

6.100 ENFORCEMENT OF SAFETY REGULATIONS PERTAINING TO INTRASTATE GAS PIPELINE AND TRANSPORTATION FACILITIES

6.101 Purpose and Scope

These rules describe the enforcement authority and procedures to achieve and maintain gas pipeline and transportation safety within the State of Vermont. They also prescribe the sanctions which may be requested by the Department of Public Service and imposed by the Vermont Public Utility Commission for safety violations.

6.102 Inspections & Information

- (A) The Department may conduct inspections of gas pipelines or transportation and storage facilities.
- (B) The Department may at any time request information reasonably related to enforcement of gas safety rules or regulations. Such information shall be provided within fifteen (15) days. Where the Department determines that an emergency need for such information exists, the Department may require information to be provided immediately.

6.103 Warnings

- (A) When, based upon an inspection or other information, the Department has reason to believe that a person is not in compliance with applicable gas safety rules or regulations or orders issued thereunder, the Commissioner of the Department or the Commissioner's designee may issue a warning in accordance with subsection (B) of this section.
- (B) A warning of non-compliance shall notify the owner or operator of the facility that is alleged to be in non-compliance of the alleged violation(s), or the person involved in the alleged violation(s) if different, and shall advise the person, owner, or operator involved to correct the violation(s) or be subject to further enforcement proceedings. All warnings shall be in writing, shall state the probable violation(s) and shall state the date by which each violation is to be corrected.

6.104 Enforcement Proceedings

- (A) If the Department determines that a person has violated a statute, rule, regulation, or any order of the Commission pertaining to gas safety, the Department may initiate an enforcement proceeding by serving a Notice of Probable Violation on said person. A copy of said Notice shall be filed with the Commission and shall be treated as a petition to impose penalties under 30 V.S.A. § 2816. The Department or Commission may initiate an enforcement proceeding without first sending a warning under Section 6.103 of this rule to that person alleged to have violated the statute, rule, regulation, or Commission Order.
- (B) A Notice of Probable Violation shall include:
 - (1) A statement of the statute, rule, regulation, or order issued thereunder which the person is alleged to have violated;
 - (2) A brief statement of the evidence upon which the allegation(s) is based;
 - (3) Notice of response options available (See Section (E) of this Rule);
 - (4) Statement of remedial action sought;
 - (5) If a civil penalty is proposed, the amount of the proposed civil penalty (See 30 V.S.A. § 2816).

- (C) The Department may amend a Notice of Probable Violation at any time prior to issuance of a final Commission order. If an amendment includes any new material allegations of fact or proposes new or additional remedial action or an increased civil penalty, the person to whom the Notice is directed shall have an additional 15 days from the time the amended Notice is received to respond.
- (D) Within 30 days of receipt of a Notice of Probable Violation any person who is the subject of an enforcement proceeding shall make a written response to the Department and to the Commission.
- (E) Where the Notice of Probable Violation contains a statement of remedial action sought or proposes the imposition of a civil penalty, any person who is the subject of enforcement proceedings pursuant to that Notice may:
 - (1) Agree to take the remedial action sought and submit a plan for compliance which shall include a schedule of steps to be taken and a date by which complete compliance shall be obtained;
 - (2) Pay the proposed civil penalty by certified check payable to the Commission; and/or
 - (3) Object to imposition of the remedial action and the imposition of the penalty and request a hearing before the Commission.
- (F) A request for hearing under Section 6.104(E) of this rule in response to a Notice of Probable Violation issued pursuant to this rule must include a statement of the issues intended to be raised at hearing. In the statement of issues, the person requesting the hearing shall assert any defenses he or she intends to raise and, if the person intends to claim that mitigating factors are present, shall include an explanation of those factors, accompanied by supporting data or other information. The request may also include any offer made in compromise of the proposed civil penalty or remedial action.
- (G) If the alleged violator agrees to the remedial action sought by the Department and agrees to pay the proposed civil penalty, pursuant to Section 6.104(E)(1) and (2) of this rule, the alleged violator will be deemed to have waived notice and an opportunity for hearing provided the Commission's final Order is substantially consistent with the remedial action and/or penalty agreed to by the Department and the alleged violator.
- (H) After notice and an opportunity for hearing, the Commission shall enter its final order in the matter. The final order may include:
 - (1) A statement of actions, if any, required to be taken and the date by which such actions must be taken; and
 - (2) The amount of any civil penalty imposed.
- (I) Any person found to be in violation of any statute or rule, regulation, or order issued thereunder may be made subject to a civil penalty in accordance with 30 V.S.A. § 2816. In imposing a civil penalty on any person, the Commission shall consider the gravity of the violation, the culpability of the person responsible for the violation, any history of prior violations, the good faith of the person charged in attempting to achieve compliance, the size of the business of the person being charged, and the likely effect of the penalty.

