" means a pipeline that transports gas from a current production facility to a transmission pipeline or main.

723-11-1.5 "Incident" means any of the following:

723-11-1.5.1 An event that involves a release of gas from a jurisdictional pipeline which results in-

(a) Death, or personal injury necessitating inpatient hospitalization; or

(b) Estimated property damage, including the cost of gas lost to the operator or others, or both, of \$50,000 or more.

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RULE (4 CCR) 723-11-5. DISTRIBUTION SYSTEM: ANNUAL REPORT.

723-11-5.1 Except as provided in Rule 5.2, each operator of a distribution pipeline system shall file an annual report for jurisdictional piping located in Colorado on Department of Transportation Form ~~RSPA-PHMSA~~ F 7100.1-1 with the agencies set forth in Rule 3. This report must be filed each year, not later than March 15, for the preceding calendar year.

723-11-5.2 The annual report required by this rule need not be submitted with respect to petroleum gas systems which serve fewer than 100 customers from a single source.

RULE (4 CCR) 723-11-6. DISTRIBUTION SYSTEMS REPORTING TRANSMISSION PIPELINES; TRANSMISSION OR GATHERING SYSTEMS REPORTING DISTRIBUTION PIPELINES.

Each operator, primarily engaged in gas distribution, who also operates gas transmission or gathering pipelines shall file separate reports for these pipelines as required by Rules 7 and 8. Each operator, primarily engaged in gas transmission or gathering, who also operates gas distribution pipelines shall file separate reports for these pipelines as required by Rules 4 and 5.

RULE (4 CCR) 723-11-7. TRANSMISSION AND GATHERING SYSTEMS: INCIDENT REPORT.

723-11-7.1 Each operator of a transmission or a gathering pipeline system shall file Department of Transportation Form ~~RSPA-PHMSA~~ F 7100.2 with the agencies set forth in Rule 3 as soon as practicable, but not more than 30 days, after discovery of an incident required to be reported under Rule 2.

723-11-7.2 When additional relevant information is obtained after the report is filed under Rule 7.1, the operator shall file a supplemental report as soon as practicable with a clear reference by date and subject to the original report.

**RULE (4 CCR) 723-11-8. TRANSMISSION AND GATHERING SYSTEMS:
ANNUAL REPORT.**

Each operator of a transmission or a gathering pipeline system shall file an annual report for jurisdictional piping located in Colorado on Department of Transportation Form ~~RSPA~~ PHMSA 7100.2-1 with the agencies set forth in Rule 3. This report shall be filed each year, not later than March 15, for the preceding calendar year.

RULE (4 CCR) 723-11-9. REPORT FORMS.

Copies of the prescribed report forms are available without charge upon request from the agencies set forth in Rule 3. Additional copies in this prescribed format may be reproduced and used if on the same size and kind of paper.

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**(4 CCR 723-11) PART III. RULES GOVERNING SAFETY STANDARDS FOR
LIQUEFIED NATURAL GAS FACILITIES (REFERENCE 49 CFR 193)**

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

These rules prescribe safety standards for liquefied natural gas (LNG) facilities utilized by the Pipeline Safety Group, Safety and Enforcement Section of the Colorado Public Utilities Commission ("Commission"). The gas facilities are used in the transportation of gas by pipeline that is subject to 49 U.S.C. §§60101 *et seq.* —and 49 C.F.R. Part 192, Transportation of Natural and other Gas by Pipeline: Minimum Federal Safety Standards (liquefied natural gas facilities). The Commission has authority under § 40-2-115, C.R.S., to enter into cooperative agreements with any agency of the United States government and to adopt rules and regulations to administer and enforce the safety laws and regulations of the United States under 49 U.S.C. §§ 60101, *et seq.* The Commission has authority under § 40-2-108,

C.R.S., to adopt rules and regulations as are necessary for the proper administration and enforcement of Title 40, C.R.S.

RULE (4 CCR) 723-11-29. STANDARDS FOR LIQUIFIED NATURAL GAS FACILITIES.

The Commission adopts herein the federal safety standards for liquefied natural gas facilities used in the transportation of gas by pipeline, that are subject to 49 U.S.C. §§ 60101, et seq., which standards are adopted in the Code of Federal Regulations, Part 193, Title 49 (October 1, ~~2002~~2004). This Rule does not include later amendments to, or editions of, 49 C.F.R. Part 193, after October 1, ~~2002~~2004. The title and address of the person employed by the Colorado Public Utilities Commission from whom information regarding how the incorporated material may be obtained or examined is:

Chief, Gas Pipeline Safety Section
Colorado Public Utilities Commission
1580 Logan Street, OL-2
Denver, CO 80203

RULE (4 CCR) 723-11-30. HOW MATERIAL INCORPORATED BY REFERENCE MAY BE OBTAINED.

The incorporated material may be examined at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203 between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays, except when such days are State holidays. The incorporated material also may be examined at any state publications depository library.

RULE (4 CCR) 723-11-31. CONFLICT.

In the event of a conflict between the provisions of 49 C.F.R. Part 193, and 4 CCR 723-11 regarding the administrative, enforcement, and reporting requirements, the latter shall apply.

