

# RULES OF TENNESSE REGULATORY AUTHORITY

## SECTIONS 1220-4-5.47 & 1220-4-5.48

### 1220-4-5-.47 ENFORCEMENT PROCEDURES GOVERNING GAS PIPELINE SAFETY.

(1) Definitions – Terms used in these rules have the following meaning:

(a) Act means the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671 *et seq.*).

(b) Authority means the Tennessee Regulatory Authority.

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(c) Gas means natural gas, petroleum gas, flammable gas, or gas which is toxic or corrosive.

(d) LNG means liquefied natural gas.

(e) Operator means a person who engages in the transportation of natural gas by pipeline.

(f) Person means any individual, firm, joint venture, partnership, corporation, association, Authority, utility district, municipality, cooperative association or joint-stock association, and included trustee, receiver, assignee or personal representative who furnishes service to the public thereof.

(g) Pipeline means all parts of those physical facilities through which gas or LNG moves in transportation including but not limited to pipe, valves and other appurtenances attached to pipe, compressor units, pumping units, metering stations, delivery stations, regulator stations, holders and fabricated assemblies.

(h) Pipeline Facility means, without limitation, new and existing pipe, pipe right-of-way and any equipment, facility or building used in the transportation of gas or the treatment of gas during the course of transportation.

(i) Pipeline Safety Director means the Chief of the Gas Pipeline Safety Division designated by the Authority.

(j) Transportation of Gas means the gathering, transmission or distribution of gas by pipeline or its storage.

(2) Intervals of Inspection.

(a) Upon presentation of appropriate credentials, the Authority or its designated employee is authorized to enter upon, inspect and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining the compliance of such persons with the rules and regulations or Authority orders issued thereunder.

(b) Inspections shall ordinarily be conducted pursuant to one of the following:

1. routine scheduling;
2. a complaint received from a member of the public;
3. information obtained from a previous inspection;
4. pipeline accident or incident; or
5. whenever deemed appropriate by the Authority or the Chief of Gas Pipeline Safety.

(3) Inspection of the Operators.

(a) An attempt will be made to periodically inspect every operator, with priority given to inspecting those systems with greater risk potential. In determining the potential risk of a pipeline system, the following factors may be considered:

1. the ratio of total steel pipe to coated steel pipe;

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2. the ratio of total steel pipe to cathodically protected steel pipe;

3. leaks per mile of pipe;

4. leaks per number of services;

5. unaccounted-for gas volumes and percentages;

6. the number of accidents or facility failures;

7. footage of cast iron pipe in the system; and

8. past history of the operator.

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

(4) Verbal Notice to Operator of Violation.

(a) When an inspection of an operator's records or facilities, or both, indicates that the operator is in apparent violation of a pipeline safety regulation, the investigator will give verbal notice of the alleged violation to the operator before concluding the inspection.

(b) Any documentation of physical evidence necessary to support the alleged violation may be obtained during the inspection or requested by letter immediately after the conclusion of the visit.

(c) The operator may institute on-site corrective measures when a violation exists. However, enforcement of such alleged violations will proceed.

(5) Written Formal Notice of Violation. After evidence of an alleged violation is collected and the violation report is written, notice and opportunity to respond will be afforded the operator by a letter from the Pipeline Safety Director. The letter will notify the operator of the results of the on-site inspection and will specifically cite the regulation(s) the operator is allegedly violating. Further, the letter may contain a proposed civil penalty or a compliance order. A written response from the operator shall be submitted to the Pipeline Safety Director within thirty (30) days of the time the operator receives the violation notice.

(6) Response Options Open to the Operator.

(a) Alternatives open to the operator to respond to the violation notice are:

1. submit a written statement to the Pipeline Safety Director indicating corrective measures have achieved compliance;

2. submit a written plan of action to the Pipeline Safety Director outlining the corrective measures that will be taken to achieve compliance and when compliance is anticipated;

or

3. request an informal conference with the Pipeline Safety Director and/or his staff to discuss the violation(s).

