

CHAPTER 7

NATURAL GAS PIPELINES

Authority

N.J.S.A. 48:2-13, 48:3-9 and 48:10-2.

Source and Effective Date

R.1993 d.95, effective March 1, 1993.
See: 24 N.J.R. 1684(b), 25 N.J.R. 999(a).

Executive Order No. 66(1978) Expiration Date

Chapter 7, Natural Gas Pipelines, expires March 1, 1998.

Chapter Historical Note

Subchapter 1, Construction, Operation and Maintenance of Transmission and Distribution Natural Gas Pipelines, was recodified from 14:11-8, and Subchapter 2, Notices of Probable Violations, Informal Conferences, Civil Administration Penalties and Requests for Adjudicatory Hearings, was added, effective June 9, 1995 as R.1995 d.303. See: 27 N.J.R. 870(a), 27 N.J.R. 2428(a).

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SUBCHAPTER 1. CONSTRUCTION, OPERATION AND MAINTENANCE OF TRANSMISSION AND DISTRIBUTION NATURAL GAS PIPELINES

14:7-1.1 Scope

Unless otherwise ordered or permitted by the Board, the rules in this subchapter shall be observed and followed in connection with the construction, operation and maintenance of transmission and distribution pipelines for the transportation of natural gas by intrastate natural gas pipeline facilities within the State of New Jersey.

14:7-1.1A Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings:

“Automatically controlled valve” means a valve that does not require personnel to activate. It closes in response to a pressure loss or flow rate increase that exceeds a pre-set level. The valve operator is powered by electricity, by the gas pressure in the pipeline, or by another power source. Automatically controlled valves are intended to provide timely closure whenever there is an abnormal pressure loss on the pipeline.

“Class 3” means the Federal Class 3 location as described in 49 C.F.R. 192.5.

“Class 4” means the Federal Class 4 location as described in 49 C.F.R. 192.5.

“Pipeline operator” or “operator” means a person that owns, operates, manages or controls an intrastate natural gas pipeline, including a public utility as that term is defined in N.J.S.A. 48:2-13 or a natural gas pipeline utility as that term is defined in N.J.S.A. 48:10-3.

“Remotely controlled valve” means a valve that is operated by personnel from a location that is remote from where

the valve is installed. The location is usually at the pipeline control or dispatching center. A remotely controlled valve consists of the valve itself and a valve operator that is attached to the valve to open or close it. The valve operator is powered by electricity, by the gas pressure from the pipeline, or by another power source. The communications linkage between the remote location and the remotely controlled valve may be by fiber optics, microwave, telephone lines, or by satellite.

“Transmission pipeline” refers to any segment of a pipeline system that meets the criteria of a “transmission line” as defined in 49 C.F.R. 192.3.

New Rule, R.1997 d.128, effective March 17, 1997.
See: 28 N.J.R. 5146(a), 29 N.J.R. 104(b), 29 N.J.R. 903(b).

14:7-1.2 Compliance with Federal Code

Any gas pipeline constructed after September 7, 1993 shall be constructed, operated and maintained in compliance with the Code of Federal Regulations, Title 49, Part 192, hereinafter referred to as the “Federal Code,” incorporated herein by reference, or such other standard as the Board may from time to time prescribe. Any such pipeline which comes within the scope of the provisions of N.J.S.A. 48:10-2 to 10-9 and which was constructed prior to September 7, 1993 shall be deemed to be subject to any provisions of the Federal Code pertaining to operation and maintenance.

14:7-1.3 Classification of system

(a) Natural gas pipelines shall be classified in accordance with the provisions of the Federal Code. However, no portion of a gas pipeline subjected to pressures of 125 pounds per square inch gauge (psig) or more shall be classified as less than Location Class 3 when such portion of the pipeline is constructed within 300 feet of, or if said pipeline is to be operated at a pressure in excess of 500 psig within 500 feet of the following:

1. A place of residence;
2. A building used for public gathering;
3. Any school building, playground, or building devoted to institutional use;
4. Property that is zoned as residential; or
5. A building devoted to a business in which more than three people are employed when such structures are in existence or under construction at the date of execution of the right-of-way agreement or at the date of filing with the clerk of the Superior Court of a complaint in a condemnation action. This additional classification shall not apply to buildings which are under control of the gas pipeline company.

