

Attorney for Commission Staff

82-11-2. Enforcement procedures. Regulations adopted by the commission under the authority of K.S.A. 66-1,150 and 66-1,151 shall be ~~enforced~~ investigated by the gas pipeline safety section of the commission. As necessary to ensure compliance with this article, the gas pipeline safety section of the commission may bring before the commission a show cause proceeding or any other proceeding or action for consideration by the commission. (Authorized by and implementing K.S.A. 66-1,150 and 66-1,151; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended P- _____.)

82-11-3. Transportation of natural and other gas by pipeline; annual reports and incident reports. The federal rules and regulations titled “transportation of natural and other gas by pipeline; annual reports, incident reports, and safety-related condition reports,” 49 C.F.R. Part 191, as in effect on October 1, ~~2006~~ 2018, with the exception of portions that include jurisdiction beyond the state of Kansas, including off-shore pipelines, the outer continental shelf, and states other than Kansas, are adopted by reference with the following exceptions, deletions, additions, and modifications:

(a) The following revisions shall be made to 49 C.F.R. 191.3: ~~sentence shall be deleted from 49 C.F.R. 191.3:~~

(1) The following sentence shall be deleted: “Administrator means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.”

(2) The definition of “LNG facility” shall be deleted and replaced by the following:
“means a liquefied natural gas facility as defined in 49 U.S.C. § 193.2007.”

(3) The definition of “Underground natural gas storage facility” shall be deleted and replaced by the following” “means an underground natural gas storage facility as defined in 49 C.F.R. § 192.3 as adopted by K.A.R. 82-11-4.”

(b) 49 C.F.R. 191.5(b) shall be deleted and replaced by the following: “(b) Each notice required by paragraph (a) of this section shall be made by telephone to the gas pipeline safety section of the commission and to the U.S. department of transportation. Both notices shall include the following information:

(1) The names of the operator and the person making the report and their telephone numbers;

- (2) the location of the incident;
- (3) the time of the incident;
- (4) the number of fatalities and personal injuries, if any; and
- (5) all other significant facts known by the operator that are relevant to the cause of the incident or extent of the damages.”

(c) Each operator shall notify the gas pipeline safety section of the commission within one hour following confirmed discovery of any incident, as defined in 49 C.F.R Part 191 as adopted by K.A.R. 82-11-3, within their certified areas or operating areas. If an incident occurs outside the commission’s working hours of 8:00 a.m. through 5:00 p.m. Monday through Friday, Saturday, Sunday, or any other day the commission is not open, the operator shall contact an employee of the gas pipeline safety section of the commission. A list of these employees and their telephone numbers shall be provided by the commission to each operator.

(d) 49 C.F.R. 191.7 shall be deleted.

~~(d)~~ (e) 49 C.F.R. 191.9(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraph (c) of this section, each operator of a distribution pipeline system shall submit U.S. department of transportation form ~~PHMSA~~ RPSA F 7100.1 to the commission as soon as practicable but not more than 30 calendar days after detection of an incident required to be reported under 49 C.F.R. 191.5.”

~~(e)~~ (f) 49 C.F.R. 191.9(b) is deleted and replaced by the following: “(b) If additional relevant information is required after the report is submitted under paragraph (a), each operator shall submit to the commission a written report providing the additional information pertaining to the incident within 15 calendar days of the commission’s request.”

~~(f)~~ (g) 49 C.F.R. 191.11(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraph (b) of this section, each operator of a distribution pipeline system shall submit an annual report in duplicate for that system to the commission on U.S. department of transportation form PHMSA F 7100.1-1. This report shall be submitted to the gas pipeline safety section of the commission not later than March 1 of each year, for the preceding calendar year.” An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form PHMSA F7100.1-1 to the United States Department of Transportation.”

(h) 49 C.F.R. 191.12 shall be deleted and replaced by the following: “Each mechanical fitting failure, as required by 49 C.F.R. 192.1009, as adopted by K.A.R. 82-11-4, must be submitted on a Mechanical Fitting Failure Report Form PHMSA F-7100.1-2. An operator must submit a mechanical fitting failure report for each mechanical fitting failure that occurs within a calendar year not later than March 1 of the following year (for example, all mechanical failure reports for calendar year 2011 must be submitted no later than March 1, 2012). Alternatively, an operator may elect to submit its reports throughout the year. An operator must report this information to the commission and the Pipeline and Hazardous Materials Safety Administration by the March 1 reporting date.

~~(g)~~ (i) 49 C.F.R. 191.15(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraph (c) of this section, each operator of a transmission or a gathering pipeline system shall submit U.S. department of transportation form PHMSA F 7100.2 to the commission as soon as practicable but not more than 30 calendar days after detection of an incident required to be reported under 49 C.F.R. 191.5.”

~~(h)~~ (j) 49 C.F.R. 191.15~~(b)~~ (d) shall be deleted and replaced by the following: “~~(b)~~ (d)

If additional relevant information is required by the commission after the report is submitted under paragraph (a), (b) or (c), each operator shall submit to the commission a written report providing the additional information pertaining to the incident within 15 calendar days of the commission’s request.”

~~(i)~~ (k) 49 C.F.R. 191.17(a) shall be ~~deleted and replaced by the following~~ amended to read as follows:

(1) “~~(a) Except as provided in paragraph (b) of this section, each~~ Each operator of a transmission or gathering pipeline system shall submit an annual report in duplicate for that system to the commission on ~~U.S. department of transportation~~ United States Department of Transportation form PHMSA F 7100.2-1. This report shall be submitted to the gas pipeline safety section not later than March 1 of each year, for the preceding calendar year.” An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form PHMSA F 7100.2-1 to the United States Department of Transportation.”

