

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-11

PART 11

RULES REGULATING PIPELINE OPERATORS AND GAS PIPELINE SAFETY

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The purpose of these rules is to describe the requirements for the safe operation of jurisdictional gas pipeline facilities, including construction, operations, maintenance, and operator reporting. These rules outline how the Commission will conduct pipeline safety program activities and complete the Commission's Program Certification Obligations.

The statutory authority for the promulgation of these rules can be found at §§ 40-1-103, 40-2-108, 40-2-115, 40-3-110, 40-4-109, 40-6-108, and 40-7-117, C.R.S.

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 interstate commerce, as defined in 49 C.F.R. § 191.3.
- (b) The Public Utilities Commission conducts its Pipeline Safety Program (PSP) activities under §§ 40-1-103, 40-2-115, and 40-7-117, C.R.S. These provide the state statutory authority permitting the Commission to enter into cooperative agreements with federal agencies and to adopt and create rules to administer and to enforce the Natural Gas Pipeline Act found at 49 U.S.C. §§ 60101, et. seq. Collectively, the above referenced federal code and state statutes comprise the Commission's Program Certification Obligations.
- (c) These gas pipeline safety rules prescribe the Commissions' requirements for:
 - (I) the safe construction, operation, maintenance, and integrity management of:
 - (A) all intrastate pipeline facilities engaged in the transportation of hazardous gases, including natural gas and vaporized liquefied petroleum (LP) gas; and
 - (B) liquefied natural gas (LNG) facilities; and
 - (II) reporting requirements for operators of all facilities and pipeline systems.

- (d) These rules apply to establish and govern:
 - (I) regulations and standards for the safe transportation of hazardous gases by intrastate pipeline in Colorado;
 - (II) administration of the pipeline safety regulations by the Commission;
 - (III) reporting to the Commission by operators of specific information related to pipeline safety; and
 - (IV) adoption of federal minimum safety standards for transportation of natural gas and other gas by pipeline including:
 - (A) adoption of federal minimum safety standards for LNG facilities; and
 - (B) adoption of federal drug and alcohol testing regulations and procedures.
- (e) Except as otherwise directed, processes provided in the Commission’s Rules of Practice and Procedure, 4 CCR 723-1, including the rules governing confidentiality, shall apply to all filings made pursuant to this Part 11.
- (f) Consistent with § 40-15-107(2)(a), C.R.S., all information, documents, and copies of documents provided in connection with an audit, including any Request for Information from the PSP Chief or PSP Staff, shall be treated as confidential and shall not be made public by the Commission or any other person without prior written consent of the person providing such information, documents, or copies; or pursuant to a court order issued pursuant to § 24-72-204(5), C.R.S. If any such information, document, or copy of a document becomes the basis for, or employed within, an enforcement action pursuant to rule 11500 et seq., rules 1100-1103 of the Commission’s Rules of Practice and Procedure shall govern any claim of confidentiality in such proceeding. Any such information, document, or copy of a document that is not treated as, or deemed, confidential or highly confidential in any such proceeding thereafter shall not be treated by the Commission as confidential for any other purpose.
- (g) Nothing in these rules shall be construed to exempt pipeline operators from complying with § 9-1.5-105, C.R.S.

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 commission inspection, compliance and proceeding records.

- (d) “Delivered system pressure” means the system operating pressure measured at the outlet 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) “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.
- (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.
- (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.
- (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.
- (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.

- (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.
- (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.
- (r) “Main” means a distribution line that serves, or is designed to serve, as a common source of supply for more than one service line.
- (s) “Major master meter operator (MMO)/LPG system” refers to any MMO or LPG pipeline system serving 100 or more customers.
- (t) “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.
- (u) “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.
- (v) “Minor MMO/LPG system” means any MMO or LPG pipeline system serving between 20 and 99 customers.
- (w) “Municipality” means a city, town, or village in the state of Colorado.
- (x) “NRC” means the National Response Center of the United States Coast Guard.
- (y) “NTSB” means the National Transportation Safety Board, an independent federal agency.
- (z) “Natural Gas Pipeline Act” means the federal statute found at 49 U.S.C. §§ 60101 et seq., as amended.
- (aa) “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.
- (bb) “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.
- (cc) “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.