14:7-1.4 Proscribed areas

Gas pipelines which are to be operated at a maximum pressure in excess of 250 psig shall not be installed within 100 feet of any building intended for human occupancy which is in existence prior to or under construction at the date of execution of the right-of-way agreement or at the date of filing with the Clerk of the Superior Court of a complaint in a condemnation action, unless such installation is authorized and approved by the Board. A petition pursuant to this section for installation of a transmission pipeline that is subject to the design requirements of 49 C.F.R. 192.150 shall include an evaluation of the need for an in-line inspection (ILI) and a proposed inspection schedule. The evaluation shall consider population density, length of the installation, operating pressure as a percentage of specified minimum yield strength, and other safety-related factors. In authorizing an installation of a transmission pipeline pursuant to this section, the Board may require that an in-line inspection be performed.

Amended by R.1997 d.128, effective March 17, 1997.
See: 28 N.J.R. 5146(a), 29 N.J.R. 104(b), 29 N.J.R. 903(b).
Added last three sentences.

14:7-1.5 Welding

Welds, other than factory welds, on steel pipe of the physical and chemical properties for which the effective American Petroleum Institute Standard 1104 and Federal Code, hereinafter referred to in this subchapter as Welding Standards, are applicable shall be made in accordance with such Welding Standards, incorporated herein by reference.

14:7-1.6 Quality control of field welding

All pipeline and piping welders shall be qualified in accordance with the requirements for the qualification of welders as set forth in Welding Standards. Throughout the construction period, any representative samples of welds made by a welder or welding crew shall be removed from the line and tested to destruction in accordance with the provisions of the Welding Standards or shall be radiographically examined in accordance with the Welding Standards or examined by any other acceptable methods, the conditions for which are set forth in the Federal Code.

14:7-1.7 Fabrication details

(a) The requirements set forth in (b) through (d) below in addition to the requirements of the Federal Code shall be applicable to the construction of gas pipelines.

(b) Straight pipe may be bent cold in the field by any of the accepted methods of smooth bending provided that the wall thickness and strength of the pipe after bending is not less than that required under the applicable provisions of the Federal Code for straight pipe of the same diameter and grade.

(c) Branch connections for transmission pipelines fabricated by welding shall be of the reinforced type made in accordance with the rules for reinforced connections as provided in the Federal Code. However, line taps may be made under pressure in the sizes and at the pressure at which the line tapping equipment is recommended for use by the manufacturer, provided that all proper safeguards against injury to persons and property are taken.

(d) Mitre welds shall be made in accordance with the Federal Code.

14:7-1.8 Crossings

At points where a natural gas pipeline intersects a railroad or a New Jersey State Highway, such pipeline shall be installed in accordance with the specifications and standards established by the authority or agency having jurisdiction over the right-of-way.

14:7-1.9 Lines under or adjacent to railroads and highways

(a) Every gas pipeline constructed and operated within the boundaries of a railroad right-of-way or a public hard surface highway or street or within 25 feet thereof, shall conform to the standards and requirements of the Federal Code for gas pipelines in Location Class 3 or 4.

(b) In the construction of any gas pipeline parallel to railroad tracks, consideration shall be given to the character of the railroad traffic and the pressure and diameter of the gas pipeline in establishing the following:

1. The minimum amount of cover required over such pipeline;
2. The minimum proximity of the gas pipeline to the railroad track;
3. The need for additional valves to permit the prompt shutting off of gas in the event of pipeline failure or any other emergency; and
4. The need, if any, for casing.

(c) Whenever reasonably possible to avoid doing so, a gas pipeline subjected to or intended to be subjected to pressure in excess of 125 psig, should not be installed beneath and parallel to or within 25 feet of any public hard surface road or street. When such a gas pipeline is so installed the construction shall conform, as far as casing is concerned, to the provisions of N.J.A.C. 14:7-1.8 to the extent reasonably practicable.

(d) Notwithstanding the provisions of N.J.A.C. 14:7-1.8, all applicable rules of other State or local agencies having jurisdiction which exceed the requirements of said rule shall be effective.

