COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-11

PART 11
RULES REGULATING GAS PIPELINE SAFETY

GENERAL PROVISIONS

11000. Scope and Applicability.

(a) Absent a specific statute, rules or Commission order that provides otherwise, all rules in this Part 11 (the 11000 series) shall apply to all public utilities and all municipal or quasi-municipal corporations transporting natural gas or providing natural gas service, all operators of master meter systems, and all operators or pipelines transporting gas in intrastate~~interstate~~ commerce, as defined in 49 C.F.R. § 191.3.

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[indicates omission of unaffected rules]

11001. Definitions.

The following definitions apply throughout this Part 11, except where a specific rule or statute 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) "C.F.R." means the Code of Federal Regulations.

(b) "Confirmed discovery" means a discovery defined, as of the effective date of these rules, in 49 C.F.R. § 191.3.

(c) "Continuing violation" or "time-dependent violation" means any violation of these rules for which a timeframe of non-compliance can be established through physical evidence and/or records that include, but are not limited to: operator annual reports; operator compliance, operations, and maintenance records; and ~~c~~Commission inspection, compliance and proceeding records.

(d) "Delivered system pressure" means the system operating pressure measured at the outlie of the furthest downstream appurtenance maintained by the pipeline system operator, e.g., regulator, meter, valve, or the terminal connection of the service riser in low-pressure distribution systems.

(e) "De minimis gas system" means a non-utility underground pipeline system used for transport and distribution of natural gas to less than ten customers within a definable private (i.e., non-municipal or public) area (e.g., a mobile home park or resort) and that does not cross a public right-of-way.

(f) "Direct sales meter" means a meter that measures the transfer of gas to a direct sales customer purchasing gas for consumption.

(g) "Direct sales pipeline" means a pipeline not under the jurisdiction of the Federal Energy Regulatory Commission and that runs from an intrastate or interstate transmission pipeline, a production facility, or a gathering pipeline to a direct sales meter, a pressure regulator, or an emergency valve, whichever is the furthest downstream.

(h) "Excavation damage" means any impact that results in the need to repair or replace an underground facility due to a weakening or the partial or complete destruction of a facility, including, the protective coating; plastic pipe tracer wire; lateral support; cathodic protection; or the housing for the line device or facility

(i) "Gas" means any material specified in these rules, including natural gas, flammable gas, toxic or corrosive gas, and petroleum gas.

(j) "Gathering pipeline" means any pipeline determined through the use of 49 C.F.R. § 192.8.

(k) "Geographic Information Systems (GIS)" means a computer-based system for capturing, storing, checking, displaying, and analyzing data related to positions on Earth's surface.

(l~~k~~) "Hazardous facility" means a pipeline facility that, if allowed to go into operation or to remain in operation, would pose a severe or imminent risk to public safety.

(m) "Inactive/Idle" means a pipeline or pipeline segment that has ceased normal operations and will not resume service for a period of not less than 180 days; has been isolated from all sources of hazardous liquid, natural gas, or other gas; and has been purged of combustibles and hazardous materials and maintains a blanket of inert, non-flammable gas at low presser or has not been purged but the volume of gas is so small that there is no potential hazard, as defined in 49 U.S.C. § 60143.

(n~~l~~) "Incident" means an event defined as of the effective date of these rules, in 49 C.F.R. § 191.3, for a pipeline facility covered by 49 C.F.R. Part 192 or an emergency, as defined in § 193.2007 for an LNG facility.

(o~~m~~) "Liquefied natural gas" (LNG) means natural or synthetic gas that has methane (CH4) as its major constituent and that has been converted to liquid form for purposes of storage or transport.

(p~~n~~) "Liquid petroleum gas (LPG) system" means the liquid petroleum (LP) tanks and/or the pipeline system used to transport and distribute LP fuel gas to ten or more customers within a definable private (i.e. non-municipal or public) area (e.g., a mobile home park or resort), or less than ten customers if the system crosses a public right-of-way. LPG systems may have multiple operators if the supplying tank(s) is/are operated and maintained distinctly from the pipeline system by a different owner.

(q~~o~~) "Low-pressure distribution system" means a gas distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer, i.e., the low-pressure gas burning equipment of the customer may be safely and continually operated at the delivered system pressure.

(r~~p~~) "LPG Tank – CDLE OPS Inspected" means any LPG tank inspected by the Colorado Department of Labor and Employment, Division of Oil and Public Safety under the authority of the OPS rules.

(s~~q~~) "LNG facility" means a pipeline facility that is used for liquefying natural or synthetic gas and/or for transferring, storing, or vaporizing liquefied natural gas.

(tr) "Main" means a distribution line that serves, or is designed to serve, as a common source of supply for more than one service line.

(us) "Major master meter operator (MMO)/LPG system" refers to any MMO or LPG pipeline system serving 100 or more customers.

(vt) "Mechanical excavation" means any operation in which earth is moved or removed by means of any tools, equipment, or explosives and includes auguring, backfilling, boring, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching, hydro-excavating, post/postholing, and tunneling.

(wu) "MMO gas system" means a non-utility pipeline system used for transport and distribution of natural gas to ten or more customers within a definable private (i.e., non-municipal or public) area (e.g., a mobile home park or resort), or less than ten customers if the system crosses a public right-of-way.

(xv) "Minor MMO/LPG system" means any MMO or LPG pipeline system serving between 20 and 99 customers.

(yw) "Municipality" means a city, town, or village in the state of Colorado.

(zx) "NRC" means the National Response Center of the United States Coast Guard.

(aay) "NTSB" means the National Transportation Safety Board, an independent federal agency.