(2) (b) Each operator of a liquefied natural gas facility shall submit an annual report in duplicate for that system to the commission on United States Department of Transportation form PHMSA F 7100.3-1. This report shall be submitted to the gas pipeline safety section not later than March 1 of each year, for the preceding calendar year. An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form F 7100.3-1 to the United States Department of Transportation.

(3) (c) Each operator of an underground natural gas storage facility shall submit an

annual report in duplicate for that system to the commission on United States Department of Transportation form PHMSA F 7100.4-1. This report shall be submitted to the gas pipeline safety section not later than March 1 of each year, for the preceding calendar year. An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form PHMSA F 7100.4-1 to the United States Department of Transportation.”

~~(j) — 49 C.F.R. 191.19 shall be deleted and replaced by the following: “Report Forms. The prescribed report forms are available without charge upon request from the gas pipeline safety section, Topeka, Kansas. Reproduced copies of the forms may be used if they are of the same size and kind of paper.~~

~~(k) (l)~~ 49 C.F.R. 191.21 shall be deleted.

~~(l) (m)~~ 49 C.F.R. 191.22 shall be deleted

~~(m) (n)~~ The term “Associate Administrator, OPS,” as used in 49 C.F.R. 191.25, means commission. The phrase “InformationResourcesManager@dot.gov or by facsimile at (202) 366-7128” shall be deleted and replaced by, “kccpipelinesafety@kcc.ks.gov.”

(o) 49 C.F.R. 191.29 shall be deleted.

(Authorized by and implementing K.S.A. 66-1,150; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended April 16, 1990; amended March 12, 1999; amended July 7, 2003; amended Jan. 25, 2008; amended P- _____.)

82-11-4. Transportation of natural and other gas by pipeline; minimum safety

standards. The federal rules and regulations titled “transportation of natural and other gas by pipeline: minimum federal safety standards,” 49 C.F.R. Part 192, including appendices B, C, D, and E, as in effect on October 1, ~~2013~~ 2018, with the exception of portions that include jurisdiction beyond the state of Kansas, including off-shore pipelines, the outer continental shelf, and states other than Kansas, are adopted by reference with the following exceptions, deletions, additions, and modifications:

(a) All instances of the word “administrator” shall be deleted and replaced with “commission.”

(b) ~~49 C.F.R. 192.7(b)~~ 49 C.F.R. 192.7(a)(1) shall be deleted and replaced by the following: “~~(b)~~ Availability of standards incorporated by reference. All of the materials incorporated by reference are available for inspection from several sources, including the commission’s gas pipeline safety section’s Topeka, Kansas office, and the following:

~~Any incorporated document shall be available for inspection at the gas pipeline safety section’s Topeka, Kansas office. All incorporated materials are also available for inspection in the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, S.E., Washington, D.C., 20590-0001 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or access the following website:~~

~~http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. In addition, the incorporated materials are available from the respective organizations listed in paragraph (c)(1) of this section.”~~

(c) ~~The following changes shall be made to 49 C.F.R. 192.7(e):~~

(1) ~~Following the first full paragraph, “All forwards, tables of contents, and indexes are excluded from adoption” shall be added.~~

(2) ~~Appendix X.1.4, “appeals of HSB actions,” shall be excluded from the adoption of the plastics pipe institute, inc’s “policies and procedures for developing hydrostatic design basis (HDB), hydrostatic design stresses (HDS), pressure design basis (PDB), strength design basis (SDB), and minimum required strength (MRS) ratings for thermoplastic piping materials or pipe,” dated May 2008.~~

(d) In 49 C.F.R. 192.14, the phrase “PHMSA” shall be deleted and replaced by “gas pipeline safety section of the commission.”

(d) 49 C.F.R. 192.181(a) shall be deleted and replaced by the following: “(a)Each high-pressure distribution system shall have valves spaced to reduce the time to shut down a section of main in an emergency. Each operator shall specify in its operation and maintenance manual the criteria as to how valve locations are determined using, as a minimum, the considerations of operating pressure, the size of the mains, and the local physical conditions. The emergency manual shall include instructions on where operating personnel can find maps and other means of locating emergency valves during an emergency. Each area of residential development constructed after May 1, 1989, shall be provided with at least one valve to isolate it from other areas.”

(e) 49 C.F.R. 192.199(e) shall be deleted and replaced by the following: “(e) Have discharge stacks, vents, or outlet ports designed to prevent accumulation of water, ice, or snow, located where gas can be discharged into the atmosphere without undue hazard. At town border

stations and district regulator settings, the gas shall be discharged upward at a minimum height of six feet from the ground or past the overhang of any adjacent building, whichever is greater.”

(f) 49 C.F.R. 192.199(h) shall be deleted and replaced by the following: “(h) Except for a valve that will isolate the system under protection from its source of pressure, shall be designed to prevent unauthorized access to or operation of any stop valve that will make the pressure-relief valve or pressure-limiting device inoperative including:

“(1) valves that would bypass the pressure regulator or relief devices; and

“(2) shut-off valves in regulator control lines that, if operated, would cause the regulator to be inoperative.”

(g) The following shall be added to 49 C.F.R. 192.199: “(i) At town border stations and district regulator settings, this section shall require pressure-relief or pressure-limiting devices regardless of installation date.”

(h) 49 C.F.R. 192.307 shall be deleted and replaced by the following: “Inspection of materials. Each length of pipe and each other component shall be visually inspected at the site of installation to ensure that it has not sustained any visually determinable damage that could impair its serviceability. Except for short sections of pipe with external coating applied after installation, each coated length of pipe shall be checked for defects in the coating using an instrument that is calibrated according to manufacturer's specifications prior to lowering the pipe into the ditch.”