Amended by R.1995 d.303, effective June 19, 1995.
See: 27 N.J.R. 870(a), 27 N.J.R. 2428(a).

14:7-1.10 Valve requirements

(a) Sectionalizing valves for distribution pipelines shall be installed and maintained at strategic points on the pipeline system at intervals which will permit sections of the line to be isolated. Sectionalizing valves for transmission pipelines shall conform at a minimum to the transmission pipeline valve spacing requirements in 49 C.F.R. 192.179, except that for new installations in locations that are classified as Class 1 or Class 2 in the Federal regulations the valve spacing shall conform to the Class 3 requirements.

(b) Within the boundaries of cities and villages or in the vicinity thereof, sufficient additional valves shall be provided and other appropriate steps taken to provide means for promptly turning off the gas and rapidly reducing the pressure in any section of pipe in the event of a pipeline failure or other emergency.

(c) Each pipeline company shall designate a representative or representatives in New Jersey who are familiar with the location and operation of the valves required by this section. The names, addresses, and telephone numbers of these representatives shall be furnished to the Secretary of the Board. Such representatives shall be available at all times for emergency services. The clerks of the municipalities through which the line is laid shall be furnished with a 24 hour emergency telephone number in addition to any obligations that the pipeline company may have to the municipalities pursuant to the Federal Code.

Amended by R.1997 d.128, effective March 17, 1997.
See: 28 N.J.R. 5146(a), 29 N.J.R. 104(b), 29 N.J.R. 903(b).

In (a), substituted "Sectionalizing valves for distribution pipelines" for "Shut-off valves" and added last sentence; deleted (b), relating to certain areas outside of cities and villages; recodified former (c) and (d) as (b) and (c); and in (c), substituted "valves required by this section" for "shut-off valves".

14:7-1.11 Valve assessment and emergency closure

(a) By June 17, 1997, a transmission pipeline operator shall submit a sectionalizing valve assessment and emergency closure plan for each of the operator's transmission pipelines that is designed to achieve rapid closure of valves in the event of an emergency. Each plan shall include a map showing the spacing of valves in accordance with N.J.A.C. 14:7-1.10 and a detailed evaluation of each Class 3 or Class 4 valve location that does not have a remotely controlled or automatically controlled valve.

1. Each Class 3 or Class 4 valve location shall be evaluated and prioritized as either high priority or low priority as to the need for installation or retrofit of a remotely controlled or automatically controlled valve. This evaluation and prioritization shall include consideration of the following factors:

- i. The population density of the valve location;
- ii. The amount of time that would be required to close the existing valve, based on the size and type of the valve and the valve operator;

iii. The accessibility of the valve location in times of emergency, including a consideration of likely traffic conditions during the emergency;

iv. The proximity of environmentally sensitive areas;

v. The potential for third party damage;

vi. The right-of-way conditions;

vii. The corrosion history of the transmission line;

viii. The design of the transmission line;

ix. The operation conditions of the transmission line;

x. The cost of the installation or retrofit; and

xi. Any other factors that the pipeline operator considers appropriate, subject to the approval of these factors by the Board staff.

2. The plan shall set forth a timetable for the installation or retrofit, at each high priority location, of remotely controlled or automatically controlled valves within two years of the date the plan is approved.

(b) Within three months of receipt of an operator's valve assessment and emergency closure plan, the Board shall review and approve the plan, with such modifications as the Board deems necessary, including changes in the prioritization of the valve locations, to ensure the rapid closure in an emergency of any sectionalizing valve on the transmission pipeline.

(c) The valve assessment and emergency closure plan shall be updated annually to account for changes in population density, new transmission lines, new valve technology, and other material changes, and shall be submitted to the Board for review at least once each calendar year, and within an interval not to exceed 15 months.

(d) A valve assessment and emergency closure plan shall include training for the appropriate operating personnel to ensure that they are knowledgeable of emergency plans and procedures. An emergency closure drill that simulates shutting down a selected section of transmission line shall be performed at least once in a calendar year, but within an interval not to exceed 15 months. A final audit report of each emergency closure drill shall be submitted to the Board for review.