(bbz) "Natural Gas Pipeline Act" means the federal statute found at 49 U.S.C. §§ 60101 et seq., as amended.

(ccaa) "No immediate safety impact" refers to action or inaction by operator/operator contractors on jurisdiction pipeline facilities that resulted in no immediate or imminent hazard to either the public, operator/operator contractor personnel, or pipeline system integrity.

(ddbb) "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, and may include an owner, such as a pipeline corporation.

(eecc) "Operator contractor" means any person or entity empowered by an operator to perform any action covered by 49 C.F.R. Part 192 and these rules.

(ffdd) "Operator endangerment" refers to action or inaction by operator/operator contractors on pipeline facilities that resulted in an immediate or imminent hazard to operator/operator contractor personnel.

(ggee) "OPS" means the Office of Pipeline Safety, a unit of the PHMSA.

(hhff) "Part 192" means 49 C.F.R. Part 192 – Transportation of natural and other gas by pipeline: Minimum Federal safety standards.

(iigg) "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.

(jj~~hh~~) "Petroleum gas" means propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominately of these gases having a vapor pressure not exceeding 208 psi (1434 kPa) gage at 100 °F (38 °C).

(kk~~ii~~) "PHMSA" means the Pipeline and Hazardous Materials Safety Administration, an agency of the United States Department of Transportation.

(ll~~jj~~) "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 that start downstream beyond the farthest most point of oil and gas production. Flowlines that are regulated by the COGCC and used for oil and gas production are not included in this definition.

(mm~~kk~~) "Pipeline excavation damage prevention program" means an operator's written program and processes to prevent damage to a pipeline by excavation, as defined in 49 C.F.R. § 192.614.

(nn~~ll~~) "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 transportation.

(oo~~mm~~) "Pipeline integrity" means the ability of a pipeline system to operate as it was verifiably designed and constructed.

(pp~~nn~~) "Pipeline safety program" (PSP) means the Commission's 49 U.S.C. § 60105(a) certified pipeline safety program.

(qq~~oo~~) "Production facility" means flowline and associated equipment used at a wellsite in producing, extracting, recovering, lifting, stabilizing, initial separating, treating, initial dehydrating, disposing, and/or 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 rule, 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.

(rr~~pp~~) "PSP Chief" means the program manager of the PHMSA certified PSP of the Colorado Public Utilities Commission.

(ss~~qq~~) "PSP Lead Engineer" means the senior technical staff member of the PHMSA certified PSP of the Colorado Public Utilities Commission.

(tt~~rr~~) "PSP Staff" means a staff member of the PHMSA certified PSP of the Colorado Public Utilities Commission.

(uu~~ss~~) "Program certification obligations" means the pipeline safety program obligations required under 49 U.S.C. § 60105(a).

(vv~~tt~~) "Public endangerment" means an action or inaction by an operator/operator contractor on pipeline facilities that results in:

(I) interruption or delay of make safe actions designed to protect human life;

(II) unintended gas release requiring emergency (versus precautionary) evacuation of the public;

(III) an unsafe ignition of intended gas release in an area accessible to the public;

(IV) system overpressurization event/failure of system overpressure protection requiring emergency (versus precautionary) evacuation of the public; or

(V) any other hazardous situation that results in an immediate or imminent hazard to the public.

(ww) "Records" means information created, manipulated, communicated or stored in physical, digital, or electronic form. Records relate, but are not limited, to functions, policies, decisions, procedures, operations, or other activities of the utility.

(xx~~uu~~) "Roadway" means a main public artery, highway, or interstate highway.

(yy~~vv~~) "Related violation" for purposes of informing the Commission authority pursuant to § 40-7-117, C.R.S., means a violation of these rules that has been proven to be directly linked with a PUC rule violation or violations by time, place, activity, and/or personnel.

(zz~~ww~~) "Request for Information (RFI)" means any request from the PSP Chief or assignee to a jurisdictional operator for information associated with PSP inspection activities authorized by paragraph 11013(a).

~~(xx) "Rural gathering pipeline" means any gathering pipeline located in a Class 1 location and defined in 49 C.F.R. § 192.5 or a Type B gathering pipeline located in a Class 2 area that the operator determines does not meet the Area 2 dwelling density definition in 49 C.F.R. § 192.8.~~

(aaa~~yy~~) "Single structure, above-ground MMO/LPG system" or "SSAG System" means any MMO or LPG system that is:

(I) a low-pressure gas distribution system;

(II) is comprised wholly of above-ground piping/appurtenances; and

(III) is contained wholly within or on a single continuous structure such as an apartment building, hotel, mall, etc.

(bbb~~zz~~) "Small operator" means any gas distribution system operator that operates less than 1000 natural gas distribution services in the state of Colorado.

(ccc~~aaa~~) "Threshold MMO/LPG system" means any MMO or LPG pipeline system serving less than 20 customers.

(ddd~~bbb~~) "Transportation of gas" means the gathering, transmission, or distribution of gas by pipeline, or the 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.

(eee~~ccc~~) "UNCC/Colorado 811" means the Utility Notification Center of Colorado.

(fff) "U.S.C." means the United States Code.

11002. – 11007. [Reserved].

11008. Incorporation by Reference.

(a) The Commission incorporates by reference the federal standards for reporting safety-related conditions associated with the transportation of natural gas and other gas by pipeline published in 49 C.F.R. § 191.23 (reporting safety-related conditions) and § 191.25 (filing safety-related condition reports); effective May 16, 2022. ~~October 1, 2019.~~ This incorporation by reference does not include later amendments to, or editions of, 49 C.F.R. Part 191.

