

# State of Rhode Island

## Division of Public Utilities and Carriers Engineering Division-Gas Pipeline Safety Section

### Regulations Regarding Gas Pipeline Safety Enforcement Procedures

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# Enforcement Procedures

## I. DEFINITIONS

- A. **“Division”** shall mean the Administrator of the Division of Public Utilities and Carriers or his/her designee of the Division of Public Utilities and Carriers.
- B. **“Administrator”** shall mean the Administrator & Chief Executive Officer of the Division of Public Utilities and Carriers.
- C. **“Operator”** shall mean a person who engages in the transportation of gas.
- D. **“Person”** shall mean any individual, firm, joint venture, partnership, corporation, association, state, municipality, cooperative association or joint stock association, and including any trustee, receiver, assignee or personal representative thereof.
- E. **“Pipeline”** shall mean all parts of those physical facilities through which gas moves in transportation, including pipe, valves and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies up to the outlet of customers’ meters or the connection to a customer’s piping, whichever is farther downstream.
- F. **“Pipeline Facility”** shall mean new and existing pipeline, 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.

## II. JURISDICTION

**The Rhode Island Division of Public Utilities and Carriers**, pursuant to Chapters 3 and 4 of Title 39 of the General Laws of Rhode Island, as amended, is empowered to prescribe and enforce safety standards for pipeline facilities and to regulate safety practices of persons engaged in the transportation of natural gas and other gas by pipeline to the extent permitted by the Natural Gas Pipeline Safety Act of 1968 and any amendments thereto.

Federal regulations issued under the Act of 1968, promulgated by the Office of Pipeline Safety of the United States Department of Transportation and published in Title 49 CFR, Parts 40, 190-199, apply to all pipeline operators. The Safety Standards of the Act (the Pipeline Safety Regulations) apply to design, installation, inspection, testing, construction, extension, operation, replacement and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and testing, are not applicable to pipeline facilities in existence prior to the act. The Division has adopted the above regulations as state regulations.

The Division may prescribe additional safety standards that apply to pipeline operators. Such safety standards shall be practicable and designed to meet the needs for pipeline safety. When prescribing and enforcing such standards, the Division will consider:

- A. Relevant available pipeline safety data.
- B. Whether such standards are appropriate for the particular type of pipeline transportation.
- C. The reasonableness of any proposed standards.
- D. The extent to which such standards will contribute to public safety.

Whenever the Division finds a particular facility to be hazardous to life or property, it is empowered to require the person operating such facility to take steps necessary to remove such hazards.

### **III. AUTHORITY TO INSPECT**

The Division has the power to investigate all methods and practices of pipeline operators, to require the maintenance and filing of reports, records, and other information in such form and detail as the Division may prescribe, to enter at all reasonable times to inspect the property, buildings, plants, and offices of such pipeline operators, and to inspect books, records, papers, and documents relevant to the enforcement of the rules and regulations.

### **IV. INTERVALS OF INSPECTION**

The Division is authorized to enter upon, inspect and examine, at all reasonable times and in a reasonable manner, the records and properties of pipeline operators to the extent such records and properties are relevant to determining the compliance of such pipeline operators with Division rules and regulations or Division orders.

Pipeline facilities have been categorized into three classifications (1) Intrastate operators, (2) LNG facilities, and (3) Master Meters. The Divisions inspection frequency of these facilities is as follows:

1) Intrastate; annual standard inspections will be conducted of each gas distribution inspection unit. Other than the normal amount of specialized inspections the Division will schedule additional inspections if the results of the standard inspection conform necessity.

2) LNG; The three LNG plants (includes Westerly, R.I.) will receive an annual standard inspection. Supplementary periodic inspections will also be conducted.

3.) Master Meter; Municipal master meter operators will be inspected on a three year basis.

Inspections are ordinarily conducted pursuant to one or more of the following:

- A: Routine scheduling
- B: A complaint received from a member of the public.
- C: Information obtained from a previous inspection.
- D: Pipeline accident or incident.
- E: Whenever deemed appropriate by the Division.
- F: Annual inspection of the company's operating and maintenance plan and the emergency plan.

#### V. INSPECTION OF THE OPERATORS

The Division shall attempt to periodically inspect every pipeline operator, with priority given to inspecting systems with greater risk potential. In determining the potential risk of a pipeline system, the following factors may be considered:

- A: The ratio of total steel pipe to coated pipe.
- B: The ratio of total steel pipe to cathodically protected steel pipe.
- C: Leaks per mile of main.
- D: Leaks per number of services.
- E: Unaccounted - for gas volumes and percentages.
- F: Number of accidents or incidents.
- G: History of violations discovered.