RULE (4 CCR) 723-11-32. WAIVER.

Waivers of these rules may be granted by the Commission in accordance with 49 U.S.C. § 60118 and 49 C.F.R. Part 193.

(4 CCR 723-11) PART IV. STANDARDS FOR TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE (REFERENCE 49 CFR 192)

BASIS, PURPOSE AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to adopt by reference the minimum safety standards for pipeline transportation and for pipeline facilities of the United States Department of Transportation that are authorized by 49 U.S.C. §§ 60101 *et seq.* and that are set forth in Part 192, 49 C.F.R.--Transportation of Natural and other Gas by Pipeline (October 1, ~~2002~~2004). The Commission has authority under § 40-2-115(1.5), C.R.S., to adopt such rules as may be necessary to enforce and administer gas pipeline safety in cooperation with the United States Department of Transportation. The Commission has general authority under § 40-2-108, C.R.S., to promulgate such rules as are necessary for the proper administration and enforcement of Title 40, C.R.S.

RULE (4 CCR) 723-11-33. MINIMUM SAFETY STANDARDS.

The Commission hereby adopts by reference the minimum safety standards of the United States Department of Transportation that are set forth in 49 C.F.R. Part 192 (October 1, ~~2002~~2004). This Rule does not include later amendments to, or editions of, 49 C.F.R. Part 192, after October 1, ~~2002~~2004.

RULE 4 (CCR) 723-11-34. HOW MATERIAL INCORPORATED BY REFERENCE MAY BE OBTAINED.

723-11-34.1 The title and address of the person employed by the Colorado Public Utilities Commission from whom information concerning how the material incorporated by reference may be obtained or examined is:

Chief, Gas Pipeline Safety Section
Colorado Public Utilities Commission
1580 Logan Street, OL-2
Denver, Colorado 80203

723-11-34.2 The material incorporated by reference may be examined at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203, between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays, except when such days are state holidays.

723-11-34.3 The material incorporated by reference may be examined also at any state publications depository library.

RULE 4 (CCR) 723-11-35. CONFLICT.

In the event of a conflict between the provisions of 49 C.F.R. Part 192 and this rule, this rule shall govern.

RULE 4 (CCR) 723-11-36. WAIVER.

Waivers of this rule may be granted by the Commission in accordance with 49 U.S.C. § 60118 and 49 C.F.R. Part 192.

**(4 CCR 723-11) PART V. RULES GOVERNING DRUG AND ALCOHOL TESTING
(REFERENCE 49 CFR 40 & 199)**

BASIS, PURPOSE AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to adopt by reference the drug and alcohol testing program of the United States Department of Transportation that is set forth in 49 C.F.R Parts 40 and 199 (October 1, ~~2002~~2004). The Commission has authority under § 40-2-115(1.5), C.R.S., to adopt such rules as may be necessary to enforce and administer gas pipeline safety in cooperation with the United States Department of Transportation. The Commission has general authority under § 40-2-108, C.R.S., to promulgate

such rules as are necessary for the proper administration and enforcement of Title 40, C.R.S.

RULE 4 (CCR) 723-11-37. DRUG AND ALCOHOL TESTING.

The Commission hereby adopts by reference the drug and alcohol testing program of the United States Department of Transportation set forth in 49 C.F.R. Parts 40 and 199 (October 1, ~~2002~~2004). This Rule does not include later amendments to, or editions of, 49 C.F.R. Parts 40 and 199, after October 1, ~~2002~~2004.

RULE 4 (CCR) 723-11-38. HOW MATERIAL INCORPORATED BY REFERENCE MAY BE OBTAINED.

723-11-38.1 The title and address of the person employed by the Colorado Public Utilities Commission from whom information concerning how the material incorporated by reference may be obtained or examined is:

Chief, Gas Pipeline Safety Section
Colorado Public Utilities Commission
1580 Logan Street, OL-2
Denver, Colorado 80203

723-11-38.2 The material incorporated by reference may be examined at the offices of the Commission, 1580 Logan Street, OL-2, Denver, Colorado 80203, between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays, except when such days are state holidays.

723-11-38.3 The material incorporated by reference may be examined also at any state publications depository library.

RULE 4 (CCR) 723-11-39. CONFLICT.

In the event of a conflict between the provisions of Parts 40 and 199, 49 C.F.R. and this rule, this rule shall govern.

RULE 4 (CCR) 723-11-40. WAIVER.

Waivers of this rule may be granted by the Commission in accordance with 49 U.S.C. § 60118, and 49 C.F.R. Parts 40 and 199.

**(4 CCR 723-11) PART VI. THIRD PARTY DAMAGE STATISTICS:
ANNUAL REPORT.**

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

~~The basis and purpose of these rules is to adopt the reporting requirements of the damage prevention program of the United States Department of Transportation that is set forth in 49 C.F.R. Part 192 (October 1, 2002).~~ The Commission has authority

under § 40-2-115(1.5), C.R.S., to adopt such rules as may be necessary to enforce and administer gas pipeline safety in cooperation with the United States Department of Transportation.