(b) The Commission incorporates by reference the federal safety standards for the transportation of natural gas and other gas by pipeline published in 49 C.F.R. Part 192 effective October 5, 2022. ~~1, 2019.~~ This incorporation by reference does not include later amendments to, or editions of, 49 C.F.R. Part 192.

(c) The Commission incorporates by reference the federal safety standards for liquefied natural gas facilities that are published in 49 C.F.R. Part 193 effective May 16, 2022. ~~October 1, 2019.~~ This incorporation by reference does not include later amendments to, or editions of, 49 C.F.R. Part 193.

(d) The Commission incorporates by reference the drug and alcohol testing regulations and procedures of PHMSA published in 49 C.F.R. Parts 40 and 199 effective May 16, 2022. ~~October 1, 2019.~~ This incorporation by reference does not include later amendments to, or editions of, 49 C.F.R. Parts 40 and 199.

(e) The Commission incorporates by reference the NPMS Operator Standards Manual, updated October 2017.

(~~f~~e) Any material incorporated by reference in this Part 11 may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, during normal business hours, Monday through Friday, except for state holidays. Incorporated standards shall be available electronically and provided in certified copies, at cost, upon request. Restrictions on the provision of physical copies due to copyright protections may apply. The Director or the Director's designee will provide information regarding how the incorporated standards may be examined at any state public depository library. The standards and regulations are also available from the agency, organization or association originally issuing the code, standard, guideline or rule as follows: Code of Federal Regulations: www.govinfo.gov/help/cfr.

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[indicates omission of unaffected rules]

11010. Interpretation.

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[indicates omission of unaffected rules]

(c) If the petition requires interpretation of a federal regulation incorporated by reference into these rules and the Commission accepts the petition, PHMSA must review the Commission's interpretation of the federal regulation. The Commission's decision interpreting the federal regulation, and the reasons therefore, shall issue as an interim decision that shall be provided to

the Office of Pipeline Safety for final review. Any response by the Office of Pipeline Safety shall be incorporated into the Commission's final decision.

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[indicates omission of unaffected rules]

11011. Waiver – Non-emergency.

(d) PHMSA Review: If the Commission grants a petition filed by an owner/operator for a waiver of a federal rule that is incorporated into the Commission rules, PHMSA must review the Commission's decision, except for petitions for waiver covered by paragraph (c) above. The Commission's decision granting a waiver request that requires PHMSA review, and the reasons therefore, shall issue as an interim decision that shall be provided to the Office of Pipeline Safety for final review pursuant to 49 U.S.C. § 60118(d). Any response by the Office of Pipeline Safety shall be incorporated into the Commission's final decision.

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[indicates omission of unaffected rules]

11012. Waiver – Emergency.

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[indicates omission of unaffected rules]

(b) An emergency waiver request will be granted if it is in the public interest, is not inconsistent with pipeline safety, and is necessary to address an actual or impending emergency involving pipeline transportation, including emergencies caused by natural or manmade disasters.

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[indicates omission of unaffected rules]

11013. Inspections and Investigations.

(a) Upon presenting appropriate credentials, a representative of the PSP may enter upon, inspect, and examine, at reasonable times, and in a reasonable manner, the records, facilities, and properties of pipeline operators to the extent such records, facilities, and properties are relevant to determining the compliance of such operators with the requirements of these rules or Commission orders.

(b) Verifiable credentials for personnel engaged in pipeline construction, inspection, and repair activities are required to be provided on site at the time that the activities are taking place. Operator qualifications for the same personnel may be provided at a different time and location by request if they cannot be provided on site.

(c~~b~~) Prior to an inspection or investigation, the PSP Chief or assignee shall notify an operator. Except in emergency situations, the operator shall have an opportunity to respond to the notification prior to the initiation of an inspection or investigation relating to any jurisdictional pipeline facility, including the operator's right of way or easement, new and existing piping, valves, and other

above ground appurtenances attached to pipes, or, upon request of PHMSA, an interstate pipeline to determine compliance with 49 U.S.C. §§ 60101 et. seq., with these rules, and with applicable Commission orders.

(dc) Inspections and investigations are necessitated by the existence of one or more of the following circumstances:

(I) routine scheduling by the PSP Chief, PSP Lead Engineer, or other designee;

(II) pipeline-related incidents and events reported to the PSP in accordance with rules 11101 through 11103;

(III) a complaint received from a member of the public and verified by the PSP Chief or Lead Engineer as related to a jurisdictional pipeline facility and involving a discrete and auditable matter potentially impacting public safety;

(IV) information obtained from a previous inspection; or

(V) when deemed appropriate by the Commission or PHMSA under their respective authorities.

(ed) After an inspection, the PSP Chief will pursue one of the following:

(I) an inspection close-out indicating that no further action will be taken on final inspection findings;

(II) a RFI indicating that the inspection is ongoing without final inspection findings, to be answered within the timeframe requested in the RFI, typically 30 calendar days from the operator's receipt of the RFI unless otherwise indicated and agreed to by the PSP Chief and the operator; or

(III) a compliance action taken on final inspection findings as described in rules 11502 and 11503.

(fe) If a representative of the PSP investigates an incident involving a pipeline facility, the PSP Chief of the Commission may request that the operator make available to the representative all records and information that directly or indirectly pertain to the incident, including integrity management plans and test results, and that the operator afford all reasonable assistance in the investigation.

(gf) To the extent necessary to carry out the responsibilities of the Program Certification Obligations, the PSP may require testing of portions of pipeline facilities that have been involved in, or affected by, an incident. However, before exercising this authority and accepting responsibility, the PSP shall make every effort to negotiate a mutually acceptable plan with the owner of those facilities and, where appropriate, other local and state fire and safety authorities, PHMSA, the NTSB, and any known third parties for performing the testing.

