

Maryland Public Service Commission

The Maryland Public Service Commission intends to submit an annual certification to the Secretary of Transportation under 49 U.S.C. Section 60105.

Program Description

Authority

The Maryland Public Service Commission (Commission) has adopted the applicable Federal Safety standards established for hazardous liquid pipeline operators. The Commission has established the required inspection, documentation, and enforcement programs, which are described in this document.

The Public Service Commission of Maryland, under 49 U.S.C. 60105 Certification, assumes safety responsibility with respect to intrastate hazardous liquid pipelines. Under the Public Utility Companies Article, Annotated Code of Maryland, Title 11, Subtitle 2, the Public Service Commission has statutory authority to establish and enforce safety standards for intrastate hazardous liquid pipelines.

Standards

Federal safety standards for hazardous liquid pipeline have been issued under Title 49 Code of Federal Regulations (CFR), Part 195. Drug and alcohol testing is covered under Title 49 CFR Part 199 and 40. Maryland's counterpart standards appear in the Code of Maryland Regulations (COMAR) Title 20, Public Service Commission, Subtitle 58, Safety Standards For Hazardous Liquid Pipelines. 49 CFR Part 195, 199 and 40 is incorporated by reference in COMAR 20.58.

Inspections

The Commission has the authority to require the maintenance and filing of reports, records and other prescribed information; to enter upon and inspect, at reasonable times and in a reasonable manner, the pipeline facilities and the pipeline procedures of those involved with them, books, records, papers and other documents relevant to determining compliance with the regulations.

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

The Commission's plan for conducting its inspections includes:

1. A consideration for conducting a periodic inspection of every operator.
2. A format that provides for a methodical, systemic and comprehensive inspection of facilities, records and procedures.

3. A procedure to document the results of each inspection.
4. A procedure, in the event of non-compliance, of notification and follow-up to ensure that timely corrective action has been taken.

An evaluation of an operator's facilities, procedures and records will be made with inspection guidelines based upon check-lists referenced to the Federal and State Safety Regulations. The inspections will include a review of the operator's records and procedures concerning training, operation, maintenance, emergency plans, operator qualification (OQ), integrity management (IMP), public awareness program (PAP) and their anti-drug and alcohol plan. OQ, IMP and PAP inspections will utilize federal protocols available on PHMSA's website (www.ops.dot.gov/library/forms/form.htm) and upon completion of the OQ, IMP and PAP inspections; the results will be entered in their respective databases in a timely manner. The Commission intends on reviewing the Operator's public awareness programs and their methodology for effectiveness of those programs. Field inspection of the operator's facilities and activities will involve the installation and testing of pipeline facilities, and will specifically include corrosion control, pressure regulation station maintenance, leak survey and leak repair. The Commission may decide to conduct specialized inspections, as needed. Specialized inspections may be operator specific or issue specific.

The Commission's inspection program will be a Risk Based Inspection Program. Prior to the next calendar year the Engineering Division will conduct a review of the following items;

- The Warning Letters that have been issued,
- The Notice of Probable Violations that have been issued,
- The Incident Investigations for that year,
- Major pipeline events that have occurred in the United states that year,
- Any significant changes by the operators, and
- Any other issues that are deemed prudent.

The Commission's risk based inspection process considers various risk factors:

- Miles of pipe in High Consequence Areas (HCA's), geographic areas and population density,
- Length of time between inspections,
- Operator History, and
- Threats that may exist on the various pipelines.

The above items will be examined for frequency, in which they are occurring, the causes as to why they are occurring and the commonality with which they are occurring amongst the operators. The Engineering Division will then use the information gained from its review to adjust the inspection schedule accordingly to address the results of its review.

Maryland's intrastate hazardous liquid pipeline operators are inspected according to the schedule in Appendix A. Inspections may also be initiated as a result of an accident or public complaint. After enforcement actions have been initiated, follow-up inspections are conducted as necessary to confirm that corrective actions have been completed.

Documentation

The results of an inspection will be noted on the check-list or otherwise summarized. The record will include the date, name of operator and representative(s), activities and facilities inspected, and conclusions.

Upon completion of the inspection, the operator will be advised of the inspector's determinations through an exit interview. Probable violations of regulations will be addressed in a written enforcement action.