(e) A valve assessment and emergency closure plan that is submitted pursuant to this section shall be entitled to confidential treatment by the Board. Unless specifically provided for by Federal or State law, no person shall have access to a valve assessment and emergency closure plan other than the Board, the appropriate Board personnel, and any authorized agent of the Board if the Board determines that such disclosure is necessary in order for the authorized agent to perform the work in connection with the conduct of the Board's business.

Repeal and New Rule, R.1997 d.128, effective March 17, 1997.
See: 28 N.J.R. 5146(a), 29 N.J.R. 104(b), 29 N.J.R. 903(b).
Section was "Automatic valves".

14:7-1.12 Blow-offs

Automatic blow-off or pressure relieving devices shall be installed in such a manner that the released gas will not present a hazard to nearby persons or property. Manually operated blow-off valves shall be operated in such a manner as to avoid hazard to nearby property or persons.

14:7-1.13 Installation of pipe

Inspection for storage and handling of pipe shall be adequate to assure that the pipe installed will be free of nicks or other forms of damage which would tend to produce a concentration of stresses or otherwise reduce the strength of the pipe below the minimum required under the applicable provisions of the Federal Code for the services conditions at which it is intended to operate the pipeline.

14:7-1.14 Minimum cover of mains

(a) Gas pipelines within the scope of this subchapter shall be laid with a cover of not less than 24 inches above the top of the pipe except where interference with other subsurface structures makes it impracticable to maintain this depth of cover, in which event the pipe shall be cased or protected with a suitable shield of metal. Gas pipelines shall be laid so as to avoid other subsurface structures and such pipelines shall not be laid within the distance of less than 12 inches from any other subsurface structure whenever reasonably practicable to avoid doing so. A structure providing a space in which a substantial volume of an explosive mixture might accumulate in the event that gas escapes from the pipeline shall be avoided when reasonably practicable to do so and preference shall be given to crossing over rather than under such structures.

(b) Whenever conditions permit, gas pipelines within cities and villages shall be laid with a cover of not less than 36 inches above the top of the pipe.

14:7-1.15 Projections

Any portion of a pipeline which protrudes above the ground shall be conspicuously painted, marked or fenced or otherwise protected against damage or tampering.

14:7-1.16 Corrosion control

(a) Except as provided in (b) below, each buried or submerged metallic pipeline installed after July 31, 1971, shall require an external protective coating and a cathodic protection system designed to protect the pipeline in its entirety in accordance with the Federal Code, installed and placed in operation within one year after completion of construction. An operator need not comply with this provision if tests, investigations or experience demonstrate that:

1. A corrosive environment does not exist with regard to copper pipelines; or

2. Corrosion during the life of a temporary pipeline (not to exceed five years of service) will not be detrimental to public safety.

(b) Each buried or submerged metallic pipeline installed prior to August 1, 1971, shall conform to the requirements as set forth in the Federal Code.

(c) Whenever pipe coating is applied, the following additional precautions should be taken by the company:

1. Tests and inspections shall be made before backfill to insure that the coating is adequate and satisfactory;
2. During backfill, precautions shall be taken to insure the coating is not damaged; and
3. On completion of backfill, tests shall be made to ascertain if the coating is adequate and satisfactory.

(d) After installation of a pipeline, periodic inspection or tests of the line shall be conducted to determine whether or not the pipe metal is adequately protected. Each company shall maintain a suitable log, indicating the character and results of periodic inspection tests.

(e) Beginning September 7, 1994, each operator shall perform flame ionization surveys on all bare and coated unprotected steel service lines at intervals not exceeding five years. The survey results shall be summarized and maintained by the utility, along with the original surveys. Replacement of all bare steel service lines within a definable area shall be required when records indicate that 20 percent or more of the services within that definable area have exhibited leaks.

14:7-1.17 Testing

(a) Testing of all natural gas transmission and distribution pipelines shall be performed in accordance with the provisions of the Federal Code.

(b) The Board shall be notified at least two working days prior to pressure testing of any gas transmission pipeline. Officials of municipalities wherein a line is to be tested shall also be notified in order that proper and adequate police protection may be provided.