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[indicates omission of unaffected rules]

INFORMATION REQUIRED OF OPERATORS

11100. Submission of Reports and Notices - General.

(a) For all annual reporting, the PSP will access the PHMSA Pipeline Data Mart beginning on March 16 of every year to confirm operator submittals. Failure to meet ~~A~~annual ~~R~~report submittal deadlines will result in issuance in a ~~W~~warning ~~N~~notice; failure to meet submittal deadlines in two successive calendar years will result in the issuance of a NPV against the operator.

(b) For all specialized reporting, failure to meet submittal deadlines and requirements will result in issuance in a ~~W~~warning ~~N~~notice or a NPV against the operator.

(c) Geographic Information System (GIS) data listed in subparagraph (II) below shall be submitted to the PSP. GIS data shall be submitted in the North American Datum of 1983 (NAD 83) approved in writing by the PSP Chief. Data may be submitted in zipped geodatabase (GDB), zipped shapefile (SHP), or google keyhole markup language (KML), with preference for GDB and SHP.

(I) Data shall be submitted electronically and can be submitted through a form available on the Commission's website. Commission staff may update the form periodically. Whether annual filings are provided through the Commission-provided form or separately, operators shall ensure that all information required is included in any submitted report filings.

(II) Data specifications. The following data attributes for Transmission, Distribution, and Gathering pipelines shall be submitted to the extent available:

(A) spatial location of the pipeline;

(B) operator name;

(C) fluid type;

(D) designation of pipeline as Transmission, Distribution, or Gathering;

(E) for Transmission pipelines only, the additional data provided to the National Pipeline Mapping System (NPMS) by the operator;

(F) abandoned as defined in 49 CFR 192.3 and inactive pipelines. Include abandonment and inactive dates as applicable, as defined in 49 CFR 192.727;

(G) the maximum allowable operating pressure;

(H) the testing pressure;

(I) the pipe description (i.e., nominal diameter, coating, standard dimension ratio, and material);

(J) description of corrosion protection (i.e., Galvanic, Rectified/Impressed Current, or NA); and

(K) identify as HCA/MCA on each segment for class location, as applicable.

(III) Disclosure of GIS data.

(A) The PSP Chief will make the GIS data in subparagraphs (II)(A)-(F) above available through a publicly accessible online map viewer. Online map viewer data only will be available at scales greater than or equal to 1:6,000. Any person may view spatial data at scales less than 1:6,000 for an individual parcel at the Commission's office.

(B) Upon request from a local governmental designee(s), and subject to executing a confidentiality agreement and the provisions of the Colorado Open Records Act and applicable federal law, the Commission will allow the local government to view in the Commission's offices the GIS data (including the data described in subparagraphs (II)(G)-(J) above) for transmission, distribution or gathering pipeline systems within the Commission's jurisdiction. The local government may only reproduce or publish data that the Commission makes publicly available through its website. A local government may share more specific data in-person than that which the Commission makes publicly-available, but the information must be treated as confidential and may not be reproduced or published.

(C) Except as provided in subparagraphs (III)(A) and (B) above, the Commission will keep all such GIS data confidential to the extent allowed by the Colorado Open Records Act.

(D) This data will not be used in lieu of Colorado 811 locates and is subject to civil penalties set forth in and fines assessed pursuant to §§ 9-1.5-104.4 or 9-1.5-104.5, C.R.S.

(d~~c~~) For all electronic reporting to PHMSA, if this reporting method imposes an undue burden and hardship, an operator may submit a written request for an alternative reporting method to: Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, PHP-20, 1200 New Jersey Avenue, SE, Washington, DC 20590. The request must describe the undue burden and hardship. PHMSA will review the request and may authorize, in writing, an alternative reporting method. An authorization will state the period for which it is valid, which may be indefinite. An operator must contact PHMSA at 202-366-8075; electronically to informationresourcesmanager@dot.gov; or make arrangements for submitting a report that is due after a request for alternative reporting is submitted but before an authorization or denial is received.

(e) Annual leak report.

(I) Beginning June 15, 2024 and annually on March 15 of each year thereafter, each operator must submit a report to the Commission that includes:

(A) the total number of known leaks in pipelines owned by the operator as of January 1st of the year the report is submitted;

(B) the total number of hazardous leaks eliminated or repaired during the previous one-year period ending December 31st;

(C) the total number of nonhazardous leaks eliminated or repaired during the previous one-year period ending December 31st;

(D) the total number of leaks scheduled for repair in the next one-year period beginning January 1st of the year the report is submitted.

(E) the approximate date and location of each leak from the gas pipeline system detected by the operator;

(F) the type of pipe and facility that was leaking;

(G) the method(s) used to detect each leak;

(H) the approximate date and location of each leak caused by third-party excavation or other causes not attributable to the normal operation or inspection practices of the operator;

(I) the volume of each leak, measured in carbon dioxide equivalents and thousands of cubic feet, except that where an exact volume of gas leaked cannot be identified, an operator may provide its best approximation;

(J) whether the identified cause of each leak was from: Corrosion failure; natural force damage; excavation damage; other outside force damage; pipe, weld, or joint failure; equipment failure; or other causes; and

(K) the estimated market value of lost gas and the methodology used to measure the loss of gas.

(II) Natural gas leaks include all confirmed discoveries of unintentional leak events, including leaks from: corrosion failure; natural force damage; excavation damage; other outside force damage; pipe, weld, or joint failure; equipment failure; or other causes.