(i) The following subsection shall be added to 49 C.F.R. 192.317: “(d) Each existing aboveground pipeline shall be placed underground, with the following exceptions:

“(1) Regulator station piping;

“(2) bridge crossings;

“(3) aerial crossings or spans;

“(4) short segments of piping for valves intentionally brought above the ground, including risers, piping at compressor, processing or treating facilities, block gate settings, sectionalizing valves and district regulator sites;

“(5) distribution mains specifically designed to be above the ground and have the approval of the landowner to provide service to commercial customers from the aboveground main and associated service line or lines; or

“(6) pipelines in class 1 locations that were in natural gas service before May 1, 1989.”

(j) The following shall be added to 49 C.F.R. 192.317: “(e) Each pipeline constructed after May 1, 1989, shall be placed under ground, with the following exceptions:

“(1) Regulator station piping;

“(2) bridge crossings;

“(3) aerial crossings or spans;

“(4) short segments of piping for valves intentionally brought above ground, including risers, piping at compressor, processing or treating facilities, block gate settings, sectionalizing valves and district regulator sites; or

“(5) distribution mains specifically designed to be above ground and have the approval of the landowner to provide service to commercial customers from the aboveground main and associated service line or lines.”

(k) 49 C.F.R. 192.453 shall be deleted and replaced by the following: “(a) The corrosion control procedures required by 49 C.F.R. 192.605(b)(2), including those for the design,

installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods.

“(b) Any unprotected steel service or yard line found to have active corrosion shall be either provided with cathodic protection and monitored annually as required by K.A.R. 82-11-4 ~~(e)~~ or replaced. In areas where there is no active corrosion, each operator shall, at intervals not exceeding three years, reevaluate these pipelines.

“(c) In lieu of conducting electrical surveys on unprotected steel service lines and yard lines, each operator may implement one of the following options:

“(1) Conduct annual leakage surveys at intervals not exceeding 15 months, but at least once each calendar year, on all unprotected steel service lines and yard lines and initiate a program to apply cathodic protection for all unprotected steel service lines and yard lines; or

“(2) conduct annual leakage surveys at intervals not exceeding 15 months, but at least once each calendar year, on all unprotected steel service lines and yard lines and initiate a preventative maintenance program for replacement of service and yard lines. The preventative maintenance program to be used in conjunction with the annual leak survey of unprotected steel service and yard lines shall include the following:

“(A) After the annual leakage survey of all unprotected steel service and yard lines is completed, the operator shall prepare a summary listing of the leak survey results.

“(B) The summary listing shall include the number of leaks found and the number of lines replaced in a defined area.

“(C) An operator's replacement program for all service or yard lines in the defined area shall be initiated no later than when the sum of the number of unprotected steel service or yard

lines with existing or repaired corrosion leaks and the number of unprotected steel service or yard lines already replaced due to corrosion equals 25% or more of the unprotected steel service or yard lines installed within that defined area.

“(D) The replacement program, once initiated for a defined area, shall be completed by an operator within 18 months.

“(E) Operators, at their option, may have separate preventative maintenance programs for service lines and yard lines but must consistently follow their selection.

“(d) For a city of the third class, or a city having a population of 2,000 or less, which is an operator of a natural gas distribution system, a replacement program for unprotected steel yard lines may comply with paragraph (c)(2)(D) of this section or include the following requirements in their replacement plan:

“(1) Perform leakage surveys at six-month intervals;

“(2) Notify all customers in the defined area with a written recommendation that all unprotected steel yard lines should be scheduled for replacement; and

“(3) Replace all unprotected steel yard lines in the defined area that exhibit active corrosion.”

(l) 49 C.F.R. 192.455(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraphs (c) and (f) of this section, each buried, submerged pipeline, or exposed pipeline, installed after July 31, 1971, shall be protected against external corrosion by various methods, including the following:

“(1) An external protective coating meeting the requirements of 49 C.F.R. 192.461; and

“(2) A cathodic protection system designed to protect the pipeline in accordance with this subpart, installed and placed in operation within one year after completion of construction.”

(m) 49 C.F.R. 192.455(b) shall be deleted.

(n) 49 C.F.R. 192.457(b) shall be deleted and replaced by the following: “(b) Except for cast iron or ductile iron pipelines, each of the following buried, exposed or submerged pipelines installed before August 1, 1971, shall be cathodically protected in accordance with this subpart in areas in which active corrosion is found:

“(1) Bare or ineffectively coated transmission lines;

“(2) bare or coated pipes at compressor, regulator, and measuring stations; and

“(3) bare or coated distribution lines.”

(o) 49 C.F.R. 192.465(a) shall be deleted and replaced by the following: “Each pipeline that is under cathodic protection shall be tested at least once each calendar year, but in intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of 49 C.F.R. 192.463. If tests at those intervals are impractical for separately protected short sections of mains or transmission lines not in excess of 100 feet, or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least one-third of the separately protected short sections, distributed over the entire system, shall be surveyed each calendar year, with a different one-third checked each subsequent year, so that the entire system is tested in each three-year period.”

(p) 49 C.F.R. 192.465(d) shall be deleted and replaced by the following: “(d) Each operator shall begin corrective measures within 30 days, or more promptly if necessary, on any deficiencies indicated by the monitoring.”

(q) 49 C.F.R. 192.465(e) shall be deleted and replaced by the following: “(e) After the initial evaluation required by 49 C.F.R. 192.455 (a) and K.A.R. 82-11-4(n), each operator shall, at least every three calendar years at intervals not exceeding 39 months, reevaluate its unprotected pipelines and cathodically protect them in accordance with this subpart in areas in which active corrosion is found. The operator shall determine the areas of active corrosion by electrical survey, where practical.”