(c) When water is used for the testing of a gas transmission pipeline, suitable provisions shall be made for disposal of the water on completion of the test. Suitable precautions shall also be taken to avoid contamination of local streams or water supplies in the event of a line failure.

(d) Test pressure, in accordance with (b) and (c) above, shall be maintained wherever possible for a period of 24 hours but in no event for a period of less than 12 hours.

14:7-1.18 Purging

Air shall be purged from pipelines classed under N.J.A.C. 14:7-1.3 as Location Class 2, 3, or 4 piping systems by

introducing a suitable quantity of inert gas into the pipelines ahead of the combustible gas, or by any other suitable method which prevents formation of an explosive mixture in the pipeline.

Amended by R.1995 d.303, effective June 19, 1995.
See: 27 N.J.R. 870(a), 27 N.J.R. 2428(a).

14:7-1.19 Piping

Gas piping in gas compressor stations shall be installed in accordance with the provisions of the Federal Code applicable to compressor station piping.

14:7-1.20 Relief devices

Pressure relief or other adequate protective devices of sufficient capacity and sensitivity shall be installed and maintained to assure that the maximum allowable working pressure of the station piping is not exceeded. Suitable provisions shall be made for safely disposing of the gas released from such devices. Periodic tests and inspections shall be made to assure continued sensitivity of these devices.

14:7-1.21 Remote safety shut-downs

Each compressor station with installed horsepower of more than 1,000 and operating at pressures in excess of 250 psig shall be provided with remote emergency shut-down devices which will allow the station to be shut down from a remote point, away from the compressor building.

14:7-1.22 Clearance

Compressor stations to be located on gas pipelines shall not be constructed in areas where such construction is prohibited under applicable zoning regulations and laws. At locations where a compressor station is constructed, the distance between a building not under the control of the pipeline company and intended for human occupancy and the main compressor room of the compressor station which is intended to operate at pressures in excess of 250 psig shall not be, at the time of construction of the station, less than the distance indicated in the following table:

Installed Horsepower	Distance from Structure in Feet
Under 1,000	250
1,000 and over	500

14:7-1.23 Fire prevention

Supplies of gasoline, lubricants, paints and other similar combustible materials in excess of those required in actual operation shall be stored at a safe distance from the compressor building. Gas engine crankcases shall be vented outside the building with a vent not smaller than the connection provided by the compressor manufacturer. Warning signs adequate to indicate the danger involved shall be placed in conspicuous locations around the compressor station area.

14:7-1.24 Electric installations

All electric wiring, fixtures and devices within compressor buildings shall be designed and installed in accordance with Article 500 of the edition of the National Electrical Code currently recognized by the Federal Code, and shall meet the requirements thereof for Class I locations and shall also conform to applicable provisions of the edition of the National Electrical Safety Code currently recognized by the Federal Code, incorporated herein by reference.

14:7-1.25 Ventilation

Compressor stations shall be provided with adequate natural draft ventilating devices.

14:7-1.26 Piping

All gas piping in meter and regulator stations shall comply with the requirements of the Federal Code for such piping.

14:7-1.27 Electric installations

All electric wiring fixtures and devices in meter and regulator station buildings shall be designed and installed in accordance with Article 500 of the edition of the National Electrical Code currently recognized by the Federal Code and shall meet the requirements thereof for Class I locations, and shall also conform to applicable provisions of the edition of the National Electrical Safety Code currently recognized by the Federal Code.

14:7-1.28 Ventilation and protection, transmission lines

Meter and regulator stations located on gas pipelines shall be provided with adequate ventilation. Any such station constructed underground shall be provided with double duct ventilation, each duct to be of a size sufficient to insure adequate ventilation but not less than four inches in diameter and shall extend a suitable height above ground level. All regulator stations located on gas pipelines shall be provided with a sufficient number of relief valves or other protection devices to insure that the complete failure of one or more regulator stations shall not impose pressures on any part of the transmission system beyond those which it is designed for or protected against.