- (J) In addition to the procedures set forth in this section, the Commission, on its own initiative or in response to a petition, may initiate an investigation into a possible violation of any statute, rule, regulation, or order issued thereunder pertaining to gas safety.

6.105 Expedited Hearing

- (A) If the Department determines during or after inspection that a gas facility presents an immediate hazard to life, health, property, or continued utility service, the Department may file with the Commission a Request for Expedited Hearing or for a Temporary Restraining Order along with the Department's Notice of Probable Violation. The Request shall be accompanied by supporting Affidavit(s) which state plainly the hazard(s) and the Department's best estimate of the time in which action must be taken. Upon receipt of the Department's Request, the Commission shall schedule an expedited hearing or shall deny the Request, stating its reasons.
- (B) Whenever an expedited hearing is held the Commission may enter a temporary order, including a Temporary Restraining Order and impose any of the sanctions outlined in Section 6.104(H) of this rule in the same manner as if it had held a regular hearing. The temporary order shall remain in effect until a regular hearing is held in due course.

6.150 Enforcement of Safety Regulations Pertaining to Construction and Operation of Gas Transmission and Distribution Systems

6.151 Purpose and Scope

These Rules cover the design, construction, installation, operation, maintenance, testing, inspection, and safety features of gas transmission and distribution systems, including gas storage, metering and regulating stations, mains and services up to the outlet of the customer's meter assembly, or outside the building wall, whichever is further downstream.

These Rules and Regulations shall be complied with in all new installations but shall not apply retroactively to existing facilities except where specifically indicated or if the Public Utility Commission determines that existing equipment or operations are hazardous to the public.

These Rules and Regulations shall apply to every person, firm, company, corporation and municipality engaged in the construction or operation of any gas transmission or distribution system in the State of Vermont which is or shall become subject to the jurisdiction of this Commission.

6.152 Definitions

The definitions in effect as of the date of the adoption of the rules, and as they may thereafter from time to time be amended, contained in the regulations of the Transportation of Natural and Other Gases by Pipeline, parts 191, 192, 193, 198, and 199, Title 49, The Code of Federal Regulations, as in effect as of the effective date of these Rules, shall apply.

"Gas Corporation" shall mean any person, firm, company, corporation or municipality engaged in the transmission or distribution of gas by a piping system.

"Federal Regulations" shall mean the regulations of the Transportation of Natural and Other Gases by Pipeline, parts 191, 192, 193, 198, and 199, Title 49, Code of Federal Regulations and any subsequent revisions.

"Commission" shall mean the Public Utility Commission of the State of Vermont.

6.153 Modifications or Revisions

Upon its own motion, or upon application, and for good cause shown, the Commission may modify, suspend or repeal the provisions of any rule herein, provided the modification, suspension, or repeal does not violate the Federal Regulations. Only in the case of an emergency may these regulations be waived. Application may be made to the Commission for modification of any rule or for temporary or permanent exemption from its provision. However, in instances where the requested modification or exemption would also require a departure from the applicable Federal Regulations, such application also must be submitted to the Office of Pipeline Safety. A copy of the Office of Pipeline Safety decision shall be submitted to the Public Utility Commission. Such an application for modification for exemption must be accompanied by a full and complete justification for the proposed change.

6.154 Compliance With Federal Regulations

Every gas transmission or distribution system shall be constructed, tested, and operated, except as otherwise provided in these Rules, in compliance with the provisions of the presently effective Federal Regulations and any future revisions of that code. When the regulations stated in these Rules are more stringent than the Federal Regulations, provisions in these Rules shall apply; if the provisions as stated in these Rules are less stringent than the Federal Regulations, the Federal Regulations shall take precedence.

6.155 Service Piping

Gas service piping up to the entry of the first building downstream of that customer, or, if the buried pipe does not enter a building, up to the principle gas utilization equipment or the first fence (or wall) that surrounds that equipment, shall be installed and maintained pursuant to these Rules and the Federal Regulations. However, for a customer-owned service line, as defined in the Federal Regulations, for an industrial application, responsibility for compliance with these Rules and the Federal Regulation resides with the industrial customer.