(r) The following shall be added to 49 C.F.R. 192.465: “(f) It shall be considered practical to conduct electrical surveys in all areas, except the following:

“(1) Where the pipe lies under wall-to-wall pavement;

“(2) where the pipe is in a common trench with other utilities;

“(3) in areas with stray current; or

“(4) in areas where the pipeline is under pavement, regardless of depth, and more than two feet away from an unpaved area.

“(g) Where an electrical survey is impractical as listed in paragraph (f) of this section, the operator shall conduct leakage surveys using leak detection equipment in accordance with K.A.R. 82-11-4(ff) and evaluate for areas of active corrosion. The evaluation for active corrosion shall include review and analysis of leak repair records, corrosion monitoring records, exposed pipe inspection records, and the analysis of the pipeline environment.

“(h) For unprotected steel transmission lines and mains, a repair/replacement program shall be established based upon the number of leaks in a defined area.”

(s) 49 C.F.R. 192.491(a) shall be deleted and replaced by the following: “(a) For as long as the pipeline remains in service, each operator shall maintain records and maps to show

the locations of all cathodically protected piping, cathodic protection facilities other than unrecorded galvanic anodes installed before August 1, 1971, and neighboring structures bonded to the cathodic protection system.”

(t) 49 C.F.R. 192.491(b) shall be deleted.

(u) 49 C.F.R. 192.509(b) shall be deleted and replaced by the following: “(b) Each steel main that is to be operated at less than 1 p.s.i.g. shall be tested to at least 10 p.s.i.g. and each main to be operated at or above 1 p.s.i.g. shall be tested to at least 100 p.s.i.g.”

(v) The following shall be added to 49 C.F.R. 192.517(a): “(8) Test date. (9) Description of facilities being tested.”

(w) 49 C.F.R. 192.517(b) shall be deleted and replaced by the following: “(b) For any pipeline installed after May 1, 1989, each operator shall make, and retain for the useful life of the pipeline, a record of each test performed under §§ 192.509 as modified by K.A.R. 82-11-4(u), 192.511 and 192.513.”

(x) 49 C.F.R. 192.553(a)(1) shall be deleted and replaced by the following: “(1) At the end of each incremental increase, the pressure shall be held constant while the entire segment of pipeline that is affected is checked for leaks. This leak survey by flame ionization shall be conducted within eight hours after the stabilization of each incremental pressure increase provided in the uprating procedure. If the operator elects to not conduct the leak survey within the specified time frame because of nightfall or other circumstance, the pressure increment in the line shall be reduced that day with repetition of that particular increment during the next day that the uprating procedure is continued.”

(y) 49 C.F.R. 192.603(b) shall be deleted and replaced by the following: “(b) Each operator shall establish a written operating and maintenance plan meeting the requirements of this part and keep records necessary to administer the plan. This plan and future revisions shall be submitted to the gas pipeline safety section.”

(z) The following shall be added to 49 C.F.R. 192.603:

“(d) Each operator shall have regulator and relief valve test, maintenance and capacity calculation records in its possession whether the town border station is owned by the operator or by a wholesale supplier, if the supplier's relief valve capacity is utilized to provide protection for the operator's system.

“(e) Each operator shall be responsible for ensuring that all work completed by its consultants and contractors complies with this part.”

(aa) The following shall be added to 49 C.F.R. 192.605(b):

“(13) Classifying underground leaks according to K.A.R. 82-11-4(dd).

“(14) Performing leakage surveys of underground pipelines.

“(15) Identifying conditions which will require patrols of a distribution system at intervals shorter than the maximum intervals listed in K.A.R. 82-11-4(ee).”

(bb) 49 C.F.R. 192.617 shall be deleted and replaced by the following: “Investigation of failures. (a) Each operator shall establish procedures for analyzing accidents and failures, including:

“(1) The maintenance of records that contain information for each pipeline failure, including the type of pipe and the reason for failure.

“(2) The selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of recurrence.

“(b) Each operator shall investigate each accident and failure.”

(cc) 49 C.F.R. 192.625(f) shall be deleted and replaced by the following:

“(f) Each operator shall ensure the proper concentration of odorant and shall maintain records of these samplings for at least two years in accordance with this section. Proper concentration of odorant shall be ensured by conducting periodic sampling of combustible gases as follows:

“(1) Conduct monthly odorometer sampling of combustible gases at selected points in the system; and

“(2) ~~conduct~~ Conduct sniff tests during each service call where access to a source of gas in the ambient air is readily available.

“(g) Operators of master meter systems may comply with this requirement by the following:

“(1) Receiving written verification from their gas source that the gas has the proper concentration of odorant; and

“(2) Conducting periodic sniff tests at the extremities of the system to confirm that the gas contains odorant.”

(dd) 49 C.F.R. 192.703 shall be deleted and replaced by the following: “General. (a) No person shall operate a segment of pipeline unless it is maintained in accordance with this subpart.

“(b) Odorometers and leak detection equipment shall be calibrated according to manufacturer’s specifications. Leak detection equipment shall be tested monthly with a calibration gas of known hydrocarbon concentration, except that if equipment is not used, then testing with calibration gas shall be performed prior to the next use.

“(c) Each segment of pipeline that becomes unsafe shall be replaced, repaired or removed from service within five days of the operator being notified of the existence of the unsafe condition. Minimum requirements for response to each class of leak are as follows:

“(1) A class 1 leak requires immediate repair or continuous action until the conditions are no longer hazardous.

“(2) A class 2 leak shall be repaired within six months after detection. Under adverse soil conditions, a class 2 leak shall be monitored weekly to ensure that the leak will not represent a probable hazard and that it reasonably can be expected to remain nonhazardous.