14:7-1.29 Odorization

(a) All gas transmitted by gas pipelines having an insufficient odor of its own to serve as a warning agent in the event of the escape of unburnt gas shall be odorized with a suitable odorant. The Board shall be notified of the type of odorant used and the rates at which it will be added to the gas and the location of the odorization stations. A suitable log shall be kept showing the quantity of odorant added and the volume of gas odorized. Periodic tests should be made at various points in each transmission system to determine the adequacy of the odorization of the gas and a suitable record of such tests should be maintained.

(b) Equipment for introduction of the odorant into the gas shall be so designed as to provide a uniform level of odor in the gas. The equipment and facilities for handling the odorant shall be located where the escape of odorant would not be a nuisance.

14:7-1.30 Accidents

(a) Each gas pipeline company shall keep a record of and report to the Board all accidents which come within the meaning of reportable accidents as defined in this subsection, occurring in connection with the operation of the utility's plant property or facilities within the State.

(b) For the guidance of gas pipeline companies, a reportable accident is defined as an accident other than a motor vehicle accident that results in one or more of the following circumstances:

1. Death of a person;
2. Serious disabling or incapacitating injuries to persons, including employees of the company;
3. Damage to the property of the company which materially affects its service to the public; and
4. Damage to the property of others amounting to more than \$1,000.

(c) The Board shall be notified promptly by the speediest means of communication available of all accidents which are clearly reportable and those which there is good reason to believe may result in "reportable accidents" as defined herein. If such notification is not given in any case for the reason that the accident is not considered reportable, and it subsequently develops that the accident is reportable, the gas pipeline company involved shall notify the Board immediately after it has been ascertained that such accident is reportable.

14:7-1.31 Interruptions

Service interruptions affecting customers in New Jersey shall be reported to the Board promptly by the speediest means of communication available. However, interruptions to service made in accordance with provisions set forth in contracts between gas pipeline companies and their customers need not be reported.

14:7-1.32 Proposed construction

At least 30 days prior to the construction or major reconstruction of any gas pipeline intended to be subjected to pressure in excess of 125 psig, a report shall be filed with the Board setting forth the specifications of such pipeline.

14:7-1.33 Compliance; supplementary data on tests

(a) Before a transmission pipeline is placed in operation, a statement shall be submitted to the Board certifying that the pipeline has been tested and meets the requirements of the Federal Code and other rules herein for the maximum service pressure at which it will be operated. This statement shall also include:

1. Pressures at which the lines were tested;
2. The computation of maximum allowable working pressures in conformity with the provisions of the Federal Code; and
3. The results of leakage or tightness tests made on the line.

(b) No gas pipeline shall be operated at pressures in excess of the pressure for which it was certified to the Board.

(c) In instances where gas pipelines which come within the scope of N.J.S.A. 48:10-2 to 10-9 were placed in service prior to the effective date of these rules, a statement shall be filed with this Board within 60 days of the effective date of said rules indicating:

1. The nature of such test such pipeline was subject to before being placed in service;
2. The pressures at which the lines were tested;
3. Computation of maximum allowable working pressure; and
4. The results of leakage or tightness tests made on such line.

14:7-1.34 Monthly patrols

Each transmission pipeline operator shall have a patrol program with patrols at least once per month in Class 3 and Class 4 locations to observe surface conditions on and adjacent to the transmission pipeline right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

New Rule, R.1997 d.128, effective March 17, 1997.
See: 28 N.J.R. 5146(a), 29 N.J.R. 104(b), 29 N.J.R. 903(b).

14:7-1.35 Public outreach

(a) Each transmission pipeline operator shall establish and maintain liaison with appropriate fire, police, and other public officials to:

1. Learn the responsibilities and resources of each government organization that may respond to a gas pipeline emergency;
2. Acquaint the officials with the operator's ability in responding to a gas pipeline emergency;
3. Identify the types of gas pipeline emergencies of which the operator notifies the officials; and
4. Plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property.

(b) Each operator that is a public utility shall offer to meet on at least an annual basis with appropriate fire, police, and other public officials of each municipality through which its transmission pipeline traverses as part of

the liaison required pursuant to (a) above. An operator shall maintain records of its attempts to meet with local officials and of attendance and the basic topics covered at these meetings and shall make such records available for inspection by Board staff.