- (dd) “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.
- (ee) “OPS” means the Office of Pipeline Safety, a unit of the PHMSA.
- (ff) “Part 192” means 49 C.F.R. Part 192 – Transportation of natural and other gas by pipeline: Minimum Federal safety standards.
- (gg) “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.
- (hh) “Petroleum gas” means propane, propylene, butane, (normal butane or isobutanes), and butylene or mixtures composed predominately of these gases.
- (ii) “PHMSA” means the Pipeline and Hazardous Materials Safety Administration, an agency of the United States Department of Transportation.
- (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.
- (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.
- (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.
- (mm) “Pipeline integrity” means the ability of a pipeline system to operate as it was verifiably designed and constructed.
- (nn) “Pipeline safety program” (PSP) means the Commission’s 49 U.S.C. § 60105(a) certified pipeline safety program.
- (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.

- (pp) “PSP Chief” means the program manager of the PHMSA certified PSP of the Colorado Public Utilities Commission.
- (qq) “PSP Lead Engineer” means the senior technical staff member of the PHMSA certified PSP of the Colorado Public Utilities Commission.
- (rr) “PSP Staff” means a staff member of the PHMSA certified PSP of the Colorado Public Utilities Commission.
- (ss) “Program certification obligations” means the pipeline safety program obligations required under 49 U.S.C. § 60105(a).
- (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.
- (uu) “Roadway” means a main public artery, highway, or interstate highway.
- (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.
- (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.
- (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.
- (zz) “Small operator” means any gas distribution system operator that operates less than 1000 natural gas distribution services in the state of Colorado.
- (aaa) “Threshold MMO/LPG system” means any MMO or LPG pipeline system serving less than 20 customers.
- (bbb) “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.
- (ccc) “UNCC/Colorado 811” means the Utility Notification Center of Colorado.

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 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 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 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 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) 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.

11009. Conflict.

In the event of a conflict regarding any administrative, enforcement, or reporting requirement of 49 C.F.R. Parts 40, 192, 193, and/or 199 and Commission Pipeline Safety Rules, the Commission's rules shall apply.

11010. Interpretation.

- (a) Consistent with rule 1304 of the Commission Rules of Practice and Procedure, 4 CCR 723-1, an operator may file a petition seeking a declaratory order that resolves a controversy or uncertainty regarding any statute, Commission rule, regulation, and/or Commission decision. The requestor shall include with each request, at least the following:
 - (I) the statutory provision(s), Commission rule(s), regulation(s), and/or decision(s) at issue;
 - (II) the specific instance or illustration of the application of the statutory provision(s), Commission rule(s), regulation(s), and/or decision(s) that causes the controversy or uncertainty; and
 - (III) the complete petitioner's contact information.
 - (IV) The petition may also include a request for expedited treatment if an interpretation is needed quickly and good cause exists.
- (b) Upon receipt of the petition for a declaratory order, the Commission will consider whether to accept the filing consistent with rule 1304 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1.
- (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 therefor, 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.
- (d) Nothing in these rules prohibits an operator from contacting the PSP Chief or PSP Lead Engineer for informal assistance. Consistent with paragraph 1007(d) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, opinions expressed by the PSP Chief or PSP Lead Engineer do not represent the official views of the Commission, but are designed to aid the public and to facilitate the accomplishment of the Commission's functions. Nothing communicated by the PSP Chief or PSP Lead Engineer constitutes legal advice.

11011. Waiver – Non-emergency.

- (a) An owner or operator may request a waiver or a variance from any of these rules in accordance with § 40-2-115, C.R.S., 49 U.S.C. § 60118(d), and paragraph 1003(b) of the Commission's Rules of Practice and Procedure 4 CCR 723-1. Requests for waiver from the standards in 49 C.F.R. Part 192 that are incorporated by reference into these rules that are made pursuant to 49 C.F.R. Part 192.1013 are subject to the requirements of both paragraphs (b) and (c) below.

