

**COLORADO DEPARTMENT OF REGULATORY AGENCIES**

**Public Utilities Commission**

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**PART 4**

**RULES REGULATING GAS UTILITIES AND PIPELINE OPERATORS**

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The basis and purpose of these rules is to set forth rules describing the service to be provided by jurisdictional gas utilities and master meter operators to their customers and describing the manner of regulation over jurisdictional gas utilities, master meter operators, and the services they provide. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, transportation service, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, cost allocation between regulated and unregulated operations, recovery of gas costs, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-115, 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-3-101, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-7-117, and 40-8.7-105(5), C.R.S. .... 4

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## **BASIS, PURPOSE, AND STATUTORY AUTHORITY.**

The basis and purpose of these rules is to set forth rules describing the service to be provided by jurisdictional gas utilities and master meter operators to their customers and describing the manner of regulation over jurisdictional gas utilities, master meter operators, and the services they provide. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, transportation service, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, cost allocation between regulated and unregulated operations, recovery of gas costs, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-115, 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-3-101, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-7-117, and 40-8.7-105(5), C.R.S.

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(Indicates portions of the Chapter that are not changed by this rulemaking)

## **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, ~~of gas pipeline systems of the following: incidents, safety-related conditions, notice of construction and repair, conversion to service as a regulated pipeline, and annual pipeline summary data.~~ 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, ~~and 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 4999 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 project construction and repair~~, and annual pipeline summary data. ~~information to the Commission and to the U.S. DOT~~ [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 4970 through 4979].

~~(c) These rules apply to gathering pipelines and gathering pipeline segments under the scope of 49 C.F.R. § 192.1.~~

~~(d)~~ 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, 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 or to the direct sales customer's property line, whichever is the furthest downstream.
- (f) "Distribution pipeline" means a pipeline other than a transmission pipeline or a gathering pipeline.
- (g) "Emergency repair" means a repair that is on a transmission or gathering pipeline operating at or above 20 percent SMYS and that requires immediate action to prevent loss of life or significant damage to property or to preserve the integrity of the pipeline.
- (h) "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.

- (i) "Gas" means natural gas, flammable gas, toxic or corrosive gas, and petroleum gas.
- (j) "Gathering pipeline" means a pipeline that transports gas from a current production facility to a transmission pipeline or main.
- (k) "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, or pose a pipeline integrity risk to the public safety or property.
- (l) "Incident" means a release of gas from a pipeline, or a release of liquefied natural gas or gas from an LNG facility, which results in any of the following:
  - (I) Death or personal injury necessitating in-patient hospitalization.
  - (II) Estimated property damage, including the cost of gas lost to the operator or others, or both, of \$50,000 or more.
  - (III) An event that results in an emergency shutdown of an LNG facility.
  - (IV) An event that is significant, in the judgment of the operator, even though it does not meet the criteria of subparagraphs (I)(I), (II), or (III) of this paragraph.
- ~~(m) "Intrastate pipeline" means a pipeline facility within the state of Colorado that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act.~~
- ~~(n) "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.~~
- ~~(o) "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.~~
- ~~(p) "Main" means a distribution line that serves, or is designed to serve, as a common source of supply for more than one service line.~~
- ~~(q) "Major project construction" means the construction of any new pipeline facility, the repair, integrity assessment, or upgrade of a pipeline segment, that originally is estimated to cost \$100,000 one million dollars or more. As used in this rule, cost includes only the direct costs associated with the construction, repair, integrity assessment, or upgrade.~~
- ~~(r) "Major repair" means a repair, replacement, renewal, or upgrade of a pipeline that originally is estimated to cost \$50,000 or more. As used in this rule, cost includes only the direct costs associated with the repair.~~
- ~~(s) "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.~~
- ~~(t) "Municipality" means a city, town, or village in the State of Colorado.~~

- (~~uts~~) "Natural Gas Pipeline Act" means the federal statute found at 49 U.S.C. §§ 60101, et seq., as amended.
- (~~yut~~) "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.
- (~~wyu~~) "OPS" means the Office of Pipeline Safety, a unit of the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation.
- (~~xwy~~) "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.
- (~~yxw~~) "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.
- (~~zyx~~) "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.
- (~~aazy~~) "Production facility" means flowline and associated equipment used at a wellsite in producing, extracting, recovering, lifting, stabilizing, separating, treating, 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.
- (~~baaz~~) "Propane gas system" means a pipeline system serving ten or more structures from a single tank.
- (~~eebbaa~~) "Roadway" means a main public artery, highway, or interstate highway.
- (~~ddeebb~~) "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.
- (~~eeddcc~~) "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.
- (~~feedd~~) "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).

(ggff) "Staff" means the Staff of the Gas Pipeline Safety Section of the Commission.

(hggff) "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 ~~pipeline,~~ 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.

(igg) "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, 2006~~7~~). 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, 2006~~7~~). 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, 2006~~7~~). 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, ~~1580 Logan Street, OL-21560 Broadway, Suite 250~~, Denver, Colorado 80203~~2~~, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at costs 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 4999 regarding the administrative, the enforcement, and the reporting requirements, the rules 4900 through 4999 shall apply.