The inspection will include a thorough review of the operator's records concerning inspection, operation, maintenance and emergency procedures. Field inspections will include operational checks of corrosion control provisions, overpressure and regulating equipment, odorization, repaired leaks, emergency valves and any other components of the facility.

## VI. DISCOVERY AND NOTICE OF ALLEGED VIOLATION

When an evaluation of a pipeline-operator's records and facilities indicates an alleged violation with state or federal regulations, the inspector shall review the basis for such alleged violation with the pipeline operator before concluding his inspection.

The inspector shall then notify the LDC official of the alleged violation in writing within 90 days of the discovery of the alleged violation. The inspector shall also make an alleged violation report to be retained by the Division. Any documentation or physical evidence necessary to support an alleged violation may be obtained during the inspection or requested by letter immediately after conclusion of the visit.

## VII. RESPONSE OPTIONS AVAILABLE TO THE OPERATOR

The pipeline operator shall respond within twenty (20) days to the alleged violation notice in the following manner:

- A. Submit a written plan of action to the Division outlining actions that will be taken to correct the alleged violation, including a schedule and the date when compliance is anticipated; or
- B. Request an informal conference with the Division.

The alleged violation may be resolved if the plans in option "A" above are accepted by the Division. However, if the operator selects option "B", an informal conference will be scheduled as explained below in section VIII. Failure to respond in accordance with this section will result in formal legal or administrative action as setout in Section IX.

## VIII. INFORMAL CONFERENCE

After receiving the request for an informal conference, a date and time for a conference will be arranged forthwith. At the conference, the basis for the alleged violation will be reviewed. The pipeline operator may explain its position and may present alternatives for rectifying the problem. Division staff will be represented by the investigator who issued the notice of alleged violation and by other members of the Division as necessary. The report generated by the informal conference will be filed with the alleged violation and retained by the Division.

If agreement cannot be reached, the enforcement procedure will continue as explained in Section IX.

**IX. DIVISION ACTION**

If the Division is not satisfied with the proposed solution as outlined in Sections VII and VIII, the Division can:

- A. seek an injunction in Superior Court in cases where immediate action is necessary, or
- B. issue a show - cause order and/or schedule a evidentiary hearing requiring the operator to demonstrate why the operator should not be subject to the penalties set forth in R.I.G.L. §39-2-8 and/or R.I.G.L. §39-3-40. The former sets forth penalties of not less than \$200 nor more than \$1,000 for each violation and the later sets forth civil penalties of not less than \$10,000 nor more than \$500,000 for each violation, or
- C. pursuant to evidentiary hearing, order an operator to take corrective action. Failure to obey such an order may result in the aforementioned penalties being imposed.

**X. APPEAL**

Any operator aggrieved by a final decision of the Division may appeal there-from to the Superior Court under Title 42, Chapter 35, Section 15 of the General Laws of Rhode Island, as amended.

#### ADDENDUM

Under the Rhode Island Administrative Procedures Act, specifically, Title 42, Chapter 35 Section 3(3) and (4), the Rhode Island Public Utilities Commission, Division of Public Utilities and Carriers, is mandated to provide two statements with reference to the Rules and Regulations attached hereto.

The first statement, made pursuant to Section 3(3), supra, is designed to demonstrate the need for the adoption of the instant rules and regulations. The Division of Public Utilities and Carriers asserts that the Rules and Regulations, as filed, satisfy the federal requirements contained in Section 5 of the Natural Gas Pipeline Safety Act of 1968, as amended.

The second statement, made pursuant to Section 3(4), supra, addresses whether the instant Rules and Regulations would have a significant adverse economic impact on small business. The Division of Public Utilities and Carriers maintains that this section is inapplicable to the present rulemaking procedures, as the business entities that would be subject to these Rules and Regulations are not small businesses as defined in the Rhode Island Administrative Procedures Act. R.I.G.L., Section 42-35-1(h)(1).

## Federal/State Cooperation in Case of Accident

### I. Background

Section 60117(i) of Chapter 601 requires the following:

**PROMOTING COORDINATION**—After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

### II. Definitions

- A. *State Agency*—For the purpose of these procedures, a State or State agency means the agency participating in the pipeline safety program under Section 60105 certification or a Section 60106 agreement.
- B. *Office of Pipeline Safety (OPS)*—For the purpose of these procedures, OPS means the U.S. Department of Transportation’s Office of Pipeline Safety.