The Commission is responsible to ensure that an operator corrects all probable violations of the pipeline safety standards discovered during an inspection. The timeliness of correction will depend upon the seriousness of the deficiency or violation and the circumstances involved. In those cases where a probable violation is considered to present a serious hazard to the public, thorough follow-up inspection will be conducted to verify the adequacy of corrective action. A record of all probable violations will be maintained and reviewed to ensure that proper and timely corrective action has been accomplished.

At the end of each calendar year the Commission will conduct and document a review of the previous year's activities. This review will be utilized to establish the metric/ goals that the Commission will use the following year in conducting its pipeline safety operations. The yearly review will look at the following information:

- Inspections completed the previous year,
- Enforcement actions taken,
- Recommendations from PHMSA and NTSB,
- Incidents that occurred across the nation, and
- Any other pertinent information.

The review will also be used to determine if the previous year's goals and metrics were met and or accomplished. This review will be used to determine the effectiveness of the Commission's pipeline safety programs.

Enforcement Procedure

- Notice of Probable Violation (NOPV) (COMAR 20.58.02.05)

The Commission may issue a NOPV upon finding good cause to believe a violation of the state or federal pipeline safety regulations has occurred. The NOPV may contain a proposed compliance order. An operator must respond within 30 (thirty) days after receipt of a NOPV. The Commission may grant a waiver to this requirement upon receiving a written request from an operator demonstrating sufficient cause.

The contents of a NOPV shall include:

- 1) a statement of the statute, regulation, or rule allegedly violated by an operator,
- 2) a description of the evidence indicating a possible violation,
- 3) a notice of response options available to the operator,

- 4) if appropriate, the amount of the proposed civil penalty and the maximum civil penalty applicable under the law.
- 5) if appropriate, a statement of the remedial action being sought in a compliance order.

An operator shall respond to a NOPV as follows. If a NOPV contains a proposed compliance order, an operator may agree to the proposed compliance order, request the execution of a consent order, or object to the proposed compliance order and submit written explanations, information, or other materials in answer to the allegations in the notice. The operator shall also have the right to request a hearing before the Commission. If the NOPV contains a proposed civil penalty, an operator may pay the penalty, submit an offer in compromise of the proposed civil penalty, object to the proposed civil penalty and submit a written explanation, information, or other material to mitigate the proposed civil penalty. The operator shall also have the right to request a hearing before the Commission.

- Review by the Chief Engineer (COMAR 20.58.02.06)

If an operator objects to the proposed compliance order or civil penalty and submits a written explanation, information, or other materials in response to a NOPV, the Chief Engineer shall review the submissions and determine whether to negotiate further, modify, withdraw the NOPV, or file a complaint with the Commission.

- Consent Order (COMAR 20.58.02.07)

Prior to the issuance of a compliance order, the Division may execute a consent order jointly with an operator.

An executed consent order shall contain an admission by an operator of all jurisdictional facts; and a description of any action required by the operator and the time by which the actions shall be accomplished.

- Civil Penalties (COMAR 20.58.02.08)

The amount of any civil penalty shall be determined by the Commission or agreed upon in compromise, based upon the appropriateness of the penalty to the size of the business of the operator charged, the gravity of the violation and the good faith of the operator charged in attempting to achieve compliance after notification of violation.

- Hazardous Facility Notice (COMAR 20.58.02.09)

If a particular pipeline facility is found to be hazardous to life or property as outlined in COMAR 20.58.02.09, the Chief Engineer shall issue a hazardous facility order. A hazardous facility order shall provide an opportunity for a Commission hearing. A hazardous facility order shall contain a finding that a pipeline facility is hazardous to life or property, the facts on which the finding is based, the legal basis of the order, the nature and description of the particular corrective action required of the gas operator and the date by which this action is to be taken. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action.

- Appeal

Any operator subject of an order from the Public Service Commission may request reconsideration of the order for the purpose of obtaining a compromise or for rehearing in accordance with the Commission's "Rules of Practice and Procedure". Moreover, any operator aggrieved by an order of the Public Service Commission may seek relief from the courts.

- Safety Related Conditions (SRC)

When a safety related condition (SRC) occurs, the pipeline operator is required to file with PHMSA. PHMSA Eastern Region will then notify the Commission by email/fax and provide SRC number and request for follow-up/ update by email within 30 days. The Commission will monitor and provide updates indicating the actions taken by the Commission and the operator. Once all remedial activities are completed and no further actions are required, the Commission will email PHMSA Eastern Region with a recommendation that the SRC should be closed.