**4904. Interpretation.**

- (a) An operator may request a regulatory interpretation of any of these rules by submitting a written request to the Chief. The requestor shall include his or her return address and the specific application and rule reference with the request.
- (b) After a request for interpretation is received, the Chief will notify the requestor of the disposition of the request and if additional information is required.
- (c) If the request is consistent with the state pipeline safety program and is justified, the Chief will provide the Federal Administrator for Pipeline Safety a written recommendation with terms and conditions as are appropriate.
- (d) The interpretation is effective upon approval by the Federal Administrator for Pipeline Safety or, no action is taken by the Federal Administrator for Pipeline Safety, 60 days after the receipt of the recommendations from the Chief.

**4905. Waiver.**

- (a) The Commission may grant a request for waiver of any of these rules in accordance with 49 U.S.C. § 60118 § 40-2-115, C.R.S. and the Commission's Rules Regulating Practice and Procedure.
- (b) Under § 40-2-115, C.R.S. and 49 U.S.C. § 60118(c) the Public Utilities Commission has the authority to grant special permits in emergency situations. An emergency special permit 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 an emergency caused by a natural or manmade disaster. An emergency pipeline special permit is an order by which the Commission may temporarily modify compliance with state pipeline regulations for affected pipeline owners or operators.
- (c) The Commission will determine on a case-by-case basis what duration is necessary to address the emergency. However, as required by statute, no emergency special permit may be issued for a period of more than 60 days. Each emergency special permit will automatically expire on the date stated on the permit.
- (ed) Each request should include the following information:
  - (I) Name of requestor and indication of whether requestor is an owner or operator;
  - (II) Duration of the emergency special permit;
  - (III) Specific regulations from which the owner or operator seeks relief;

- (IV) An explanation of the actual or impending emergency;
- (V) Specific reasons the special permit is necessary (e.g., lack of accessibility, damaged equipment, –gas supply or temporary by-pass);
- (VI) A description of the pipeline for which special permit is sought, including:
  - (A) the mileage or footage of pipeline to be covered and the Counties in which it is located,
  - (B) the year the pipeline was installed,
  - (C) all pipeline facilities such as pump and compressor stations that this permit will affect, and;
  - (D) the material, thickness, diameter and operating pressure of the pipeline;
- (VII) A statement indicating whether and how operating the pipeline pursuant to an emergency special permit is in the public interest (e.g., continuity of service, service restoration);
- (VIII) Proposed alternatives to compliance with the regulation (e.g., additional inspections and tests, shortened reassessment intervals);
- (IX) Measures to be taken after the emergency situation or permit expires-whichever comes first--to confirm long-term operational reliability of the facility; and
- (X) A certification that operation of the owner or operator's pipeline under the requested emergency special permit would not be inconsistent with pipeline safety.

#### **4906. Alert Notices.**

An alert or advisory notice may be disseminated to an operator based on recommendations from the National Transportation Safety Board, the OPS, or as a result of a situation which may pose a threat to pipeline systems or the public. After receiving information concerning an alert or advisory notice, an operator shall take appropriate action to review and to revise its design, installation, and/or its operating and maintenance procedures.

#### **4907. – 4909. [Reserved].**

#### **Filing Incident, Safety-Related Condition, Construction, Damage, and Annual Reports**

#### **4910. Written Reports.**

- (a) Written reports required by these rules, except notices of major construction, ~~notices of major repair~~, and pipeline damage reports, shall be filed with the Information Resources Manager, OPS.
- (b) A copy of each ~~written~~ report filed with the Information Resources Manager, OPS shall be furnished via U.S. mail or emailed to the to the gas pipeline safety contact found on the PUC Pipeline Safety Web site in a .pdf searchable document. Staff on the same day.

- (c) Copies of the prescribed reporting forms are available, without charge, upon request. Additional copies may be reproduced and used if on the same size and kind of paper.

**4911. Telephonic Reports.**

- (a) As soon as possible after discovery, but generally not to exceed two hours after discovery, an operator shall telephonically report any incident to the Staff and to the National Response Center of the U.S. Department of Transportation.
- (b) The operator of ~~a~~ an intrastate pipeline, including a gathering pipeline in a class 1, 2, 3, or 4 area operating at or above 125 psig, of a LNG system, of a master meter system, or of a propane system, shall telephonically report to the Staff at (303) 894-2854, within two hours after discovery ~~of the event~~, any of the following events:
- (I) An emergency repair, as defined in paragraph 4901(g).
  - (II) A gas leak which occurs on ~~a the intrastate~~ pipeline, the LNG system, the master meter system, or the propane system and which results in the evacuation of 50 or more people from a normally occupied building.
  - (III) A gas leak which occurs on the ~~intrastate~~ pipeline, the LNG system, the master meter system, or the propane system and which results in the closure of a roadway or railroad.
- (c) A telephonic report made pursuant to paragraphs (a) or (b) of this rule shall include the following information:
- (I) The name and telephone number of the operator and the contact of the person making the report.
  - (II) The location of the incident or event.
  - (III) The date and time of the beginning of the incident or event.
  - (IV) The date and time of the ending of the incident or event, if appropriate.
  - (V) The date and time of the discovery of the incident or event.
  - (VI) The number of fatalities and personal injuries, if any.
  - (VII) 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.
  - (VIII) The National Response Center control number, if known.