- (b) The petition shall include:
- (I) information required by rule 1003 paragraph (c);
 - (II) the specific instance or illustration of the rule's application requiring modification/waiver;
 - (III) proposed alternatives to compliance with the regulation (e.g., additional inspections and tests, shortened reassessment intervals, etc.);
 - (IV) an explanation of the necessity with supporting evidence and documentation, including:
 - (A) the mileage or footage of pipeline to be covered and the counties in which it is located;
 - (B) a description of the pipeline(s) affected by the permit (e.g., year installed, material, thickness, diameter, operating pressure, etc.);
 - (C) all pipeline other facilities such as pump and compressor stations that the permit will affect; and
 - (D) other pertinent operational history/data (e.g., leak history, corrosion history, etc.);
 - (V) a certification that the modification/waiver is consistent with pipeline safety; and
 - (VI) the complete operator contact information.
- (c) An owner or operator may file a petition for waiver under 49 C.F.R. Part 192.1013 to deviate from the standards in 49 C.F.R. Part 192 that are incorporated into these rules to alter the frequency of periodic inspections and tests on the basis of an engineering analysis and risk assessment.
- (I) A request for waiver for an alternative frequency of inspections and tests required under Part 192 will be granted if the request is found to be not inconsistent with pipeline safety. For intrastate facilities, an operator must file its proposal as a petition for waiver through the Commission's E-Filings System at least 120 days before the requested effective date.
 - (II) An owner or operator may implement an approved reduction in the frequency of a periodic inspection or test only where the operator has developed and implemented an integrity management program that provides an equal or improved overall level of safety despite the request for reduced frequency of periodic inspections.
 - (III) In addition to the information in subparagraph (b) above, each petition filed under this subsection must include the following information:
 - (A) name of the owner or operator;
 - (B) duration of the deviation proposal;
 - (C) specific regulations from which the owner or operator seeks relief;

- (D) a description of the pipeline for which the deviation is sought, including:
 - (i) the mileage or footage of the pipeline to be covered by the request and the counties in which it is located;
 - (ii) the year the pipeline was installed;
 - (iii) all pipeline facilities that the request will affect; and
 - (iv) the material, thickness, diameter, and operating pressure of the pipeline;
 - (E) alternatives proposed for compliance with the regulation (e.g., additional inspections and tests, shortened reassessment intervals); and
 - (F) a certification that operation of the owner or operator's pipeline under the requested alternative frequency of periodic inspections and tests would not be inconsistent with pipeline safety and will provide an equal or greater overall level of safety.
- (IV) After receiving notice of the petition, the PSP Chief will confer with the Office of Pipeline Safety on the waiver requested by the owner or operator. The PSP Chief will file a notice in the petition proceeding indicating whether the request should be accepted by the Commission and if so, whether additional conditions or limitations that are relevant and in the public interest should be adopted. The Commission shall consider the petition for waiver and the notice filing of the PSP Chief in rendering a decision.
- (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 therefor, 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.

11012. Waiver – Emergency.

- (a) An operator may file a petition to request an emergency waiver or variance in situations that require expedited review that is otherwise inconsistent with § 40-2-115, C.R.S., 49 U.S.C. § 60118(d), and the Commission's Rules of Practice and Procedure.
- (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.
- (c) An emergency waiver is an order by which the Commission may temporarily modify compliance with state pipeline regulations for affected pipeline owners or operators and the Commission may waive compliance with a safety regulation if, after receiving notice on an incorporated federal rule, PHMSA concurs in the action.

- (d) The Commission will determine on a case-by-case basis what duration of waiver or variance is necessary to address the emergency. However, as required by statute, no emergency waiver may be issued for a period exceeding 60 days. Each emergency waiver will automatically expire on the date stated in the Commission's decision.
- (e) An operator may request an emergency Special Permit modifying or waiving of any of these rules by submitting a written request as follows.
 - (I) If the request concerns a Colorado-specific rule then no subsequent review by PHMSA is required. The requestor shall file a petition for the emergency waiver with the Commission using one of the following methods:
 - (A) the Commission's E-Filings System; or
 - (B) express mail/overnight courier to Doug Dean, Director of the Colorado Public Utilities Commission, 1560 Broadway, Suite 250, Denver, CO 80202.
 - (II) If the request concerns a federal rule incorporated by reference into these rules, a review by PHMSA is required. The requestor shall submit a petition for the emergency waiver directly to the Commission using one of the methods described above and to PHMSA using any of the following methods:
 - (A) direct fax to the PHMSA Crisis Management Center at: 202-366-3768;
 - (B) direct e-mail to PHMSA at: phmsa.pipeline-emergencyspecpermit@dot.gov; or
 - (C) express mail/overnight courier to the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE East Building, Washington, DC 20590.
- (f) The requestor shall include with each emergency waiver petition:
 - (I) the information required by rule 1003 paragraph (c);
 - (II) an explanation of the actual or impending emergency;
 - (III) the specific instance or illustration of the rule's application requiring modification/waiver;
 - (IV) proposed alternatives to compliance with the regulation (e.g., additional inspections and tests, shortened reassessment intervals, etc.);
 - (V) to the extent possible, as much of the information as is required in paragraph 11011(c); and
 - (VI) measures to be taken after the emergency situation or permit expires, whichever comes first, that will confirm/assure long-term operational reliability of the facility impacted by the Special Permit.