(c) Each transmission pipeline operator shall provide annual notice of the existence of the pipeline to the residents of properties abutting the operator's pipeline, including the operator's telephone number which the resident may use to report any unusual odors or activities, including construction or dumping, around the pipeline. This notice may be mailed or distributed door-to-door to the abutting residents.

New Rule, R.1997 d.128, effective March 17, 1997.
See: 28 N.J.R. 5146(a), 29 N.J.R. 104(b), 29 N.J.R. 903(b).

14:7-1.36 Damage prevention

(a) A transmission pipeline operator shall make all reasonable efforts to provide on-site inspection oversight immediately prior to and during any excavation or backfilling, of which the operator is notified by the One Call System operator pursuant to N.J.S.A. 48:2-73 et seq., that exposes or potentially exposes the operator's transmission pipeline. An operator shall maintain documentation of its efforts to provide oversight and shall make such documentation available to Board staff upon request.

(b) An operator shall place a yellow subsurface marking or warning tape in the backfill above a transmission or distribution pipeline whenever the pipeline is installed, repaired or replaced, except that this requirement shall not apply to a transmission or distribution pipeline that is being installed, repaired or replaced by directional drilling or boring.

New Rule, R.1997 d.128, effective March 17, 1997.
See: 28 N.J.R. 5146(a), 29 N.J.R. 104(b), 29 N.J.R. 903(b).

SUBCHAPTER 2. NOTICES OF PROBABLE VIOLATIONS, INFORMAL CONFERENCES, CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

14:7-2.1 Scope and purpose

This subchapter shall govern the Board's assessment of civil administrative penalties for violations of any law, rule, regulation or order pertaining to natural gas pipeline safety, including violations of the Underground Facility Protection Act (P.L. 1994, c.118) pertaining to natural gas pipeline safety. This subchapter shall also govern the procedures for issuing Notices of Probable Violations, requesting an informal conference, and requesting an adjudicatory hearing on a Notice of Civil Administrative Penalty Assessment or an administrative order.

14:7-2.2 Definitions

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

“Act” means N.J.S.A. 48:9-33, as amended.

“Board” means the Board of Public Utilities.

“Gas Division” means the Division of Gas, within the Board.

“Bureau” means the Bureau of Pipeline Safety, within the Gas Division.

14:7-2.3 Notices of probable violations and informal conferences

(a) Upon discovery of a probable violation of any law, rule, regulation or order pertaining to natural gas pipeline safety, including violations of the Underground Facility Protection Act (P.L. 1994, c.118) pertaining to natural gas pipeline safety, the Gas Division may issue a written Notice of Probable Violation to the alleged violator. The Notice of Probable Violation shall state the facts which constitute the probable violation and identify the provision of law, rule, regulation or order violated.

(b) The party cited shall respond to the Notice of Probable Violation in writing to the Gas Division within 14 days of receipt of the Notice of Probable Violation. The response may include a request for an informal conference with the Gas Division and Bureau.

(c) The Notice of Probable Violation may be resolved informally following the alleged violator’s response and informal conference, if any; or the staff of the Gas Division and the alleged violator may enter into a written settlement agreement, which shall be presented to the Board for approval.

(d) If the Notice of Probable Violation is not resolved following the informal procedure set forth in (b) and (c) above, the Board may proceed with the Administrative Order and Notice of Civil Administrative Penalty Assessment procedure as set forth in N.J.A.C. 14:7-2.4 and 2.5.

(e) The procedure set forth in this section shall not prevent the Board from issuing an Administrative Order and Notice of Civil Administrative Penalty Assessment pursuant to N.J.A.C. 14:7-2.4 and 2.5 at any time upon discovery of a probable violation of any law, rule, regulation or order pertaining to natural gas pipeline safety, including violations of the Underground Facility Protection Act (P.L. 1994, c.118) pertaining to natural gas pipeline safety, nor shall the procedures in this section be deemed to affect the availability of any other enforcement provision provided for by law, in connection with the probable violation.