**4912. Written Reports by Operators of Distribution Systems.**

- (a) Except as provided in paragraph (c) of this rule, an operator of a distribution pipeline system shall file an incident report on a current U.S. DOT Form PHMSA F 7100.1 with the agencies listed in

rule 4910 as soon as possible after the discovery of an incident, but not later than 30 days after discovery.

- (b) After filing an incident report pursuant to paragraph (a) of this rule, an operator shall file a supplemental report with the agencies listed in rule 4910 if the operator obtains additional, relevant information. The operator shall file the supplemental report as soon as possible, but not more than 60 days after obtaining the additional information. The supplemental report shall reference the original report by date and subject.
- (c) An operator of a master meter system or a propane gas system is not required to file an incident report.
- (d) Except as provided in paragraph (e) of this rule, an operator of a distribution pipeline system shall file an annual report for its intrastate pipeline on [a current](#) U.S. DOT Form PHMSA F 7100.1-1 with the agencies listed in rule 4910. This report shall be filed annually by March 15 for the preceding calendar year.
- (e) An operator of a propane gas system which serves fewer than 100 customers from a single source, a master meter system, or a LNG facility is not required to file an annual report.

#### **4913. Written Reports by Operators of Transmission and Gathering Systems.**

- (a) An operator of a transmission pipeline system or a [type A](#) gathering pipeline system [as defined in 49 C.F.R. Part 192](#) shall file an incident report on [a current](#) U.S. DOT Form PHMSA F 7100.2 with the agencies listed in rule 4910 as soon as possible after the discovery of an incident, but not later than 30 days after discovery.
- (b) After filing an incident report pursuant to paragraph (a) of this rule, an operator shall file a supplemental report with the agencies listed in rule 4910 if the operator obtains additional, relevant information. The operator shall file the supplemental report as soon as possible, but not more than 60 days after obtaining the additional information. The supplemental report shall reference the original report by date and subject.
- (c) An operator of a transmission pipeline system or a [regulated](#) gathering pipeline system [as defined in 49 C.F.R. Part 192](#) shall file an annual report for intrastate pipeline on [a current](#) U.S. DOT Form PHMSA 7100.2-1 with the agencies listed in rule 4910. This report shall be filed annually by March 15 for the preceding calendar year.

#### **4914. Filing of Separate Reports.**

- (a) An operator which is primarily engaged in gas distribution and which also operates a gas transmission pipeline system or a [gas-regulated](#) gathering pipeline system [as defined in 49 C.F.R. Part 192](#) shall file separate reports for each pipeline system.
- (b) An operator which is primarily engaged in gas transmission or [regulated gas-gathering pipeline system as defined in 49 C.F.R. Part 192](#) and which also operates a gas distribution pipeline system shall file separate reports for each pipeline system.

**4915. Reports of Safety-Related Conditions.**

- (a) Except as provided in paragraph (d) of this rule, an operator shall file a written safety-related condition report on the existence of any of the following safety-related conditions with respect to a pipeline in service:
- (I) In the case of a pipeline that operates at a hoop stress of 20 percent or more of its SMYS, (a) general corrosion that has reduced the wall thickness to less than that required for the maximum allowable operating pressure and (b) localized corrosion pitting to a degree where leakage might result.
  - (II) Unintended movement or abnormal loading by naturally-occurring environmental causes (for example, earthquakes, landslides, or floods) that impairs the serviceability or integrity of a pipeline.
  - (III) Any crack or other material defect that impairs the structural integrity or reliability of a LNG facility that contains, controls, or processes gas or LNG.
  - (IV) Any material defect or physical damage that impairs the serviceability of a pipeline that operates at a hoop stress of 20 percent or more of its SMYS.
  - (V) Any malfunction or operating error that causes the pressure of a pipeline or LNG facility that contains or processes gas or LNG to rise above its maximum allowable operating pressure (or working pressure for LNG facilities) plus the build-up allowed for operation of pressure limiting or control devices.
  - (VI) A leak in a pipeline or LNG facility that contains or processes gas or LNG that constitutes an emergency.
  - (VII) Inner tank leakage, ineffective insulation, or frost heave that impairs the structural integrity of a LNG storage tank.
  - (VIII) Any safety-related condition that could lead to an imminent hazard and that causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent or more reduction in operating pressure or shutdown of operation of a pipeline or a LNG facility that contains or processes gas or LNG.
- (b) A written report of a safety-related condition shall be filed with the Associate Administrator, Office of Pipeline Safety, within five business days (not including Saturday, Sunday, or federal or State holidays) after the day on which the operator or its representative first determines that a safety-related condition exists. The report shall not be filed later than ten business days after the day an operator or its representative discovers the condition. Separate conditions may be reported in a single report if they are closely related. On the same day that the report is filed with the Associate Administrator, Office of Pipeline Safety, the operator shall provide to Staff a copy of the report filed with the Associate Administrator, Office of Pipeline Safety. Reports may be filed with the U.S. DOT and the Staff by facsimile.
- (c) The written report shall be headed "Safety-Related Condition Report" and shall provide the following information:

- (I) Name and principal address of operator.
  - (II) Date of report.
  - (III) Name, job title, and business telephone number of the person submitting the report.
  - (IV) Name, job title, and business telephone number of the person who determined that the condition exists.
  - (V) Date the condition was discovered and, if different, date condition was first determined to exist.
  - (VI) Location of the condition. This requires identification of the town, city, or county in which the condition exists and, as appropriate, the nearest street address, milepost, or landmark; and the name of pipeline.
  - (VII) Description of the condition, of the circumstances leading to its discovery, of any significant effects the condition has on safety, and of the type of gas transported or stored.
  - (VIII) Description of the corrective action taken (including reduction of pressure or shutdown) before the report was submitted.
  - (IX) Description of any planned future follow-up or corrective action, including the anticipated schedule for starting and concluding such action.
- (d) A written report need not be made for any safety-related condition that:
- (I) Exists on a regulated gathering system as defined by 49 C.F.R. Part 192 and where a MAOP produces a hoop stress less than 20% percent of SMYS, a master meter system, a propane gas system, or a customer-owned service line.
  - (II) Is an event or results in an event which occurs before a permanent repair or replacement pertaining to an already-reported incident can be completed.
  - (III) Exists on a pipeline (other than a LNG pipeline) that is more than 220 yards from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad or roadway.
  - (IV) Is corrected by permanent repair or replacement in accordance with applicable safety standards within five business days of the day on which the operator first determines that the condition exists, but not later than ten business days after an operator or its representative discovers the condition. This subparagraph does not apply to localized corrosion pitting on an effectively coated and cathodically protected pipeline.

**4916. Reporting of Pipeline Damage and of Locate Information.**

- (a) Except as provided in paragraph (d) of this rule, 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 annually, by March 15. 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) Transmission, direct sales, gRegulated ggathering, 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.

**4917. Filing Notices of Major ~~ConstructionProject or Major Repair~~.**

- (a) ~~A wW~~ritten notice of a major ~~construction or major repair project~~ shall be submitted to the Staff not later than 20 business days prior to the scheduled commencement date of the construction ~~or repair project~~, if practicable. ~~In no event shall the written notice of major construction or major repair be submitted to the Staff later than the date on which the construction or repair commences.~~
- (b) The notice shall contain the following information:
- (I) The type of construction or repair.
  - (II) The date of commencement.

- (III) The estimated period of construction or repair.
- (IV) The test medium (for example, gas, inert gas, water).
- (V) The location of the construction or repair.
- (VI) The estimated cost of the construction or repair project.

**~~4918.—Conversion to Service.~~**

~~A pipeline previously used in service not subject to 49 C.F.R. Part 192 qualifies for service subject to 49 C.F.R. Part 192 if the operator prepares and follows a written procedure addressing the requirements of 49 C.F.R. § 192.14. The operator shall make its written procedures and applicable records available to Staff upon request.~~

**~~4919.—Regulated Gathering Pipeline.~~**

~~In addition to 49 C.F.R. § 192.9, revised March 10, 2006, an operator shall report any safety-related condition or emergency repair; promptly repair any hazardous leakage; and report any major construction or repair under rule 4917. The operator shall make its written procedures and applicable records available to Staff upon request.~~

**~~4920.—Procedural Updates.~~**

~~For any regulated pipeline, as soon after the end of an incident, an emergency repair, a safety-related condition, or an abnormal operating condition as defined in 49 C.F.R. § 192.803 as possible, each operator shall review, and shall make applicable changes to, the operator qualification program and the written procedural manual(s) used for conducting operations, for maintenance, and for emergencies. At a minimum, the operator shall review (and update, if necessary) the procedural manual(s) at intervals not exceeding 15 months, but at least once each calendar year.~~

**~~4921.—Amendment of Plans or Procedures.~~**

- ~~(a) If the Chief believes that an operator's plans or procedures required by 49 C.F.R. Part 192 or by 49 C.F.R. Part 193 are inadequate to assure safe operation of a pipeline facility or a LNG facility, the Chief shall issue a notice of amendment to initiate a proceeding to determine whether the plans or procedures are inadequate. The notice of amendment shall:
  - ~~(I) Provide an opportunity for a hearing pursuant to rule 4935.~~
  - ~~(II) Specify the alleged inadequacies and the proposed action for revision of the plans or procedures.~~
  - ~~(III) Allow the operator 30 days after receipt of the notice to submit written comments pursuant to rule 4935 or to request a hearing.~~~~
- ~~(b) In determining the adequacy of an operator's plans or procedures, the Chief shall consider the following:~~