- (g) The emergency waiver is effective upon final order by the Commission or the PHMSA Administrator for Pipeline Safety, as appropriate to the review.

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) 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.
- (c) 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.
- (d) 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.

- (e) 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.
- (f) To the extent necessary to carry out the responsibilities 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.

11014. Advisory Bulletins.

PSP advisories or PHMSA advisory bulletins are periodically drafted and communicated to affected operators as a result of circumstances identified by the PSP, PHMSA, NTSB, or industry with the potential to become pipeline system safety risks. Operators should review these bulletins for relevancy to their individual pipeline system operations.

11015. – 11099. [Reserved].

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 Annual Report submittal deadlines will result in issuance in a Warning 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 Warning Notice or a NPV against the operator.
- (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 informationresourcesmanaer@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.

11101. Submission of Reports and Notices.

- (a) Operators must submit all required reports, as applicable, within the specified deadline(s) for the following occasions requiring specialized reporting or notice. Any reporting shall be in addition to, or supplemental to, reporting required under federal law and shall not be duplicative.

(b) Incident reporting.

- (I) Written reports of all incidents required to be reported under these rules must be submitted as soon as practicable but not more than 30 days after detection of the incident.
- (II) Each operator submitting information to PHMSA via its electronic portal shall also file such information with the Commission in accordance with subparagraph 1204(a)(III) of the Commission's Rules of Practice and Procedure in the repository proceeding opened for such reporting purpose.
- (III) Each operator that submits information PHMSA via alternative methods shall file copies of this information with the Commission.
- (IV) Each operator of a distribution pipeline system, excepting MMO/LPG systems, shall submit the Incident Report (PHMSA F 7000.1) to PHMSA using its electronic portal at <https://portal.phmsa.dot.gov>.
- (V) Each operator of an MMO/LPG system shall submit a Small Operator Incident Report (PSP SOIR) to the Commission through its E-Filings System in the repository proceeding opened for such reporting purposes.
- (VI) Each operator of a transmission or Type A or Type B gathering system (i.e., excepting rural gathering), shall submit the Incident Report (PHMSA F 7100.2) to PHMSA using its electronic portal at <https://portal.phmsa.dot.gov>.
- (VII) Each operator of a LNG facility shall submit the Incident Report (PHMSA F 7100.3) to PHMSA using its electronic portal at <https://portal.phmsa.dot.gov>.
- (VIII) When additional relevant information is obtained after the report is submitted under paragraph (a) or (b) of this rule, the operator shall make supplementary reports as deemed necessary with a clear reference by date and subject to the original report. The operator shall notify the PSP Chief of all supplementary reporting.

(c) Safety-related condition (SRC) reporting.

- (I) Written reports of SRC's must be submitted in accordance with the timelines established in 49 C.F.R. Part 191, § 191.25(a).
- (II) Written reports of SRC's must be submitted with information as required in 49 C.F.R. Part 191, § 191.25(b).
- (III) Any operator filing a SRC report as required by 49 C.F.R. Part 191, § 191.23 (Reporting SRC's) and §191.25 (Filing SRC reports) with PHMSA shall also concurrently inform the PSP Chief through e-mail at dora_copuc_pipeline_safety@state.co.us and submit the SRC report to Commission through its E-Filings System in accordance with subparagraph 1204(a)(III) of the Commission's Rules of Practice and Procedure in the repository proceeding opened for such reporting purposes no later than close of the next business day.

- (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 subparagraph 1204(a)(III) of the Commission’s Rules of Practice and Procedure in the repository proceeding opened for such reporting purposes.