14:7-2.4 Procedures for assessment and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty under the authority of N.J.S.A. 48:9-33, for violation of any law, rule, regulation or order pertaining to natural gas pipeline safety, or for violations of the Underground Facility Protection Act (P.L. 1994, c.118) pertaining to natural gas pipeline safety, the Board shall, by means of an Administrative Order and Notice of Civil Administrative Penalty Assessment, notify the alleged violator by certified mail (return receipt requested) or by personal service. The Board may, in its discretion, assess a civil administrative penalty for more than one offense in a single Administrative Order and Notice of Civil Administrative Penalty Assessment or in multiple Administrative Orders and Notices of Civil Administrative Penalty Assessment. The Administrative Order and Notice of Civil Administrative Penalty Assessment shall:

1. Identify the provision of the law, rule, regulation or order violated;
2. Concisely state the facts which constitute the violation;
3. Order such violation to cease;
4. Specify the amount of the civil administrative penalty to be imposed; and
5. Advise the alleged violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 14:7-2.5.

(b) Payment of the civil administrative penalty is due upon receipt by the alleged violator of the Board's Final Order in a contested case or when an Administrative Order and Notice of Civil Administrative Penalty Assessment becomes a Final Order, as follows:

1. If no hearing is requested pursuant to the procedures in N.J.A.C. 14:7-2.5, an Administrative Order and Notice of Civil Administrative Penalty Assessment shall become a Final Order on the 21st day following receipt of the Administrative Order and Notice of Civil Administrative Penalty Assessment by the violator;

2. If the Board denies the hearing request, pursuant to the provisions of N.J.A.C. 14:7-2.5, an Administrative Order and Notice of Civil Administrative Penalty Assessment shall become a Final Order upon receipt by the violator of notice of such denial; or

3. If an adjudicatory hearing is conducted, an Administrative Order and Notice of Civil Administrative Penalty Assessment shall become a Final Order upon receipt by the violator of a Final Order in a contested case.

14:7-2.5 Procedures to request an adjudicatory hearing to contest an administrative order and notice of civil administrative penalty assessment and procedures for conducting adjudicatory hearings

(a) To request an adjudicatory hearing to contest an Administrative Order and Notice of Civil Administrative Penalty Assessment issued pursuant to the Act, the alleged violator shall submit the following information in writing to the Secretary of the Board, Attention: Adjudicatory Hearing Requests/Pipeline Safety, Board of Public Utilities, Two Gateway Center, Newark, New Jersey 07102:

1. The name, address and telephone number of the alleged violator and its authorized representative;

2. The alleged violator's defenses, stated in short and plain terms, to each of the Board's findings of fact contained in the Administrative Order and Notice of Civil Administrative Penalty Assessment;

3. An admission or denial of each of the Board's findings of fact contained in the Administrative Order and Notice of Civil Administrative Penalty Assessment. If the alleged violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the alleged violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the alleged violator intends, in good faith, to deny only a part of or qualify a finding, the alleged violator shall specify so much of it as true and material and deny only the remainder. The alleged violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding denied, the alleged violator shall allege the fact or facts as the alleged violator believes it or them to be;

4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location to accommodate physically disabled persons.

(b) If the Board does not receive the hearing request within 20 days after receipt by the violator of the Administrative Order and Notice of Civil Administrative Penalty Assessment being challenged, the Board shall deny the hearing request.

(c) If the alleged violator fails to include all the information required by (a) above, the Board may deny the hearing request.

(d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

14:7-2.6 Civil administrative penalty determination

(a) The Board may assess a civil administrative penalty of not more than \$25,000 for each violation, for each day the violation persists, up to a maximum of \$500,000 for any related series of violations, against each person who violates the provisions of any law, rule, regulation or order relating to natural gas pipeline safety, including violations of the Underground Facility Protection Act (P.L. 1994, c.118) pertaining to natural gas pipeline safety.

(b) In determining the amount of the civil administrative penalty assessed, or an amount agreed upon in compromise, the Board shall consider:

1. The nature, circumstances and gravity of the violation(s);

2. The degree of the violator's culpability;

3. Any history of prior violations;

4. The prospective effect of the penalty upon the ability of the violator to conduct business;

5. Any good faith effort by the violator to achieve compliance;

6. The violator's ability to pay the penalty; and

7. Any other factors justice may require.

(c) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by law, in connection with the violation for which the assessment is levied.