(III) The Commission must use the data reported by operators under this section, as well as other data reported by operators to the Commission and to the Air Pollution Control Division and spill and incident data reported by operators to Carbon and Energy Management Commission to estimate the volume of leaked gas and associated greenhouse gas emissions from operational practices in the state. The Commission may request additional information.

(f) Disclosure of leak detection data.

(I) By June 30, 2024 and annually on March 31 of each year thereafter, the Commission will provide on its public internet website aggregate data, as submitted by operators under this section, concerning the volume and causes of gas leaks.

(II) By June 30, 2024 and annually on March 31 of each year thereafter, the Commission will transmit to the Air Pollution Control Division and Energy and Carbon Management Commission information on gas leakage in the state, as submitted by operators under this rule.

11101. Submission of Reports and Notices.

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[indicates omission of unaffected rules]

(d) Pipeline damage and ~~of~~ locate information reporting. Each operator subject to the requirements of these rules and Colorado Revised Statutes Title 9, Article 1.5 (the "Colorado One-call Law") shall submit the PSP Damage and Locate Report (PSP DLR) to the Commission through its E-Filings System in accordance with ~~sub~~paragraph 1204(a~~)(III~~) of the Commission's Rules of Practice and Procedure in the repository proceeding opened for such reporting purposes.

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[indicates omission of unaffected rules]

11103. Submission of Annual Reports.

(a) On or before June 15, 2024 and March 15 of each year thereafter:

(~~I~~a) ~~On or before March 15 of each year, e~~Each operator shall file with the Commission an annual report for the preceding calendar year. The reports shall be filed in accordance with ~~sub~~paragraph 1204(a)~~(III)~~ of the Commission's Rules of Practice and Procedure.

(~~II~~b) Each operator of a distribution pipeline system, excepting MMO/LPG systems, shall submit the a~~A~~nnual r~~R~~eport (PHMSA F 7100.1-1) to PHMSA using its electronic portal at https://portal.phmsa.dot.gov.

(~~III~~c) Each operator of an MMO/LPG system shall submit the MMO/LPG~~Small Operator~~ a~~A~~nnual r~~R~~eport ~~(PSP SOAR)~~ to the Commission through its E-Filings System in the repository proceeding opened for annual reports.

(~~d~~IV) Each operator of a transmission or Type A or Type B or Type C gathering system (i.e., ~~excepting~~accepting Type R as defined in 49 CFR 191.3~~rural gathering~~), shall submit the a~~A~~nnual r~~R~~eport (PHMSA F 7100.2-1) to PHMSA using its electronic portal at https://portal.phmsa.dot.gov.

(V~~e~~) Each operator of a LNG facility shall submit the a~~A~~nnual r~~R~~eport (PHMSA F 7100.3-1) to PHMSA using its electronic portal at https://portal.phmsa.dot.gov.

(VI) Each operator shall submit GIS data according to paragraph 11100(c).

(VII) Each operator shall submit a list of advanced leak detection technology being used and their descriptions according to paragraph 11100(d).

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[indicates omission of unaffected rules]

11201. Pipeline Excavation Damage Prevention.

(a) All~~An operator, including~~ operators ~~of MMO/LPG and rural gathering pipeline systems,~~ must be ~~a~~ members~~Tier 1 Member~~ of ~~at~~ the UNCC/Colorado 811 if any part of the pipeline system is located in any public or railroad right-of-way.

(b) An operator, excluding operators of MMO/LPG pipeline systems but including operators of rural gathering pipeline systems, must report underground facility damages to the UNCC/Colorado 811 in accordance with § 9-1.5-103(7), C.R.S.

(c) Operators of MMO/LPG and rural gathering pipeline systems must install and maintain pipeline markers, labeled according to § 192.707(d), at each crossing of a public road or railroad right-of-way.

(d) An operator, excluding operators of MMO/LPG and ~~rural~~ gathering pipeline systems, must have written guidelines regarding when and how civil penalties are pursued under § 9-1.5-104.5, C.R.S. against persons damaging their pipeline facilities, and when and how penalty alternatives are implemented. At a minimum, the collection of data on and subsequent analysis of the causes of excavation damages to comply with 49 C.F.R. § 192.614 (a). These guidelines must provide for:

(I) recording information about pipeline damages that includes identification of the responsible party and the probable cause of each excavation damage in the following categories:

(A) inadequate excavation practices;

(B) no locate requested;

(C) inaccurate/missing locate – Operator located; and

(D) inaccurate/missing located – Contractor located.

(II) Analysis of the information in (a) above that allows for the identification of acute risk parties that have caused multiple pipeline damages in the preceding 18 months; and

(III) analysis of the information in (a) above that allows for the identification of chronic risk parties that have caused multiple pipeline damages over (a) time period(s) greater than 18 months.

(e) Each operator must provide documentation of the deactivation and abandonment of pipelines to the PSP consistent with rule 11100.

(f~~e~~) The PSP will pursue compliance action against an operator under § 192.614(c)(5) whose excavation damages due to inaccurate or missing locates:

(I) were found through investigation to be contributory to a pipeline incident;

(II) were found through investigation to be contributory to a pipeline event that, in the opinion of the PSP, represented a major threat to public safety; or

(III) were found to represent an excessive risk to the operator's pipeline by the analyses required by subparagraphs 11201(d)(II) and (III).

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[indicates omission of unaffected rules]

11203. Small Operator Systems.

(a) General requirements.

(I) Unless otherwise specified in this rule, a small operator system is subject to these rules and all applicable 49 C.F.R. Part 192 rules, as incorporated.

(II) Unless otherwise specified in this rule, any operator of a small operator system may opt into the prescriptive distribution integrity management provisions of paragraph (h) of this rule via written request to the PSP Chief or PSP Lead Engineer.