11102. Verbal Reporting of Pipeline Incidents and Events.

- (a) Colorado pipeline incidents.
- (I) All pipeline and LNG facility operators must provide expedited reporting of a pipeline incident as soon as possible after confirmed discovery; not to exceed two hours after confirmed discovery.
 - (II) If the expedited reporting time for a pipeline incident exceeds two hours after confirmed discovery, the operator shall provide a written explanation for the time exceedance to the PSP Chief within ten business days after the incident.
 - (III) All operators must report a pipeline incident to:
 - (A) the NRC via telephone at 800-424-8802; and
 - (B) after an NRC control number is issued for the incident, to the PSP Staff via telephone at 303-894-2854.
 - (IV) A telephonic report made pursuant to this rule must include the following information:
 - (A) the NRC control number;
 - (B) the name and telephone number of the operator and the contact for more information on the incident;
 - (C) the location of the incident or event;
 - (D) the date and time of the incident or event;
 - (E) the number of fatalities and personal injuries, if any; and
 - (F) all other significant facts that are known by the person making the report that are relevant to the cause of the incident and the extent of the damage.
- (b) Colorado pipeline events.
- (I) All pipeline operators, including operators of gathering pipelines in Class 1 areas, LNG facilities/systems, and MMO/LPG systems, must provide expedited reporting of pipeline events described below as soon as possible after discovery; not to exceed two hours after confirmed discovery.

- (II) If the expedited reporting time for a pipeline event exceeds two hours after confirmed discovery, the operator shall provide a written explanation for the exceedance to the PSP Chief within ten business days after the event.
- (III) All pipeline operators must report the following pipeline events to the PSP Staff via telephone at 303-894-2854:
 - (A) an unplanned/emergency event that occurs on the pipeline system that results in the evacuation of 50 or more people from a normally occupied building or property;
 - (B) an unplanned/emergency event that occurs on the pipeline system that results in the closure of all lanes in either direction of a roadway or railroad;
 - (C) an unplanned/emergency event that occurs on the pipeline system that results in the evacuation of four or more residential structures;
 - (D) an unplanned/emergency event that occurs on the pipeline system that results in a service outage of 100 or more customers;
 - (E) an event that requires active soil vapor extraction for a period exceeding 48 hours as measured from the time the extraction device is turned on at the site until the operator determines soil vapor extraction is no longer necessary;
 - (F) a MAOP-exceedance event that requires the operator, pursuant to its procedures, to implement follow-up actions such as a leak survey; or
 - (G) an event that, in the opinion of the operator, requires courtesy notification to the PSP.

11103. Submission of Annual Reports.

- (a) On or before March 15 of each year, each operator shall file with the Commission an annual report for the preceding calendar year. The reports shall be filed in accordance with subparagraph 1204(a)(III) of the Commission's Rules of Practice and Procedure.
- (b) Each operator of a distribution pipeline system, excepting MMO/LPG systems, shall submit the Annual Report (PHMSA F 7100.1-1) to PHMSA using its electronic portal at <https://portal.phmsa.dot.gov>.
- (c) Each operator of an MMO/LPG system shall submit the Small Operator Annual Report (PSP SOAR) to the Commission through its E-Filings System in the repository proceeding opened for annual reports.
- (d) Each operator of a transmission or Type A or Type B gathering system (i.e., excepting rural gathering), shall submit the Annual Report (PHMSA F 7100.2-1) to PHMSA using its electronic portal at <https://portal.phmsa.dot.gov>.

- (e) Each operator of a LNG facility shall submit the Annual Report (PHMSA F 7100.3-1) to PHMSA using its electronic portal at <https://portal.phmsa.dot.gov>.

11104. – 11199. [Reserved].

SAFETY STANDARDS FOR HAZARDOUS GAS PIPELINE SYSTEMS

11200. Standards – General.

An operator shall comply with these rules and the minimum safety standards for the transportation of natural gas and other gas by pipeline that are incorporated by reference in rule 11008, as applicable.

11201. Pipeline Excavation Damage Prevention.

- (a) An operator, including operators of MMO/LPG and rural gathering pipeline systems, must be a Tier 1 Member 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) 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).