“(3) A class 3 leak shall be rechecked at least every six months and repaired or replaced within 30 months.

“(d) Each operator shall inspect and classify all reports of gas leaks within two hours of notification.

“(e) Each underground leak shall be classified using the operator’s underground leak classification procedure as follows:

“(1) A class 1 leak means a leak that represents an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous. This class of leak may include the following conditions:

“(A) Any leak which, in the judgment of operating personnel at the scene, is regarded as an immediate hazard;

“(B) any leak in which escaping gas has ignited;

“(C) any indication that gas has migrated into or under a building, or into a tunnel;

“(D) any percentage reading gas in air at the outside wall of a building, or where gas would likely migrate to an outside wall of a building;

“(E) any reading of 4% gas in air, or greater, in a confined space;

“(F) any reading of 4% gas in air, or greater, in a small substructure from which gas would likely migrate to the outside wall of a building; or

“(G) any leak that can be seen, heard, or felt, and which is in a location that may endanger the general public or property.

“(2) A class 2 leak means a leak that is nonhazardous at the time of detection, but justifies scheduled repair based on probable future hazard. This class of leak may include the following conditions:

“(A) any reading of 2% gas in air, or greater, under a sidewalk in a wall-to-wall paved area that does not qualify as a class 1 leak;

“(B) any reading of 5% gas in air, or greater, under a street in a wall-to-wall paved area that has significant gas migration and does not qualify as a class 1 leak;

“(C) any reading less than 4% gas in air in a small substructure from which gas would likely migrate creating a probable future hazard;

“(D) any reading between 1% gas in air and 4% gas in air in a confined space;

“(E) any reading on a pipeline operating at 30% SMYS, or greater, in a class 3 or 4 location, which does not qualify as a class 1 leak;

“(F) any reading of 4% gas in air, or greater, in a gas-associated substructure; or

“(G) any leak which, in the judgment of operating personnel at the scene, is of significant magnitude to justify scheduled repair.

“(3) A class 3 leak means a leak that is nonhazardous at the time of detection and can reasonably be expected to remain nonhazardous. This class of leak may include the following conditions:

“(A) any reading of less than 4% gas in air in a small gas-associated substructure;

“(B) any reading under a street in areas without wall-to-wall paving where it is unlikely the gas could migrate to the outside wall of a building; or

“(C) any reading of less than 1% gas in air in a confined space.”

(ee) 49 C.F.R. 192.721 shall be deleted and replaced by the following three paragraphs: “(a) The frequency with which pipeline facilities are patrolled shall be determined by the severity of the conditions which could cause failure or leakage, and the consequent hazards to public safety.

“(b) Intervals between patrols shall not be longer than those prescribed in the following table:

Maximum Intervals Between Patrols

Location of Line	Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage	Mains at all other locations
Inside business districts	4 ½ months, but at least four times each calendar year	7 ½ months, but at least twice each calendar year

Outside business districts	7 ½ months, but at least twice each calendar year	18 months, but at least once each calendar year
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“(c) Service lines and yard lines shall be patrolled at least once every three calendar years at intervals not exceeding 42 months.”

(ff) 49 C.F.R. 192.723 shall be deleted and replaced by the following:

“Distribution systems: leak surveys and procedures.

“(a) Each operator of a distribution system shall conduct periodic leakage surveys using leak detection equipment in accordance with this section. The leak detection equipment used for this survey shall utilize a continuously sampling technology.

“(b) The type and scope of the leakage control program shall be determined by the nature of the operations and the local conditions. A leakage survey using leak detection equipment shall be conducted on all distribution mains and shall meet the following minimum requirements:

“(1) In business districts, a leakage survey shall include tests of the atmosphere in gas, electric, telephone, sewer and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks. This survey shall be conducted at intervals on the distribution mains within the business district as frequently as necessary with the maximum interval between surveys not exceeding 15 months, but at least once each calendar year.

“(2) A leakage survey with leak detection equipment shall be conducted on the distribution mains outside the business areas. The survey shall be made as frequently as necessary, but it shall meet the following minimum requirements:

“i. Cathodically unprotected steel mains and ductile iron mains located in class 2, 3, and 4 areas shall be surveyed at least once each calendar year at intervals not exceeding 15 months.

“ii. Cathodically unprotected steel mains and ductile iron mains located in class 1 areas, cathodically protected bare steel mains, cast iron mains, and mains constructed of PVC plastic shall be surveyed at least once every three calendar years at intervals not exceeding 39 months.

“iii. Cathodically protected externally coated steel mains and mains constructed of polyethylene plastic shall be surveyed at least once every five calendar years at intervals not exceeding 63 months.

“(c) Except for the service lines and yard lines described in paragraph (d) of this section, a leakage survey using leak detection equipment shall be conducted for all service lines and yard lines as follows:

“(1) In business districts, this survey shall be conducted as frequently as necessary with the maximum interval between surveys not exceeding 15 months, but at least once each calendar year.

“(2) Outside business districts, the survey shall be made as frequently as necessary, but it shall meet the following minimum requirements:

“i. Cathodically unprotected steel service or yard lines and service or yard lines constructed of PVC plastic, cast iron, or copper shall be surveyed at least once each calendar year at intervals not exceeding 15 months.

“ii. Cathodically protected bare steel service or yard lines shall be surveyed at least once every three years at intervals not exceeding 39 months.

“iii. Cathodically protected externally coated steel service or yard lines and service or yard lines constructed of polyethylene plastic shall be surveyed at least once every five calendar years at intervals not exceeding 63 months.

“(d) For yard lines more than 300 feet in length and operating at a pressure less than 10 p.s.i.g., only the portion within 300 feet of a habitable dwelling must be leak surveyed in accordance with these regulations.