### III. Office of Pipeline Safety and State Agency Role in Accident Investigation

- A. OPS and State agency primary roles are to determine if violations of Federal safety standards are involved.
- B. OPS may investigate to determine the cause of significant accidents when the National Transportation Safety Board (NTSB) does not investigate or when the OPS investigation is conducted at the request of the NTSB.
- C. State agencies certified under Section 60105 shall investigate the cause and

circumstances surrounding accidents involving fatality, personal injury requiring hospitalization, or property damage exceeding \$50,000. Other significant accidents as determined by State agencies also may trigger an investigation.

- D. State agencies shall determine if violations of Federal or State pipeline safety regulations contributed to an accident for which they have investigative responsibilities.
- E. OPS and State agencies shall assist environmental or emergency response agencies involved in the response to and mitigation of the consequence of a pipeline emergency to the extent practicable.

#### **IV. National Response Center's Coordination Procedures**

##### **A. Reporting Criteria**

Certain pipeline incidents involving the release of a hazardous commodity from a pipeline or pipeline facility regulated under Chapter 601 are required to be reported to the Department of Transportation in accordance with 49 CFR Parts 191.5, 193.2011, and 195.52. Incident reports received by the National Response Center (NRC) that involve one or more of the following elements are telephonically relayed by NRC to one of the OPS officials and to the NTSB officials listed in the telephonic call list submitted to the NRC by the respective agencies:

1. A fatality or two or more injuries requiring hospitalization
2. Property damage to all parties involved estimated at \$100,000 or more
3. Pollution by a hazardous liquid (not natural gas) of a major waterway or water supply in the quantity of 100 barrels (4,200 gallons) or more

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<sup>1</sup>Hazardous commodities include natural gas; gas that is flammable, toxic, or corrosive; liquefied natural gas; petroleum, petroleum products, liquefied petroleum gas; and anhydrous ammonia and carbon dioxide.

4. Receipt of a report of an incident teletyped on the wire service in the NRC communication control center

B. Reporting Procedures to OPS

1. A listing of personnel and home phone numbers to be called during duty and off-duty hours is periodically revised by OPS and provided to NRC.
2. The OPS individual receiving the call will take the information from the NRC and, based on assessment of the available data, make a decision on the next appropriate action(s):
  - a. Immediately advise the RD or next available regional staff member of the incident. Assist the Region in determining the need for on-site or other investigative activities considering the following:
    - i. Significance of incident
    - ii. Federal or State jurisdiction
    - iii. State action planned (determined after contact through OPS Regional Office)
    - iv. NTSB action planned (determined after contact through OPS Headquarters)
    - v. Known and unknown factors
    - vi. Availability of staff
  - b. Interaction between State pipeline safety agencies and OPS are contained in Section V.

C. Reporting Procedures to NTSB

1. The NRC will contact the current NTSB Surface Go Team Duty Officer for Pipeline in accordance with the list of names and telephone numbers provided to the NRC by NTSB.
2. The NRC will start with the first name on the appropriate call list and continue down the list until someone is contacted.

## **V. Federal/State Accident Coordination Procedures**

These Federal/State accident coordination procedures are intended to clarify and to provide information and guidance on how OPS and State agencies should carry out their respective roles. The final responsibility for determining the respective roles rests with OPS. Generally, accidents that OPS and/or State agencies may investigate fall into one of the following three categories. These categories and their associated coordination procedures are:

- A. The coordination procedure for an accident involving a facility for which OPS alone conducts an investigation follows:
  1. OPS, through its Regional Office, will advise the State agency participating under a Section 60105 certification or Section 60106 agreement of all OPS accident investigations in a State involving pipeline operations not subject to State agency pipeline safety jurisdiction. When States have two separate agencies, the contact will be made with the agency involved with similar intrastate pipeline jurisdiction.
  2. State agencies should report, to the respective OPS regional office, pipeline accidents on interstate systems and intrastate systems that are nonjurisdictional to them as soon as they become aware of an accident. Accidents reported to State agencies by individuals, local governments, and media representatives, subsequently reported to OPS, will provide an early alert and ensure OPS involvement in cases where a pipeline operator has not given required telephonic notification.
  3. OPS will contact the State agency as soon as practical after OPS has notice that an accident has occurred. OPS will advise the State agency of all facts known at the time and will advise the State agency of OPS accident investigation plans.
  4. OPS will keep the State agency informed of the progress of its

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<sup>2</sup>OPS and NTSB have entered into a Memorandum of Understanding that defines their respective roles with respect to accident investigations.

investigation; however, the State agency may choose to witness the OPS investigation. In addition, OPS will provide local government agencies information as to the progress of its investigation as requested.