11202. Direct Sales Pipelines.

Unless otherwise specified in this rule, direct sales pipelines are classified as intrastate transmission pipelines and subject to these rules and all applicable 49 C.F.R. Part 192 rules, as incorporated.

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.
- (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.
- (VII) P-DIMP Opt-out. An operator of a Threshold MMO/LPG system or Minor MMO/LPG system may opt-out of P-DIMP at any time by petitioning the Commission to be regulated as a Major/MMO/LPG system.

11204. 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 PSP Staff upon request.

11205. – 11299. [Reserved].

SAFETY STANDARDS FOR LIQUEFIED NATURAL GAS (LNG) SYSTEMS

11300. Standards – General.

An operator shall comply with the safety standards for liquefied natural gas facilities that are incorporated by reference in paragraph 11008(c).

11301. – 11399. [Reserved].

SAFETY STANDARDS FOR PIPELINE OPERATOR DRUG AND ALCOHOL PROGRAMS

11400. Standards – General.

An operator shall comply with the standards for pipeline operator drug and alcohol programs that are incorporated by reference in paragraph 11008(d).

11401. – 11499. [Reserved].

RULE VIOLATIONS, CIVIL PENALTIES, AND COMPLIANCE ACTIONS

11500. Violations - General.

- (a) Violations of these rules are determined by inspections, audits, and/or testing performed under rule 11013 that indicate a compliance deficiency or deficiencies with respect to rule requirement(s).
- (b) Violations will be examined by the PSP Chief to determine impact category resulting from the violation: no immediate safety impact, incident, public endangerment, operator endangerment, or a loss/reduction of pipeline integrity.
- (c) Alleged rule violations are deemed “probable” until completion of an appropriate enforcement action, including any Commission hearing or proceeding.
- (d) The PSP Chief or PSP Staff may use the determination in paragraph (a) as a prima facie basis for opening a complaint proceeding pursuant to paragraph 1302(g) of the Commission’s Rules of Practice and Procedure.

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 \$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 \$1,000,000.
- (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 <i>NOT</i> 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:

$$B \times F_{\text{impact}}, \text{ where}$$

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:

$$B \times F_{\text{impact}}, \text{ where}$$

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:

$$B \times F_{\text{impact}}, \text{ where:}$$

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:
 - a. Gross Incompletion (Record incompleteness/absence \geq 10 percent or complete record absence for a required code segment) = \$10,000/code/segment/calendar year;
 - b. Major Incompletion (Record incompleteness/absence \geq 5 percent and $<$ 10 percent for a required code segment) = \$5,000/code/segment/calendar year;
 - c. Significant Incompletion (Record incompleteness/absence \geq 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 impact | 1 |
| 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.

11502. Compliance Action - General.

- (a) Initiation. Upon discovery of a probable violation of these rules, the PSP Chief will initiate a compliance action intended to remediate and prevent recurrence of the violation.
- (b) Intent. A compliance action is intended to minimize the realized or potential impacts of the violation on public safety and/or the integrity of the pipeline system or LNG facility and will be consistent with the intent of § 40-7-117, C.R.S. After the Commission issues a notice, an operator shall have the opportunity to respond and to cure any violation of these rules.
- (c) Structure. All compliance action notices to a pipeline operator must include:
 - (I) a statement of the law, rule(s), or order(s) that the operator is alleged to have violated; and
 - (II) a statement of the facts upon which the determination of violation is based and recommendations on actions that may be taken by the operator to remedy further noncompliance.
- (d) Service of process. Service of process shall be undertaken pursuant to rule 1205 of the Commission's Rules of Practice and Procedure and § 40-6-108, C.R.S.

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, the PSP Chief will issue a Warning Notice to an operator. The Warning 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 11507, 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.

11505. Request for Amendment (RFA).

- (a) If an inspection, audit, or investigation reveals that an operator's plans or procedures required by these rules may be insufficient to ensure the compliant operation of a pipeline or LNG facility, the PSP Chief may issue an RFA.
- (b) The RFA shall serve as notice from the Commission of potential inadequacies and serve to facilitate and expedite necessary plan or procedure revision(s) and implementation so that pipeline operation, maintenance, training, or emergency response is not compromised. The RFA shall specify the potential inadequacies and may:
 - (I) specify a proposed timeline for revised plan implementation based on the impact to pipeline operations; and
 - (II) provide an opportunity for response.