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(b) The alleged violation(s) may be resolved at this stage if the information submitted is in accordance with (a)1. or (a)2. and is accepted by the Pipeline Safety Director and/or his/her staff. Such acceptance shall be verified by written statement issued by the Pipeline Safety Director following a reinspection of the operator's facilities. However, if the operator selects (a)3., an informal conference will be scheduled as explained below:

(7) Informal Conference.

(a) After receiving a request for an informal conference, a date and time will be arranged for this conference and the basis of the alleged violations will be reviewed. The operator may explain the company's position and may present alternatives for solution of the problem. The Gas Pipeline Safety Staff will be represented by the investigator involved and by such other members of the Authority Staff as designated by the Pipeline Safety Director.

(b) The violation may be resolved at this stage. If agreement cannot be reached, enforcement procedures shall continue.

(8) Authority Action

(a) If the proposed solution as outlined is not satisfactory to the Gas Pipeline Director and/or his/her staff, the violation shall be referred to the Tennessee Regulatory Authority for formal resolution in either of the following manners:

1. the Authority may seek an injunction or mandamus in superior court in cases where immediate action is necessary; or

2. the Authority may issue a show cause order and/or schedule a hearing requiring the operator to demonstrate why the operator should not be subject to the penalties set forth by *T.C.A. §65-28-108*.

(b) Any civil penalty imposed by the Authority shall be based on:

1. the appropriateness in relation to the size of the business of the person charged;
2. the gravity of the violation;
3. the good faith of the person charged in attempting to achieve compliance;
4. history of prior violations; and
5. other matters as justice may require.

(c) The Authority may, pursuant to hearing, order an operator to take corrective action. Failure to obey such an order can result in:

1. action by the Authority against the operator in state court;
2. action by the Authority against the operator in any federal district court having jurisdiction.

(9) Hazardous Facility Order.

(a) Whenever the Authority or the Chief of Gas Pipeline Safety shall find a particular facility to present an imminent hazard to life or property, it shall be empowered to require the owner or operator of the facility to take immediate steps necessary to correct such hazards. Corrective REGULATIONS FOR GAS COMPANIES CHAPTER 1220-4-5

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action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action, as appropriate.

(b) An opportunity shall be given for a hearing as soon as practicable after the issuance of any order hereunder, in accordance with the Administrative Procedures Act and, in no event later than ten (10) days after suspension of the use of a major facility.

(c) The Chief of Pipeline Safety shall rescind or suspend a "hazardous facility order" whenever he determines that the facility is no longer hazardous to life or property. When appropriate, however, such a rescission or suspension may be accompanied by a notice of violation issued under the written formal Notice of Violation Procedures.

**Authority:** *T.C.A. §65-28-106. Administrative History: Original rule filed September 24, 1991; effective December*

*29, 1991. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission"*

*and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective*

*March 28, 2003.*

#### **1220-4-5-.48 GAS PIPELINE SAFETY STANDARDS.**

(1) The provisions of this rule shall apply to all gas public utilities as defined in *T.C.A. §65-28-104.*

(2) The Tennessee Regulatory Authority hereby adopts the federal safety standards and regulations including all subsequent amendments thereto, for the transportation of natural and other gas by pipeline established pursuant to the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671, *et seq.*), and the Hazardous Liquid Pipeline Safety Act of 1979 as amended (49 U.S.C. 2001, *et seq.*), by the United States Department of Transportation and contained in Title 49 of the Code of Federal Regulations, Chapter 1, Subchapter D, Parts 191, 192, 193, 195 and 199. Provided, however, that subsection (b) of Section 192.455 of Title 49 C.F.R. Chapter 1, Subchapter D, shall not be adopted and incorporated by reference herein.

(3) The present American National Standards Institute, Gas Transmission and Distribution Piping System (ANSI-B 31.8), shall be in addition to the standards and regulations required by the federal safety standards, insofar as this standard does not conflict with any of the provisions of 49 C.F.R. Part 192.

**Authority:** *T.C.A. §§65-28-104, 65-28-105, and 65-28-106. Administrative History: Original rule filed May 31,*

*1991; effective August 21, 1991. Editorial changes made by the Secretary of State pursuant to Public Chapter 305*

*of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the*

*"Authority"; effective March 28, 2003.*