5. OPS will notify the State agency if any testing is required as a result of the investigation. The State agency may witness the testing.
6. OPS will incorporate into any Compliance Order a requirement that the company give 48 hours notice to the State agency prior to hydrotesting the pipeline, if the chairman of a State agency contacts the Associate Administrator and requests that it be provided a schedule of such testing ordered by OPS after an accident.
7. OPS will provide a copy of any completed accident report if requested by the State agency.
8. OPS will cooperate with NTSB in accordance with the terms in the Memorandum of Understanding in Appendix B.

B. The coordination procedure for an accident that involves either an interstate facility where a State agency is serving as an OPS agent or a failure of an intrastate facility where a State agency subject to a Section 60106 agreement follows:

1. OPS will contact the State agency as soon as practical after OPS has received notice that an accident has occurred. OPS will advise the State agency of all facts known at the time and will discuss the respective investigation responsibilities of OPS and the State agency.
2. The RD may ask the State agency to conduct an investigation if the failure does not warrant OPS on-site involvement. The State agency will conduct the investigation as an agent of OPS. The State agency must keep the appropriate OPS regional offices apprised of the facts and circumstances throughout the duration of the investigative activities.

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<sup>3</sup>For the purposes of these procedures, “chairman” includes positions such as State Fire Marshal, Director of Public Safety, etc.

3. OPS will provide guidance and technical assistance to the State agency as needed.
  4. Accident news releases developed by interstate agents must be reviewed by OPS before public release. News releases regarding the investigation for interstate pipelines will normally be made by OPS. NTSB will be responsible for its own news releases.
  5. OPS and the participating State agency will cooperate, coordinate, and share information with other State and local governments, Congress, NTSB, and other Federal agencies involved in accident investigations or emergency response.
  6. OPS will cooperate with NTSB in accordance with the terms in the Memorandum of Understanding in Appendix B.
- C. The coordination procedure for an accident that involves an intrastate facility under the safety jurisdiction of a State agency covered by a Section 60105 certification follows:
1. The State agency assumes primary responsibility for the investigation. If the RD determines that the OPS should become involved in the on-site investigation of the accident, OPS does so with the understanding that the State agency is the lead agency conducting the investigation.
  2. The Regional Office inspector will observe and assist in the State agency investigation and will endeavor to refer all requests from news media and other sources for information concerning the progress of the investigation to the State agency representative.
  3. The State agency will cooperate, coordinate, and share information in accordance with its own State procedures with other State agencies, local governments, NTSB, and other Federal agencies in its accident investigation.

## **VI. NTSB Role in Accident Investigation**

- A. Since NTSB also investigates certain pipeline failures, OPS and State agency personnel should be aware of NTSB's responsibility and authority. NTSB was created by Congress under provisions in the Department of Transportation Act of 1966. NTSB authority is limited to determining the probable cause or causes of transportation accidents. The NTSB mission, as it relates to pipeline accident investigations, is as follows:
1. Investigate significant failures and report the facts, conditions, and circumstances relating to each failure and its probable cause.
  2. Make recommendations to the Secretary of Transportation, the involved operator, manufacturers, associations, and other interested parties in order to minimize the possibility of recurrences of similar failures.
  3. Release reports that are deemed to be in the public interest.
  4. Conduct special studies and investigations on matters with regard to safety in pipeline transportation and failure prevention for the purpose of reducing pipeline accidents.
- B. DOT has entered into a Memorandum of Understanding with NTSB so that investigations and information gathering are conducted in an effective and efficient manner (see Appendix B).

## **VII. Cooperation With Other Federal Agencies**

OPS will cooperate, coordinate, and share information with all Federal agencies investigating accidents involving multiple modes of transportation. OPS may take the lead in the accident investigation if the accident was caused by a pipeline facility. Monitoring or directing spill cleanup and product disposal is the responsibility of the Environmental Protection Agency, Coast Guard, or other agencies as appropriate for the type of product and location of the accident.