- ~~(I) — Relevant available pipeline safety data.~~
- ~~(II) — Whether the plans or procedures are appropriate for the particular type of pipeline transportation or facility and for the location of the facility.~~
- ~~(III) — The reasonableness of the plans or procedures.~~
- ~~(IV) — The extent to which the plans or procedures contribute to public safety.~~
- ~~(c) — Amendment of an operator's plans or procedures as prescribed in paragraph (a) of this rule is in addition to, and may be used in conjunction with, other enforcement action.~~

**492218. – 4929. [Reserved].**

### **Procedure For Enforcement**

#### **4930. Service.**

- (a) An order, notice, complaint or other document required to be served under these rules shall be served personally or by registered or certified mail.
- (b) Service upon an operator's authorized representative or agent constitutes service upon that operator.
- (c) Service by registered or certified mail is complete upon mailing. An official U.S. Postal Service receipt evidencing a registered or certified mailing constitutes prima facie evidence of service.

#### **4931. Subpoenas.**

- (a) The Commission, an Administrative Law Judge, or the Director may issue a subpoena in accordance with rule 1406.
- (b) Rule 45 of the Colorado Rules of Civil Procedure, except as provided in rule 1406 and §§ 40-6-102 and 103, C.R.S., shall govern a subpoena issued under this rule.
- (c) A subpoena issued under this rule may be enforced in the district court, as provided by § 40-6-103(2), C.R.S.

#### **4932. Inspections and Testing.**

- (a) Upon presentation of Commission credentials, Staff authorized by the Chief are authorized to enter upon, to inspect, and to examine, at reasonable times, an operator's records, ~~intrastate~~ pipeline facility, or, upon request of the OPS, interstate pipeline to determine compliance with 49 U.S.C. §§ 60101 et seq., with these rules, with Commission orders, or with orders issued pursuant to these rules.
- (b) Staff may require testing of an operator's ~~intrastate~~ pipeline. Staff shall make every effort to negotiate with the operator of the pipeline a mutually-acceptable testing plan before performing such tests.

- (c) If information is needed, the Chief may send the operator a request for specific information to be answered within 45 days after receipt of the request.
- (d) When information obtained from an inspection, testing, a request for specific information, or other sources indicates that enforcement action is warranted, the Chief may do one of the following:
  - (I) Serve on the operator a Warning Letter pursuant to rule 4933 or a Notice of Probable Violation pursuant to rule 4934.
  - (II) File a formal complaint with the Commission requesting a Hazardous Facilities Order pursuant to rule 4940.

**4933. Warning Letters.**

- (a) If the Chief believes that an operator has committed a probable violation of 49 U.S.C. §§ 60101 et seq., of these rules, of a Commission order, or of an order issued pursuant to these rules, the Chief may serve a warning letter on the operator advising the operator of the probable violation and advising the operator to correct the probable violation or be subject to an enforcement action under these rules.
- (b) Within 30 days after receipt of a warning letter, an operator shall respond to the Chief by submitting a written explanation, information, or other material in answer to the allegations contained in the warning letter.

**4934. Notices of Probable Violation.**

- (a) If the Chief believes that an operator has committed a probable violation of 49 U.S.C. §§ 60101, et seq., of these rules, of a Commission order, or of an order issued pursuant to these rules, the Chief may commence an enforcement proceeding against an operator by serving the operator with a notice of probable violation charging such person with a probable violation of 49 U.S.C. §§ 60101, et seq., of these rules, of a Commission order, or of an order issued pursuant to these rules.
- (b) A notice of probable violation served pursuant to paragraph (a) of this rule shall include:
  - (I) A statement of the facts upon which the notice of probable violation is based.
  - (II) A statement of the law, rule(s), or order(s) that the operator is alleged to have violated.
  - (III) A statement of the response options available to the operator.
  - (IV) Either or both of the following:
    - (A) A proposed civil penalty, including the maximum amount of a penalty for which the operator may be liable, pursuant to rule 4936.
    - (B) A proposed compliance directive pursuant to rule 4937.