(b) Standards applied to de minimis gas systems.

(I) Unless otherwise specified in this rule, de minimis gas systems are exempt from these rules and 49 C.F.R. Part 192 rules, as incorporated.

(II) System expansion.

(A) Operators of de minimis gas systems must apply for Commission approval prior to any system expansion.

(B) Operators of de minimis gas systems are prohibited from expanding the system unless proper permits are issued by the appropriate plumbing inspection authority.

(III) Leak surveys.

(A) De minimis gas systems must be leak surveyed with equipment using instruments and techniques suitable for detecting fugitive natural gas, or LPG in gaseous/vapor form, as applicable, once every two years.

(B) Records and results of all leak surveys will be kept for the life of the system.

(IV) System repairs.

(A) An operator of a de minimis gas system must repair all hazardous pipeline leaks immediately upon discovery.

(B) An operator of a de minimis gas system must repair all other pipeline system leaks within 45 days of discovery.

(C) All system repairs must be completed by a plumber, gas utility technician, or utility contractor qualified to install and repair underground gas systems.

(D) Prior to any leak repair, the operator of a de minimis gas system must acquire a plumbing permit issued by the appropriate plumbing inspection authority. If a leak has been repaired immediately due to a public safety hazard, the repair must be permitted after the fact and will be left exposed for inspection by the appropriate plumbing inspection authority or a PSP Inspector.

(c) Standards applied to SSAG systems.

(I) Any SSAG system is compliant with these rules if the system has been inspected and passed a system safety inspection within the last five years by one of the following means:

(A) inspection by the PSP;

(B) inspection by the Fire Department or Fire Marshall using NFPA 54 (National Fuel Gas Code), NFPA 101 (Life Safety Code), or a written equivalent standard; or

(C) inspection by the plumbing entity using the International Fuel Gas Code or a written equivalent standard.

(II) Record of the final, approved inspection of the gas system installation shall be kept for the life of the system.

(III) Records of all subsequent inspections shall be maintained and available for PSP inspection for a minimum of ten years from the date of inspection.

(d) Standards applied to LPG systems.

(I) The PSP will deem any LPG tank – CDLE OPS Inspected to be compliant with these rules, subject to the following restrictions:

(A) the tank has passed the CDLE OPS inspection; and

(B) the tank has been inspected within the last five calendar years.

(II) Leak surveys and leak pinpointing must use instruments and techniques suitable for detecting fugitive LPG in gaseous/vapor form.

(e) Standards applied to Major MMO/LPG systems.

(I) Major MMO/LPG systems must acquire a PHMSA Operator Identification Number.

(II) Major MMO/LPG systems are subject to the P-DIMP of paragraph 11203(h).

(f) Standards applied to Minor MMO/LPG systems.

(I) ~~Except as provided in subparagraph 11203(h)(VII),~~ Minor MMO/LPG systems are subject to the P-DIMP of paragraph 11203(h).

(g) Standards applied to threshold MMO/LPG systems.

(I) ~~Except as provided in subparagraph 11203(h)(VII),~~ Threshold MMO/LPG systems are subject to the P-DIMP of paragraph 11203(h).

(h) Prescriptive distribution integrity management program (P-DIMP).

(I) Operators subject to this rule shall be subject to a P-DIMP consisting of an evaluation and a plan.

(II) Operators subject to this rule shall have a P-DIMP evaluation performed by the PSP at least once every five years; sooner when system history or PSP inspection indicates a change in any operating condition that necessitates a new P-DIMP evaluation.

(III) The P-DIMP shall explicitly consider, prioritize, and rank system risks based on the following:

(A) number of affected persons;

(B) physical system parameters including but not limited to:

(i) materials;

(ii) delivered system pressure, including whether the system is a low-pressure distribution system; and

(iii) leak and leak repair history.

(C) Operational system parameters including, but not limited to:

(i) compliance history of the current legal operator;

(ii) system records;

(iii) availability of appropriate tools and equipment to operate gas pipeline system;

(iv) availability of trained and/or qualified personnel to operate and maintain the system during normal operations; and

(v) availability of trained and/or qualified personnel to operate the system during emergencies.

(IV) All physical and operational parameters that are unknown at the time of the P-DIMP evaluation shall be considered by the PSP to pose the maximum public safety risk that is reasonably associated with the unknown parameter.

(V) Following a completed P-DIMP evaluation, all operators of a Threshold MMO/LPG system or Minor MMO/LPG system shall be subject to P-DIMP unless the operator opts out of a P-DIMP as allowed in subparagraph 11203(h)(VII).

(VI) The P-DIMP shall prescribe operations and maintenance activities appropriate to maximize system integrity and minimize the public safety risk posed by the operation of the system.

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[indicates omission of unaffected rules]

RULE VIOLATIONS, CIVIL PENALTIES, AND COMPLIANCE ACTIONS

11500. Violations - General.

* * *

[indicates omission of unaffected rules]

(b) Violations will be examined by the PSP Chief to determine the impact category resulting from the violation: no immediate safety impact, incident, public endangerment, operator endangerment, or a loss/reduction of pipeline integrity.

11501. Violations – Civil Penalties.

(a) This rule shall apply to violation(s) that would have otherwise been discovered by a prudent operator in the normal course of business. This is the lowest degree of culpability for which operators may be penalized and does not limit the Commission from penalizing operators for higher degrees of culpability.

(b) An operator who violates these rules or an order of the Commission issued under these rules may be subject to civil penalties as follows:

(I) civil penalties shall not exceed $200~~100~~,000 per instance of violation;

(II) each day of a continuing violation constitutes a separate instance of violation; and

(III) in the case of a group or series of related violations, the aggregate amount of such penalties shall not exceed $2,000,000.