“(e) Each operator’s operations and maintenance manual shall state that company-designated employees are to be trained in and conduct vegetation leak surveys where vegetation is suitable to such analysis.

“(f) Each leakage survey record shall be kept for at least six years.”

(gg) The following shall be added to 49 C.F.R. 192.755: “(c) Each operator with cast iron piping shall institute all of the following for the purposes of evaluation and replacement of cast iron pipelines:

“(1) Each time a leak in the body of a cast iron pipe is discovered, collect a coupon from the joint of pipe that is leaking within five feet of the leak site.

“(2) Conduct laboratory analysis on all coupons to determine the percentage of graphitization. Using the following equation:

$$\text{Percent of Graphitization} = \frac{(\text{Maximum Depth of Graphitization})}{(\text{Wall Thickness})} \times 100$$

“(3) Replace at least one city block (approximately 500 feet) within 120 days of the operator’s discovery of a leak in cast iron pipe due to external corrosion or each time the laboratory analysis of a coupon shows graphitization equal to or greater than the following:

Diameter	Percent Graphitization
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2.0 inch	25%
3.0 inch and 4.0 inch	60%
6.0 inch and 8.0 inch	75%
10.0 inch or greater	90%

“(4) Submit coupons for analysis within 30 days of collection. Retain all sampling records for the life of the facility, but not less than five years.

“(5) For each operator with cast iron piping that is 3 inches or less in nominal diameter, have a replacement program that will remove all cast iron piping with nominal diameter of 3 inches and smaller from natural gas service by January 1, 2013.”

(hh) 49 C.F.R. 192.801(b)(3) shall be deleted and replaced by the following: “(3) Is performed as requirement of K.A.R. 82-11-4; and.” (Authorized by and implementing K.S.A 2014 Supp. 66-1,150; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended April 16, 1990; amended March 12, 1999; amended July 7, 2003; amended Jan. 25, 2008; amended June 26, 2009; amended Aug. 5, 2011; amended Jan. 9, 2015; amended P-_____.)

82-11-6. Procedures to insure compliance with minimum safety standards.

The following procedures may be utilized by the commission to insure compliance with the minimum safety standards of this article.

(a) Annual audit-inspection. Inspectors from the gas pipeline safety section of the commission may visit each operator annually, or as needed, to inspect the operator's operation and maintenance records, and to perform field surveys and tests as required by the regulations of this article. ~~Audit-Inspection~~ ~~inspection guides~~ evaluation forms shall be used to record information and test results obtained in each field inspection. The inspector shall record their observations, findings and test results on an audit-inspection evaluation form. The inspector shall provide a copy of the audit-inspection evaluation form to the operator upon the conclusion of the audit-inspection if the operator so requests. If the results of the audit-inspection indicate the operator does not comply with the requirements of this article, the gas pipeline safety section of the commission may issue a notice of probable violation as described in section (b) of this regulation.

(b) ~~Return of evaluation form. Each completed evaluation form in subsection (a) shall be signed by the operator and returned to the gas pipeline safety section within 30 calendar days of the date that the evaluation letter and evaluation form were received by the operator. Each evaluation form shall detail the actions taken by the operator, or shall set forth a proposed plan, to bring the operator's system into compliance with the safety standards of this article.~~

Issuance of Notice of Probable Violation. If after an annual audit-inspection, or any other audit, inspection or review conducted by the staff of the gas pipeline safety section of the commission, commission staff believes an operator has violated regulations adopted pursuant

to K.S.A. 66-1,150, and amendments thereto, the minimum safety standards adopted by this article, or any regulation or commission order and commission staff determines a civil penalty or remedial action is necessary to correct the violation, commission staff may serve a notice of probable violation against the operator. Service of a notice of probable violation may be conducted via standard mail, certified mail, hand delivery, or electronic mail if the operator consents to electronic service.

(c) A notice of probable violation issued pursuant to subparagraph (b) shall include the following:

- (1) A statement of the provision(s) of statutes, regulations or commission orders the operator is alleged to have violated;
- (2) A statement of the evidence upon which such allegations are made; and
- (3) The recommended civil penalty or remedial action.

(d) Response to Notice of Probable Violation. Within 30 days of receipt of a notice of probable violation, the operator shall respond by mail or electronic mail. Responses by mail shall be mailed to the commission's Topeka headquarters attention: gas pipeline safety section. Responses by electronic mail shall be sent to kccpipelinesafety@kcc.ks.gov. An operator's response to a notice of probable violation shall be made in at least one of the following ways:

- (1) Submit written explanations, a statement of general denial, or other materials contesting the allegations. The written explanations, statements of general denial, or other materials contesting the allegations must be verified by a signed statement from an officer employed by the operator. An operator may verify the written explanations, statements of general denial, or other materials contesting the allegations with an

electronic signature;

(2) Submit a signed acknowledgment of commission staff's findings of violations or instances of noncompliance. An operator may verify its acknowledgement of commission staff's findings of violations or instances of noncompliance with an electronic signature from an officer employer by the operator; or

(3) Submit a signed proposal for the completion of any remedial action that addresses the commission staff's findings of violations or noncompliance. An operator may verify its proposal of remedial action with an electronic signature from an officer employer by the operator.

~~(e)~~ (e) Follow-up inspection. If the inspection detailed in subparagraph (a) reveals any instances of violations or non-compliance, the inspector shall return to the operator's premises within 90 calendar days of the date of the inspection ~~evaluation letter~~, or as soon as is practicable, to perform a follow-up inspection. The inspector shall re-inspect the operator's system and record any instance of violations or non-compliance. A follow-up audit-inspection evaluation letter form shall then be sent to the operator detailing any further action required by the operator.