**4935. Response Options to Amendment and to Notice of Probable Violation.**

- (a) Within 30 days after receipt of an amendment issued pursuant to rule ~~4921~~ 4954 or of a notice of probable violation issued pursuant to rule 4934, an operator shall respond in writing to the Chief in one or more of the following ways:
- (I) The operator may pay the proposed civil penalty in full.
  - (II) The operator may agree to the proposed compliance directive.
  - (III) The operator may submit an offer in compromise of the proposed civil penalty. The operator may make an offer in compromise by submitting a check or money order for the amount offered. The Chief will consider the offer in compromise in light of the criteria established in § 40-7-117(2), C.R.S., and of other relevant factors. If the offer in compromise is accepted by the Chief, the operator will be notified in writing that the acceptance is in full settlement of the proposed civil penalty. If an offer in compromise is rejected by the Chief, the check or money order will be returned to the operator with a written notification. Within ten days after receipt of a notice of rejection, the operator shall respond to the Chief in one or more of the ways provided in paragraph (a) of this rule.
  - (IV) The operator may request the execution of a consent stipulation pursuant to rule 4939.
  - (V) The operator may submit a written explanation, information, or other material in response to the allegations contained in the notice of probable violation; in objection to the proposed compliance directive; or in mitigation of the proposed civil penalty.
  - (VI) The operator may request a hearing. If an operator requests a hearing, the Chief may amend the notice of probable violation at any time up to 30 days prior to the first day of hearing. After that time, a notice of probable violation may be amended only in accordance with the Commission's Rules Regulating Practice and Procedure.
- (b) If the operator fails to respond as provided in this rule, the notice of probable violation shall be set for hearing.
- (c) If the operator fails to respond as provided in this rule, the notice of amendment shall be set for hearing.

**4936. Civil Penalties.**

- (a) As provided in §§ 40-2-115(2) and 40-7-117, C.R.S., an operator who violates 49 U.S.C. §§ 60101, et seq., these rules, an order of the Commission, or an order issued under these rules shall be subject to a civil penalty not to exceed \$100,000 per violation. Each day of a continuing violation shall constitute a separate violation. In the case of a group or series of related violations, the aggregate amount of such penalties shall not exceed \$1,000,000.
- (b) No operator shall be subject to a second or additional civil penalty for violations based on the same act.

**4937. Compliance Directives.**

When the Chief serves a notice of probable violation on an operator, the Chief may include in that notice a compliance directive requiring the operator to take remedial action.

**4938. Hearing on Notice of Probable Violation.**

- (a) If it requests a hearing in response to a notice of probable violation, an operator shall include in its request a written statement of the issues that it intends to raise at the hearing. The issues may include new information. Failure of the operator to specify an issue shall result in a waiver of that issue at the hearing unless, for good cause shown, the Commission permits the issue to be raised.
- (b) The hearing shall be held, and an order issued, in accordance with the Commission's Rules Regulating Practice and Procedure and Article 6 of Title 40, C.R.S.
- (c) The Commission may include in its order a civil penalty. If it includes a civil penalty, the order shall specify the amount of the penalty and the procedures for paying the penalty. The Commission may order a civil penalty only after considering the following:
  - (I) The nature, circumstances, and gravity of the violation.
  - (II) The operator's degree of culpability and its history of prior violations.
  - (III) Any good faith efforts by the operator to remedy the violation or to prevent future similar violations.
  - (IV) The size of the operator's business.
  - (V) The operator's ability to pay the civil penalty and to continue in business after doing so.
  - (VI) Any other matter in aggravation or in mitigation.
- (d) The Commission may include in its order a compliance directive. If the order includes a compliance directive, the order shall specify the actions to be taken by the operator and the time by which such actions must be completed.
- (e) The Commission may include in its order any other remedial action, requirement, or directive to ensure the public safety.

**4939. Consent Stipulations.**

- (a) At any time before the issuance of a decision by the Commission, the Chief and the operator may agree to dispose of the matter by a consent stipulation, which shall be submitted to the Commission for approval or rejection.
- (b) A consent stipulation executed under this rule shall include the following:
  - (I) An admission by the operator of all jurisdictional facts.

- (II) An express waiver by the operator of further procedural steps, including (without limitation) its right to a hearing; its right to seek judicial review or otherwise to challenge or to contest the validity of the consent stipulation; and its right to seek judicial review of the Commission order accepting the consent stipulation.
  - (III) An acknowledgment by the operator that the notice of probable violation may be used to construe the terms of the consent stipulation.
  - (IV) A statement of the actions which the operator will take and the date by which such actions shall be completed.
- (c) As appropriate, a consent stipulation executed under this rule may include a civil penalty.

**4940. Hazardous Facilities Orders.**

- (a) After an inspection and/or a test, if the Chief is of the opinion that a pipeline facility or a LNG facility may be a hazardous facility, Staff may file a formal complaint with the Commission against the operator of the pipeline facility or the LNG facility. The complaint shall allege facts sufficient to establish the existence of a hazardous facility and to support a hazardous facility order. In an appropriate case and with the complaint, Staff may file a motion for an order pursuant to paragraph (j) of this rule.
- (b) A formal complaint by Staff shall be issued, and hearing shall be conducted, in accordance with the Commission's Rules Regulating Practice and Procedure and Article 6 of Title 40, C.R.S.
- (c) Except as provided in paragraph (j) 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.
- (d) A pipeline facility or a LNG facility may be found to be a hazardous facility if the pipeline facility or a LNG facility has been constructed or operated with any equipment, material, or technique that is hazardous to life or property.
- (e) In making a determination that a pipeline facility or a LNG facility is hazardous to life or property, the following shall be considered, as appropriate:
  - (I) The characteristics of the pipe used in the pipeline facility or the LNG facility involved, including (without limitation) its age; manufacturer; physical properties, including its resistance to corrosion and deterioration; and the method of its manufacture, construction, or assembly.
  - (II) The nature of the gas transported by the pipeline facility or the LNG facility, including its corrosive and deteriorative qualities; the sequence in which the gas is transported; and the pressure required for transportation of the gas.
  - (III) The characteristics of the areas in which the pipeline facility or the LNG facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated

with the areas, the population, the population density, and the growth patterns of the areas.