(c) Civil penalties – general. The PSP Chief may propose that the Commission assess civil penalties against an operator following a PSP inspection and/or investigation that has established specific pipeline safety rule violation(s) and a time-dependent or time-independent nature of the violations(s).

(d) Civil penalties – calculation. To provide consistency and specificity, civil penalties shall be calculated through the formulaic method as follows.

(I) Time-dependent/history based activity violations.

(A) Violations determined by an action or activity not performed or failure to be performed in accordance with rule or procedure:

(i) the penalty is assessed by individual action or activity required by rule or procedure;

(ii) the penalty amount is calculated by the equation:

$$B \times t \times F_{ph} \times F_{hh} \times F_i ,$$

where:

B = Base penalty of $1 per day for the activity associated with the violation

t = Timeframe of non-compliance, in days

F_{ph} = Pertinent/related system history factor, as determined in the Time-Dependent Violation Impact Factor Table

F_{hh} = Hazardous history factor, as determined in the Time-Dependent Violation Impact Factor Table

F_i = Incident history factor, as determined in the Time-Dependent Violation Impact Factor Table

(B) Time-dependent violation impact factor table:

Time-Dependent Violation Impact Factor Table			
FACTOR	THRESHOLD	Factor multiplier if threshold *NOT* met	Factor multiplier if threshold met
F_{ph}	The violation was associated with other inspection findings that indicated related effects on pipeline system integrity (e.g., leaks, corrosion, PHMSA Advisory Bulletin, missing records, etc.)	1	5
F_{hh}	The violation was associated with other inspection findings that indicated related effects on public safety (e.g., hazardous leaks, safety-critical activity, safety-related condition, etc.)	1	10
F_i	The violation was associated with other inspection findings that indicated the violation contributed to an Incident	1	20

(II) Time-independent/outcome-based violations.

(A) Violations determined by a failure to follow or inadequate/missing operator procedures:

(i) the penalty is assessed by individual or group actions or activities required by rule or procedure;

(ii) the penalty amount is calculated by the equation:

$B \times F_{impact}$, where

B = $5,000 base penalty per instance of violation

F_{impact} = Time-independent Impact Factor as determined in the Time-Independent Violation Impact Factor Table

(B) Violations determined by an unqualified worker performing operations, maintenance, or construction tasks:

(i) the penalty is assessed per worker and specific individual qualification required by rule or procedure; and

(ii) the penalty amount is calculated by the equation:

B *x* F_{impact}, where

B = $5,000 base penalty per instance of violation

F_{impact} = Time-independent Impact Factor as determined in the Time-Independent Violation Impact Factor Table

(C) Rule 11201 violations:

(i) the penalty is assessed per applicable paragraph of rule 11201;

(ii) the penalty amount is calculated by the equation:

B *x* F_{impact}, where:

B = $5,000 base penalty per instance of violation

F_{impact} = Time-independent Impact Factor as determined in the Time-Independent Violation Impact Factor Table

(D) Missing or incomplete records:

(i) the penalty is assessed by grouped action or activity required by rule or procedure;

(ii) the penalty is assessed by applicable inspection focus, i.e., district operating area, operating unit, or total operator system;

(iii) the penalty is calculated based on the estimated volume of missing or incomplete records:

(1~~a.~~) Gross Incompletion (Record incompletion/absence ≥ 10 percent for complete record absence for a required code segment) = $10,000/code/segment/calendar year;

(2~~b.~~) Major Incompletion (Record incompletion/absence ≥ 5 percent and < 10 percent for a required code segment) = $5,000/code/segment/calendar year; and

(3~~c.~~) Significant Incompletion (Record incompletion/absence ≥ 2 percent and < 5 percent for a required code segment) = $2,500/code/segment/calendar year.

(E) Time-independent violation impact factor table:

Time-Independent Violation Impact Factor Table	
THRESHOLD	Factor multiplier if threshold met
The violation resulted in no immediate safety	1

impact	
The violation resulted in operator endangerment; operator property loss > $10,000; or emergency (versus precautionary) actions by the operator necessary to protect system integrity	5
The violation resulted in public endangerment; non-operator property loss > $10,000; or a loss of pipeline integrity	10
The violation resulted in an Incident	20

(e) Multiple calculated penalties will be summed to compute a final civil penalty.

(f) The PSP Chief may propose to the Commission the assessment of a revised final civil penalty lower than the summed calculated penalties based on the operator's documented and verifiable efforts to mitigate the violations(s) and improve overall system safety and integrity.

(g) The calculated and final civil penalty amounts shall be illustrated in the NPV to the operator.

(h) Nothing in this rule shall prohibit the Commission from the calculation and/or assessment of a new final civil penalty during a formal hearing process.

(i) The Commission may assess doubled or tripled civil penalties against any public utility, as provided by § 40-7-113.5(3), C.R.S., § 40-7-113.5(4), C.R.S., and this rule.

(I) The Commission may assess any public utility a civil penalty containing doubled penalties only if:

(A) the public utility has admitted liability by paying the proposed final civil penalty for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;

(B) the conduct for which doubled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable; and

(C) the conduct for which doubled civil penalties are sought occurred within one year after conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable.

(II) The Commission may assess any public utility a civil penalty containing tripled penalties only if:

(A) the public utility has admitted liability by paying the proposed final civil penalty for, or has been adjudicated by the Commission in an administratively final

written decision to be liable for, engaging in prior conduct that constituted two or more intentional violations of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;

(B) the conduct for which tripled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable, in at least two prior instances; and

(C) the conduct for which tripled civil penalties are sought occurred within one year after the two most recent instances of conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable.