(f) The staff of the gas pipeline safety section of the commission may amend a notice of probable violation at any time before the commission issues a civil penalty assessment. If an amendment includes any new material allegations of fact or proposes an increased civil penalty assessment or additional remedial action, the operator shall have 30 days from service of the amended notice of probable violation to respond in accordance with subparagraph (d) of this regulation.

~~(d)~~ (g) Meeting with ~~commission staff~~ staff of the gas pipeline safety section of the commission. If the inspector determines on the follow-up inspection that the violations or instances of non-compliance have not been corrected, the operator may be requested to attend an informal meeting at the commission offices or via telephone to discuss the operator's violations or instances of non-compliance with the minimum safety standards of this article, regulations adopted pursuant to K.S.A. 66-1,150, and amendments thereto, or any applicable regulation or commission order.

(h) Unless good cause is shown or a consent agreement is executed by the staff of the gas pipeline safety section of the commission and the operator before the expiration of the 30-day time limit described in subsection (d), the failure of an operator to timely respond to a notice of probable violation shall constitute an admission to all factual allegations made by the staff of the gas pipeline safety section of the commission and may be used against the operator in future proceedings.

(i) Consent Agreement. The staff of the gas pipeline safety section of the commission and an operator may agree to modify a proposed civil penalty assessment or remedial action by joint execution of a consent agreement. Modifications to a civil penalty assessment may include, but shall not be limited to, a reduction in the civil penalty assessment or nonmonetary remedial action in lieu of monetary penalties. Upon joint execution, the consent agreement shall become effective if the commission issues an order approving the consent agreement. Each consent agreement shall include the following:

(1) An admission by the operator of all jurisdictional facts;

(2) An express waiver of any further procedural steps and of the right to seek judicial review or otherwise challenge or contest the validity of the commission's order approving consent agreement;

(3) An acknowledgment that the notice of probable violation may be used to construe the terms of the order approving the consent agreement; and

(4) A statement of the actions required of the operator and the time by which the actions shall be completed.

(j) Issuance of Order. No sooner than 30 days after service of a notice of probable violation upon an operator, the commission may issue an order against an operator. The order may impose a monetary civil penalty or require the operator to undertake remedial action or impose any other obligation or combination thereof for violating the minimum safety standards as adopted by this article, regulations adopted pursuant to K.S.A. 66-1,150, and amendments thereto, or any regulation or commission order identified in the notice of probable violation.

(k) Time to Remit Payment for Penalty Assessment. Provided an operator does not request a hearing, in the event the commission issues a penalty order, the operator shall remit payment for any civil penalty assessment imposed by the commission within 20 days of service of a penalty order imposing the civil penalty assessment.

(l) Orders and Hearings. Orders issued pursuant to this article shall comply with K.A.R. 82-1-232. An operator may request a hearing on an order issued pursuant to this article by filing a request for hearing with the commission within 15 days of service of the order. Any such hearing shall be conducted in accordance with K.A.R. 82-1-232 and amendments thereto. Except for orders approving a consent agreement, any order issued by the commission pursuant

to this article must include information detailing how an operator may request a hearing. Failure to request a hearing within 15 days from service of an order shall be deemed an admission of the alleged violations or instances of noncompliance contained therein.

(m) Show Cause Hearings. A show cause hearing may be held by the commission regarding any potential violations or instances of non-compliance of these minimum safety standards or when all other reasonable measures have failed to produce operator compliance or when violations or instances of noncompliance with any statute, regulation or commission order presents an imminent danger to persons or property. If the commission issues a show cause order during the course of an investigation, the gas pipeline safety section of the commission shall not be required to issue a notice of probable violation prior to the commission issuing an order regarding any potential violations or instances of non-compliance.

~~(e) (n) Show cause hearing. A show cause hearing may be held by the commission when all other reasonable measures have failed to produce operator compliance, or when the non-compliance presents an imminent danger to persons or property.~~

(f) Waiver of procedures. The requirements of this regulation may be waived by the commission and an interim order issued pursuant to K.A.R. 82-1-232(e) if any instance of non-compliance with the safety standards of this article presents a probable danger to persons or property. (Authorized by and implementing K.S.A. 66-1,150 and 55-106; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended P-_____.)

82-11-7. Reporting requirements.

(a) ~~Annual report. Each operator subject to the jurisdiction of the commission shall submit, by March 15, an annual report for each calendar year. This report shall be submitted on forms as prescribed by K.A.R. 82-11-3.~~

~~(b) Incident reports.~~

~~(1) Each operator shall notify the gas pipeline safety section by telephone within two hours following discovery of any incident within their certified areas or operating areas. If an incident occurs outside the commission's working hours of 7:50 a.m. through 4:50 p.m., Monday through Friday, or on a holiday, the operator shall contact an employee of the gas pipeline safety section. A list of these employees and their telephone numbers shall be provided by the commission to each operator.~~

~~(2) One copy of each written incident report shall be transmitted by the gas pipeline safety section within 10 business days of receipt to the information systems manager, materials transportation bureau, office of pipeline safety, pipeline and hazardous materials safety administration, U.S. department of transportation.~~

~~(c) Small gas operators.~~

~~(1) Each small gas operator shall notify the gas pipeline safety section when the small gas operator has contracted with a consultant to perform a survey or inspection in order to comply with the minimum safety standards. Each small gas operator shall forward electronic or written notice indicating the probable month of the inspection or survey at the time the consultant is authorized to conduct the survey or inspection. In addition, each small gas operator shall forward electronic or written notice to the gas pipeline safety section at least 10 business days before the~~

survey or inspection is to be conducted by the consultant. The form for each type of notification shall be available from the gas pipeline safety section. Electronic notices shall be emailed to kccpipelinesafety@kcc.ks.gov. Written notices shall be mailed to the commission's Topeka, Kansas office, attention: pipeline safety division.