- (IV) Any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by that Board.
  - (V) Such other factors as may be relevant.
- (f) A Commission decision finding that a pipeline facility or a LNG facility is a hazardous facility shall contain the following:
- (I) Findings of fact that form the basis for the conclusion that the pipeline facility or the LNG facility is hazardous to life or property.
  - (II) Conclusion that the pipeline facility or the LNG facility is a hazardous facility.
  - (III) Legal basis for the decision and order.
  - (IV) Description of the corrective action required of the operator.
  - (V) The date by which the operator shall complete the ordered corrective action.
- (g) The Commission shall dismiss the complaint if it determines that the pipeline facility or the LNG facility is not hazardous to life or property.
- (h) Upon a showing that the ordered corrective action has been completed and has eliminated the condition(s) which made a pipeline facility or a LNG facility hazardous to life or to property, the Commission shall issue an order of satisfaction. Prior to issuing an order of satisfaction, the Commission may hold a hearing to determine whether the operator has completed the corrective action and whether the corrective action has eliminated the condition(s) which made the pipeline facility or the LNG facility hazardous to life or property. The order of satisfaction shall be issued in the complaint docket in which the hazardous facilities order was entered.
- (i) Following issuance of an order of satisfaction, the Chief may issue a notice of probable violation pursuant to rule 4934.
- (j) If the Commission determines that the delay inherent in holding a hearing may result in, and significantly increases the likelihood of, serious harm to life or property, the Commission may issue a summary hazardous facilities order before holding a hearing. The provisions of paragraph (b) of this rule shall apply to a hearing held pursuant to this paragraph. The purpose of a hearing held pursuant to this paragraph is to determine whether the summary hazardous facilities order should remain in effect, should be amended, or should be rescinded. The summary hazardous facilities order shall include the following:
- (I) The findings which support the determination that a summary hazardous facilities order is appropriate.
  - (II) The corrective or remedial actions required of the operator.

- (III) A statement informing the operator of its right to a hearing, upon request, as soon as practicable after issuance of the order.

**4941. Injunctive Action.**

Whenever it appears to the Commission that an operator has engaged in, is engaging in, or is about to engage in any act or practice which constitutes a violation of 49 U.S.C. §§ 60101, et seq., these rules, an order of the Commission, or an order issued under these rules, the Commission may request that the Attorney General bring an action in a district court for an injunctive or other relief as provided in Article 7 of Title 40, C.R.S.

**4942. – 4949. [Reserved].**

**Safety Standards for Gas Transportation by Pipeline and Gas Pipeline Systems**

**4950. Compliance.**

An operator shall comply with [these rules and](#) the minimum safety standards for the transportation of natural gas and other gas by pipeline which are incorporated by reference in rule 4902(a).

**4951. Conversion to Service.**

A pipeline previously used in service not subject to 49 C.F.R. Part 192 qualifies for service subject to 49 C.F.R. Part 192 if the operator prepares and follows a written procedure addressing the requirements of 49 C.F.R. § 192.14. The operator shall make its written procedures and applicable records available to Staff upon request.

**4952. Gathering Pipeline.**

In addition to 49 C.F.R. § 192.9, revised March 10, 2006:

- (a) Type A regulated gathering lines: An operator of metallic gathering lines and the MAOP produces a hoop stress of 20 percent or more of SMYS or non-metallic lines operating at or above 125 psig and located in a class 2, 3, or 4 location as defined in part § 192.5 shall follow the requirements of part 192 applicable to transmission pipelines, except the requirements in §192.150 and in subpart O of §192. However, an operator of a Type A gathering pipeline located in a class 2 location may demonstrate compliance with subpart N by describing the processes it uses to determine the qualifications of persons performing operation and maintenance tasks.
- (b) Type B regulated gathering lines: An operator of metallic gathering lines where the MAOP produces a hoop stress less than 20 percent of SMYS or non-metallic lines operating below 125 psig located in a class 2 location as determined by using one of three methods found in § 192.8, must comply with the following requirements:
- (I) If a line is new, replaced, relocated, or otherwise changed, the design, installation, construction, initial inspection, and initial testing must be in accordance with requirements of part 192 applicable to transmission lines;