The Commission has general authority under § 40-2-108, C.R.S., to promulgate such rules as are necessary for the proper administration and enforcement of Title 40 C.R.S.

RULE (4 CCR) 723-11-41. DEFINITIONS.

723-11-41.1 "Excavation activity" means any operation in which earth is moved or removed by means of any tools, equipment, or explosives and includes auguring, boring, backfilling, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, and tunneling.

723-11-41.2 "Emergency repair" applies to ruptures and leakage of pipelines, explosions, fires, and similar instances where immediate action is necessary to prevent loss of life or significant property damage and advance notice of proposed excavation is impracticable under the circumstances.

723-11-41.3 "Damage" includes the penetration or destruction of any protective coating, housing, or protective

device of an underground facility, the partial or complete severance, denting or puncturing of an underground facility, or the rendering of any underground facility inaccessible.

723-11-41.4 "Damage prevention program" means the operator's or owner's written program to prevent damage to a gas pipeline by excavation as defined under 49 C.F.R. § 192.614.

723-11-41.5 "Operator" or "Owner" means any person, including public utilities, municipal corporations, political subdivisions, or other persons having the right to bury underground natural gas pipeline facilities.

723-11-41.6 "Chief" means the head of the Safety and Enforcement Section of the Public Utilities Commission of the State of Colorado.

RULE (4 CCR) 723-11-42. REPORTING REQUIREMENTS.

~~723 11 42.1 All owners or operators of pipeline facilities over which the Commission has authority shall document and report pipeline facility damage statistics with the Annual Reports required under Rule 5. A Master Meter Operator need not submit a report on third party damages.~~

~~These records shall, at a minimum, contain the following:~~

~~723 11 42.1.1 Name of excavation company causing damage to the operator's system;~~

~~723 11 42.1.2 Location by county, or locate area as defined by the Utility Notification Center of Colorado("UNCC"), of damaged pipeline;~~

~~723 11 42.1.3 Date of locate request and Utility Notification Center ticket number;~~

~~723 11 42.1.4 Date of locate by facility owner or operator;~~

~~723 11 42.1.5 Date of relocate, if applicable;~~

~~723 11 42.1.6 Date damage occurred;~~

~~723 11 42.1.7 Damage due to locator error or excavator error;~~

~~723 11 42.1.8 Reason for excavation activity (routine or emergency repair), if known;~~

~~723 11 42.1.9 Cost to owner or operator due to third party damages;~~

~~723 11 42.1.10 Any deaths or injuries resulting from third party damages;~~

~~723 11 42.1.11 Total number of monthly locate requests, by county, or locate area as defined by the UNCC.~~

~~723 11 42.1.12 Total number of actual monthly locates by county, or locate area as defined by the UNCC.~~

~~723 11 42.1.13 Total number of monthly mislocates resulting in damage by county, or locate area as defined by the UNCC.~~

~~723 11 42.1.14 Total number of monthly gas pipeline damages to service lines by county, or locate area as defined by the UNCC.~~

~~723 11 42.1.15 Total number of monthly gas pipeline damages to mains by county, or locate area as defined by the UNCC.~~

~~723 11 42.1.16 Total number of monthly gas pipeline damages to transmission lines by county, or locate area as defined by the UNCC.~~

~~723 11 42.1.17 Type of equipment involved in facility damage(track hoe, backhoe, bore rig, etc.).~~

(a) Annually, by March 15, an operator of an intrastate pipeline system shall file with the Commission information concerning known pipeline damage and general pipeline locate information. This report applies to damage to underground pipelines, excluding any damage to electrically conductive tracer wire.

- (b) The specific damage information shall contain, at a minimum, the following:
- (I) The location of the damaged pipeline by city and county.
 - (II) The type of facility locate request (normal or emergency); the date of facility locate request; the date the facility was located; the date the facility was relocated, if applicable; the date the facility damage occurred, if known.
 - (III) The name of the excavation company and the type of equipment causing the damage (for example, track hoe, backhoe, trencher, directional bore, shovel). If a homeowner caused the damage, the term "homeowner" will suffice for excavation company name.
 - (IV) The reason for the excavation (for example, communications, sewer, water, electric, ditch maintenance, road maintenance, pipeline, landscaping, homeowner).
 - (V) The type of pipeline damaged (service, main, or transmission).
 - (VI) The damage resulting from locator error or excavator error, if applicable.
- (c) The report of general facility locate information shall contain the following:
- (I) The number of monthly facility locate requests.
 - (II) The number of monthly facility locates performed by the operator.
 - (III) The number of monthly facility locates performed by the operator's contract facility locator.
- (d) Regulated gathering, master meter, propane gas, LNG, direct sales pipeline and local distribution company pipeline system operators serving fewer than 50,000 customers need not file the annual pipeline damage report.

Attachment A
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Emergency Rules, 4 CCR-723-11
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RULE (4 CCR) 723-11-43. WAIVER.

Waivers of Part VI of these rules may be granted by the Chief if not contrary to law and if compliance is found to be impossible, impractical, or unreasonable.