11506. Notice of Amendment (NOA).

- (a) If an inspection, audit, or investigation reveals that an operator's plans or procedures required by these rules are inadequate to ensure the safe operation of a pipeline or LNG facility, the PSP Chief may issue a NOA.
- (b) The NOA shall be filed in a new proceeding and shall serve as notice from the Commission of the alleged inadequacies and to facilitate and expedite plan or procedure revision and implementation so that public safety is not compromised. The NOA shall:
 - (I) specify the alleged inadequacies and the proposed action(s) for revision of the plans and procedures;
 - (II) specify a proposed timeline for revised plan/procedure implementation based on the impact to public safety; and
 - (III) provide an opportunity for response.
- (c) Within 30 days after receipt of a NOA issued pursuant to the rule, unless a longer period is otherwise specified in the NOA or a different time period is agreed to mutually, an operator shall file in the proceeding its response with one of the following options.
 - (I) The operator may admit the NOA 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 NOA through the following filings and actions:
 - (A) the operator may request reconsideration and reissuance of the initial NOA through submittal of a written explanation, information, or other material in response to the allegations contained in the NOA; 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 11507, resolving the allegations in the NOA for the Commission's consideration.
- (III) The operator may oppose the NOA, or any part thereof. The operator shall file its response opposing the allegations in the NOA in the proceeding and provide all relevant information it finds addresses the issues raised. If an operator opposes any alleged violation in the NOA, the matter shall be set for hearing.
- (d) If the operator fails to respond as provided in this rule within 30 days of the NOA, the NOA shall be deemed opposed by the operator and shall be set for hearing as prescribed by subparagraph (c)(III) above.

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 (j) 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 (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) 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 geotechnical or geologic conditions associated with the areas, the population, the population density, and the community growth patterns of the areas;
 - (IV) any recommendation of the NTSB issued in connection with any investigation conducted by that Board; and
 - (V) such other factors as may be relevant.
- (e) A Commission decision finding that a pipeline facility or a LNG facility is a hazardous facility shall contain a description of the corrective action required of the operator and the date by which the operator shall complete the ordered corrective action.
- (f) The Commission shall dismiss the complaint if it determines that the pipeline facility or the LNG facility is not hazardous to life or property.
- (g) Upon a showing that the ordered corrective action has been completed and has eliminated the condition(s) that made a pipeline facility or a LNG facility a severe and imminent risk to public safety, 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 conditions(s) that 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.
- (h) The Commission may bring a formal complaint alleging the existence of a hazardous facility supporting the issuance of an HFO and an NPV in the same proceeding, but is not required to do so.
- (i) 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 an expedited or summary HFO 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 HFO should remain in effect, should be amended, or should be rescinded. The summary HFO shall include the following:
- (I) the findings that support the determination that a summary HFO is appropriate;
 - (II) the corrective or remedial actions required of the operator; and
 - (III) a statement informing the operator of its right to a hearing, upon request, as soon as practicable after issuance of the order.

11508. Consent Stipulations.

- (a) If a matter has been set for hearing at any time before the issuance of a decision by the Commission, the PSP Chief and the operator may agree to dispose of the matter by a consent stipulation. The consent stipulation 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 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 NPV may be used to construe the terms of the consent stipulation; and
 - (IV) a statement of the actions that 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.

11509. Subpoenas.

The Commission and Administrative Law Judge, or the Director may issue a subpoena in accordance with rule 1406 of the Commission's Rules of Practice and Procedure.

11510. Injunctive Relief.

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

11511. – 11999. [Reserved].

GLOSSARY OF ACRONYMS

C.F.R. - Code of Federal Regulations
HFO - Hazardous Facilities Order
LP - Liquid Petroleum
LNG - Liquefied Natural Gas
LPG - Liquid Petroleum Gas
MMO - Master Meter Operator
NFPA - National Fire Protection Association
NOA - Notice of Amendment
NPV - Notice of Probable Violation

NRC - National Response Center

P-DIMP - Prescriptive Distribution Integrity Management Program

PSP - Pipeline Safety Program (of the Colorado PUC)

PHMSA - U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration

RFA - Request for Amendment

RFI - Request for Information

SSAG - Single Structure Above Ground (gas pipeline system)

U.S.C. - United States Code