- (II) If the pipeline is metallic, control corrosion according to requirements of subpart I of part 192 applicable to transmission lines;
  - (III) Carry out a damage prevention program under § 192.614;
  - (IV) Establish a public education program under § 192.616;
  - (V) Establish the MAOP of the line under § 192.619; and
  - (VI) Install and maintain line markers according to the requirements for transmission lines in § 192.707.
  - (VII) Carry out a leakage control program according to § 192.723(b).
  - (VIII) At a minimum, prepare a Procedural Manual addressing the above maintenance and operations items.
  - (IX) Report any incident, or events as described in 4911(b), to Staff. Any hazardous leakage or conditions which may lead to a hazardous facility order shall be promptly repaired and documented.
- (c) Type C gathering lines: An operator of gathering lines located in a class 1 location as defined in § 192.5 must comply with the following requirements:
- (I) Telephonically report any incident, or events as described in 4911(b) to Staff. Any hazardous leakage or conditions which may lead to a hazardous facility order shall be promptly repaired and documented.
  - (II) Tier 1 Member at the Utility Notification Center of Colorado if the system is located in any public road or railroad right-of-way.
  - (III) Install and maintain line markers at each crossing of a public road or railroad right-of-way, and labeled according to § 192.707(d).

#### **4953. Procedural Updates.**

As soon after the end of an incident, an emergency repair, a safety-related condition, or an abnormal operating condition as defined in 49 C.F.R. § 192.803 as possible, each operator shall investigate, and shall make applicable changes to the operator qualification program, and the written procedural manual(s) used for conducting operations, for maintenance, and for emergencies. At a minimum, the operator shall review (and update, if necessary) applicable plans or procedural manual(s) at intervals not exceeding 15 months, but at least once each calendar year.

#### **4954. Amendment of Plans or Procedures.**

- (a) If the Chief determines that an operator's plans or procedures required by rules 4900 through 4999 are inadequate to assure safe operation of a pipeline facility or a LNG facility, the Chief shall issue a notice of amendment to initiate a proceeding to determine whether the plans or procedures are inadequate. The notice of amendment shall:

- (I) Provide an opportunity for a hearing pursuant to rule 4935.
  - (II) Specify the alleged inadequacies and the proposed action for revision of the plans or procedures.
  - (III) Allow the operator 30 days after receipt of the notice to submit written comments pursuant to rule 4935 or to request a hearing.
- (b) In determining the adequacy of an operator's plans or procedures, the Chief shall consider the following:
- (I) Relevant available pipeline safety data.
  - (II) Whether the plans or procedures are appropriate for the particular type of pipeline transportation or facility and for the location of the facility.
  - (III) The reasonableness of the plans or procedures.
  - (IV) The extent to which the plans or procedures contribute to public safety.
- (c) Amendment of an operator's plans or procedures as prescribed in paragraph (a) of this rule is in addition to, and may be used in conjunction with, other enforcement action.

**4954~~5~~ – 4959. [Reserved].**

### **Safety Standards for Liquefied Natural Gas Facilities**

#### **4960. Compliance.**

An operator shall comply with the safety standards for liquefied natural gas facilities which are incorporated by reference in rule 4902(b).

**4961. – 4969. [Reserved].**

### **Drug and Alcohol Testing**

#### **4970. Compliance.**

An operator shall comply with the drug and alcohol testing program which is incorporated by reference in rule 4902(c) applicable to 49 C.F.R. Part 192 pipeline systems.

**4971. – 4999. [Reserved].**

### **GLOSSARY OF ACRONYMS.**

CAAM –	Cost Allocation and Assignment Manual
CCR –	Colorado Code of Regulations
C.F.R. –	Code of Federal Regulations
CPCN -	Certificate of Public Convenience and Necessity
CRCP –	Colorado Rules of Civil Procedure

C.R.S. -	Colorado Revised Statutes
EAO –	Energy Assistance Organization
e-mail -	Electronic mail
FDC -	Fully Distributed Cost
FERC –	Federal Energy Regulatory Commission
GAAP -	Generally Accepted Accounting Principles
GCA –	Gas Cost Adjustment
GPP –	Gas Purchase Plan
GPR –	Gas Purchase Report
ITP –	Intrastate Transmission Pipeline
LDC –	Local Distribution Company
LNG –	Liquefied Natural Gas
MMO –	Master Meter Operator
NGA –	Natural Gas Act
OPS –	Office of Pipeline Safety (Federal DOT)
OCC -	Office of Consumer Counsel
P & P -	Practice and Procedure
SMYS –	Specified Minimum Yield Strength
UNCC –	Utility Notification Center of Colorado
U.S.C.-	United States Code
U.S. DOT –	United States Department of Transportation
USOA –	Uniform System of Accounts

**Glossary of Gas Measurement Units:**

Btu –	British Thermal Unit
MMBtu –	1,000,000 Btu (approximately one Mcf, depending on heat content of gas)
Dth –	Dekatherm or One MMBtu
Therm –	100,000 Btu (approximately one Ccf, depending on heat content of gas)
Scf -	Standard cubic feet
Ccf –	100 cubic feet (typically actual cf at meter, rather than Scf)
Mcf –	1,000 standard cubic feet
MMcf –	1,000,000 standard cubic feet
Bcf –	1,000,000,000 standard cubic feet
MMcfd –	One MMcf per day