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[indicates omission of unaffected rules]

11503. Compliance Action – Warning Notice.

In the instance of a probable violation of these rules that has no previous enforcement history and poses a low risk to public safety and/or pipeline/LNG facility integrity, as determined by current regulation, industry standard, or other relevant objective technical standard, or if the operator provides advance notice, the PSP Chief will issue a ~~W~~warning ~~N~~notice to an operator. The ~~W~~warning ~~N~~notice will advise the operator of the probable violation, require the operator to correct the probable violation or be subject to further enforcement action under these rules, and may require a formal written response from the operator on their corrective action plan so that a follow-up inspection can be scheduled.

11504. Notice of Probable Violation (NPV).

(a) In the instance of a probable violation of these rules that has a previous enforcement history or poses a moderate to severe risk to public safety or pipeline or LNG facility integrity, as determined by current regulation, industry standard, or other relevant objective technical standard, the PSP Chief may issue a NPV to an operator. The NPV will advise the operator of the probable violation and include the following sections:

(I) a statement of inspection findings that incorporates the requirements of rule 11502, above;

(II) a statement of the regulatory interpretation upon which the determination of probable violation is based;

(III) a civil penalty calculation using rule 11501 stating separately for each probable violation the maximum penalty amount provided and a total penalty;

(IV) the PSP Chief's civil penalty assessment evaluation consistent with § 40-7-117, C.R.S. that includes a conclusion for or against assessment of the civil penalty in whole or in part;

(V) a final recommended civil penalty assessment;

(VI) as appropriate, the NPV will offer the operator a proposed alternative enforcement in lieu of the civil penalties, in whole or in part. The proposed alternative enforcement will describe the process in sufficient detail to explain how it will provide for the improvement of public safety;

(VII) as appropriate, the NPV will include a compliance directive that prescribes specific actions to be taken by the operator within a specific timeframe to correct the violation; and

(VIII) a description of the operator's response options.

(b) The NPV shall be filed in a new proceeding and shall serve as notice of the alleged probable violation and potential actions to be taken by the Commission.

(c) Within 30 days after receipt of a NPV issued pursuant to the rule, an operator shall file in the proceeding its response with one of the following options.

(I) The operator may admit the NPV through the following filings and actions:

(A) the operator shall pay any proposed final civil penalty in full; and

(B) the operator shall agree to any proposed compliance directive.

(II) The operator may request the Commission consider an offer in compromise to the NPV through the following filings and actions:

(A) the operator may request reconsideration, reissuance, or dismissal of the initial NPV through submittal of a written explanation, information, or other material in response to the allegations contained in the NPV; in objection to the proposed compliance directive; or in mitigation of the proposed final civil penalty; or

(B) the operator and the PSP Chief may jointly file a stipulation and settlement agreement pursuant to rule 1150811507, resolving the allegations in the NPV for the Commission's consideration.

(III) The operator may oppose the NPV, or any part thereof. The operator shall file its response opposing the allegations in the NPV in the proceeding and provide all relevant information it finds addresses the issues raised. If an operator opposes any alleged violation in the NPV, the matter shall be set for hearing. When applicable and appropriate, such appeal will stay the duration of the noncompliance for purposes of any penalty calculation contingent upon interim operator actions to cure the alleged violation(s).

(d) If the operator fails to respond as provided in this rule within 30 days of the NPV, the NPV shall be deemed opposed by the operator and shall be set for hearing as prescribed by subparagraph (c)(III) above.

(e) If a violator does not remit the assessed penalty or the lesser amount agreed upon pursuant to this rule, the Commission may recover the amount due plus court costs in a civil action in any court of competent jurisdiction.

(f) Any civil penalty authorized by this rule may be reduced by the Commission based on consideration of factors and metrics, as follows:

(I) an evaluation of the severity of the violation, in terms of its actual or potential effects on the public safety or pipeline system integrity;

(II) the extent to which the violation and any underlying conditions that may have contributed to the likelihood or severity of the violation have been remedied;

(III) the extent to which the violator agrees to spend, in lieu of the payment of part of the civil penalty, a specified amount on Commission-approved measures to reduce the overall risk to the pipeline system safety or integrity; except that the amount of the penalty payable to the Commission shall be no less than $5,000; and

(IV) whether or not the violation was self-reported by the operator.

(g) The remedy provided in this rule is an addition to any other remedies available to the Commission under the constitution or laws of the state or of the United States.

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[indicates omission of unaffected rules]

11507. Compliance Action – Hazardous Facilities Order (HFO).

(a) If an inspection, audit, investigation, or test reveals that the continued operation of a pipeline or LNG facility may pose a severe and imminent risk to public safety, as determined by current regulation, industry standard, or other relevant objective technical standard, the PSP Chief may consider the pipeline or LNG facility to be a hazardous facility and file a formal complaint with the Commission against the operator of the facility. The complaint shall allege facts sufficient to establish the existence of a hazardous facility and to support an HFO issued upon conclusion of a Commission proceeding, or, if justified, a summary HFO pursuant to paragraph (i) of this rule.

(b) A formal complaint by PSP Staff shall be issued, and a hearing shall be conducted in accordance with the Commission's Rules of Practice and Procedure and Article 6 of Title 40, C.R.S.

(c) Except as provided in paragraph (i) of this rule, if the Commission finds, after hearing, that a pipeline facility or a LNG facility is hazardous to life or property, the Commission shall issue an order directing the operator to take corrective action. Corrective action may include, without limitation, suspension or restriction of the use of the pipeline facility or LNG facility, physical inspection, testing, repair, or replacement.