(2) Each small gas operator shall maintain complete records relating to the gas system for the life of the system for the purposes of ensuring compliance with the minimum safety standards. Each record shall be made available when an inspector conducts a field inspection.

~~(d)~~ (b) Construction notices. Each operator shall submit to the gas pipeline safety section electronic notice or written notice, using a format substantially similar to the form posted on the commission's website, http://kcc.ks.gov/images/PDFs/pipeline/forms/construction_notice.pdf, at least 10 business days before the commencement of the construction project. Construction notices for each project not started by year-end or in progress at year-end must be resubmitted to the commission for the subsequent year. Electronic notices shall be emailed to kccpipelinesafety@kcc.ks.gov. Written notices shall be mailed to the commission's Topeka, Kansas office, attention: pipeline safety division. (Authorized by and implementing K.S.A. 66-1,150; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended Jan 25, 2008; amended P-_____.)

82-11-10. Drug and alcohol testing. The federal regulations titled “drug and alcohol testing,” 49 C.F.R. Part 199 as in effect October 1, ~~2010~~ 2018, are adopted by reference only as they apply to operators of pipeline facilities that deal in the transportation of natural gas by pipeline, with the following modifications:

(a) 49 C.F.R. 199.1 shall be deleted and replaced by the following: “This regulation requires operators of pipeline facilities subject to K.A.R. 82-11-4 to test covered employees for the presence of prohibited drugs and alcohol.”

(b) 49 C.F.R. 199.2 shall be deleted and replaced by the following:

“(a) This part applies to operators of intrastate natural gas pipelines within the state of Kansas.

“(b) This part does not apply to covered functions performed on:

“(1) Master meter systems, as defined in K.A.R. 82-11-3; or

“(2) pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.”

(c) 49 C.F.R. 199.3 shall be deleted and replaced by the following: “As used in this part:

“(a) ‘accident’ means an incident involving gas pipeline facilities, liquefied natural gas facilities reportable under K.A.R. 82-11-3;

“(b) ‘administrator’ means the Administrator, Pipeline and Hazardous Materials Safety Administration or the state corporation commission of the state of Kansas;

“(c) ‘covered employee, employee, or individual to be tested’ means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors;

“(d) ‘covered function’ means an operations, maintenance, or emergency response function regulated by K.A.R. 82-11-4 and K.A.R. 82-11-8 that is performed on a pipeline or on a liquefied natural gas facility;

“(e) ‘DOT Procedures’ means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in 49 C.F.R. Part 40;

“(f) ‘fail a drug test’ means that the confirmation test results show positive evidence under DOT Procedures of a prohibited drug in the employee's system;

“(g) ‘operator’ means a person who owns or operates pipeline facilities subject to K.A.R. 82-11-1, et seq.;

“(h) ‘pass a drug test’ means that initial ~~testimony~~ testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in the person's system;

“(i) ‘performs a covered function’ includes actually performing, ready to perform, or immediately available to perform a covered function;

“(j) ‘positive rate for random drug testing’ means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part;

“(k) ‘prohibited drug’ means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. ~~§F 812~~ -- marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP);

“(l) ‘refuse to submit, refuse, or refuse to take’ means behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test;

“(m) ‘state agency’ means the state corporation commission of the state of Kansas.”

(d) 49 C.F.R. 199.7 shall be deleted and replaced by the following:

“(a) Each operator who seeks a waiver under 49 C.F.R. 40.21 from the stand-down restriction must submit an application for waiver in duplicate to the state corporation commission of Kansas and the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001;

“(b) Each application must:

“(1) Identify 49 C.F.R. 40.21 as the rule from which the waiver is sought;

“(2) Explain why the waiver is requested and describe the employees to be covered by the waiver;

“(3) Contain the information required by 49 C.F.R. 40.21 and any other information or arguments available to support the waiver requested; and

“(4) Unless good cause is shown in the application, be submitted at least 60 days before the proposed effective date of the waiver.

“(c) No public hearing or other proceeding is held directly on an application before its disposition under this section. If the Associate Administrator determines that the application contains adequate justification, the Associate Administrator grants the waiver. If the Associate Administrator determines that the application does not justify granting the waiver, the Associate

Administrator denies the application. The Associate Administrator notifies each applicant of the decision to grant or deny an application.”

(e) 49 C.F.R. 199.9 shall be deleted.

(f) 49 C.F.R. 199.100 shall be deleted and replaced by the following: “The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to K.A.R. 82-11-4.”

(g) 49 C.F.R. 199.101(b) shall be deleted and replaced with the following: “The administrator may, after notice and opportunity for a hearing as provided in K.A.R. 82-11-6, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

~~(g)~~ (i) 49 C.F.R. 199.200 shall be deleted and replaced by the following: “The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform covered functions for operators of certain pipeline facilities subject to K.A.R. 82-11-4.”

(j) 49 C.F.R. 199.229(d) shall be deleted and replaced with the following: “A service agent (e.g. Consortia/Third Party Service Administrator as defined in 49 C.F.R. Part 40) may prepare the MIS report on behalf of an operator. However, each report shall be certified by the operator’s anti-drug manager or designated representative for accuracy and completeness.”

(k) In 49 C.F.R. 199.233, the reference to “DOT agency” shall be deleted and replaced with “federal or state agency.” (Authorized by and implementing K.S.A. 66-1,150; effective

April 16, 1990; amended March 12, 1999; amended July 7, 2003; amended June 26, 2009;
amended Aug. 5, 2011; amended P-_____.)