For a customer-owned service line, as defined in the Federal Regulation, the Gas Corporation may assess the reasonable cost of complying with this section to the customer owning or using such customer-owned service line. Such assessment must be reviewed and approved by the Commission pursuant to a tariff filing under 30 V.S.A. §§ 218, 225, 226, and 227.

6.156 Curb Shut-Offs

Curb shut-offs, usable in an emergency to shut off the supply of gas, shall be installed on all high-pressure gas services whenever the regulator is located within the customer's premises and on all low-pressure gas services whenever gas is supplied to a building where the public assembles, e.g., a school or theater.

Curb shut-offs shall be inspected at reasonable intervals, and when such devices are located on services supplying a building where the public assembles, e.g., a school or theater, they shall be inspected by the Gas Corporation at least once each year.

All gas service piping not requiring a curb shut-off pursuant to Federal Regulations shall have a device installed to cut off the gas outside the cellar wall area, whenever service has been discontinued for a period in excess of twelve (12) consecutive months. A service line that has been disconnected for a period of five (5) years or longer must be physically disconnected at the main. This physical disconnection may be waived if the service line was built after July 31, 1971, and it is being maintained as if it is an active service line.

6.157 Maps of Transmission and Distribution System

Upon request of the Commission or Department of Public Service, the Gas Corporation shall file with the Commission and the Department of Public Service a complete set of maps of the requested area showing the location of the pipes and grids, pipe sizes, operating pressures, valves, regulator stations, and other pertinent data showing that the transmission or distribution system has been constructed or reconstructed in accordance with these Rules.

6.158 Reports of Proposed Construction

Upon request by the Commission or the Department of Public Service, a report setting forth the specifications, including application of other design criteria, of the construction or the reconstruction of any gas transmission or distribution system, shall be filed with the Commission and the Department of Public Service.

6.159 Interruptions of Service

In the event of a failure of service of gas transmission or a major failure of service of a distribution system, immediate notice shall be given to the Department of Public Service, by telephone or other means of prompt notification to be followed by a written report to the Department of Public Service and the Commission. Such written report shall contain all pertinent information known to the Gas Corporation concerning the cause of the failure and the steps proposed or taken to remedy the defect, and shall be submitted within 30 days of the service failure. This requirement shall not apply to any interruptions of service made by a Gas Corporation in accordance with the provisions of contracts between such corporations and their customers.

6.160 Accidents and Emergencies

Accidents occurring on gas transmission or distribution systems and facilities and causing in-patient hospitalization or death to any person or persons, or damage to property in excess of \$5,000, shall be reported immediately to the Commission and Department of Public Service by telephone or other means of prompt notification.

Every Gas Corporation operating a gas transmission or distribution system in the State of Vermont shall file with the Department of Public Service and the Commission and with every municipality within which the gas transmission distribution system is located, the names, addresses and telephone numbers of two responsible officials of such gas corporations who may be contacted in the event of an emergency.

6.161 Application of Other Design Criteria

When specifying materials for gas transmission pipelines, current industry standards, including criteria for pipe fracture toughness shall be considered.

6.162 Gas Unaccounted For

Within 12 months of the effective date of these Rules, or sooner if required, as a condition of a certificate of public good under 30 V.S.A. §§ 102 and 231, a program shall be adopted by every Gas Corporation to keep to a minimum the amount of gas that is lost or unaccounted for. Gas Corporations shall file an annual statement with the Department of Public Service of the Gas Corporation's gas unaccounted for.

Upon notice from the Commission that the twelve-month rolling average of gas unaccounted for by a Gas Corporation appears to exceed the national average, and if upon examination the Commission determines that the actual amount unaccounted for does actually exceed the national average, such Gas Corporation within ninety (90) days of such determination, shall state in writing its plans for reducing this unaccounted for gas. In addition, such Gas Corporation shall file a report every three (3) months thereafter of its progress in reducing that unaccounted for gas until the Commission, by further Order, dispenses with this reporting requirement.

When natural gas is to be introduced into a distribution system previously used to supply manufactured gas to customers, appropriate measures shall be taken before the introduction of natural gas to prevent drying out of joints and the formation of dust within the mains.

Consideration should be given to installations of fogging and dust collecting equipment as well as application of sealing compounds prior to the change to natural gas. Routine tests normally made to detect gas leaks in the distribution system shall be intensified for a reasonable period following the conversion to natural gas to facilitate prompt discovery and repair of gas leaks.

6.163 Applicability

All of the above state and federal statutes shall be effective in their present and any future revisions. This Rule supersedes General Order No. 59.63 dated May 5, 1977, and General Order No. 41 dated February 1, 1965.