

Procedural Guidelines for Enforcement of Pipeline Safety Standards *

I. *Inspection*

- A. When an inspection of an operator's records, facilities, construction, etc., (including investigations of reported incidents) reveals that the operator may be in probable violation of the Pipeline Safety Standards as adopted by the State Corporation Commission ("Commission"), the inspector will provide notification thereof to the operator.
- B. If a probable violation is considered by the inspector to represent an immediate danger to life, health, or property, the operator will be asked to take immediate corrective actions.
- C. During or following an inspection, the operator may provide the inspector with documents or other evidence to support the operator's position relating to an alleged violation of the Commission's Pipeline Safety Standards.

II. *Notice of Investigation*

- A. When an inspection reveals that one or more probable violations of the Commission's Pipeline Safety Standards may have occurred, a formal Notice of Investigation ("NOI") will be sent to the operator.
- B. The NOI will include the date(s) and location(s) of the inspection, a description of the findings, and the regulations and/or statutory codes

* Posted October 2017. These internal guidelines have been developed, and can be modified and re-posted from time-to-time, by the Commission's Division of Utility and Railroad Safety and do not alter an operator's obligation to comply with all applicable state and federal laws and regulations.

that the operator is alleged to have violated.

- C. The NOI will also provide an opportunity for the operator to submit a written response to the NOI, which may include additional or new information, within a specified time frame.
- D. Following further review, the Commission's Division of Utility and Railroad Safety ("Division") will determine what type of enforcement action, if any, is appropriate for the probable violation(s) and will inform the operator thereof.

III. *Notice of Probable Violation*

- A. If the Division determines that a Notice of Probable Violation ("NOPV") should be issued, the written NOPV will be sent to the operator (by certified letter or other form of communication mutually acceptable to the Division and operator) and clearly designated "Notice of Probable Violation."
- B. The NOPV will include the inspection results and the regulations and/or statutory codes that the operator is alleged to have violated.
- C. The NOPV will include a draft Settlement Order outlining settlement terms the Division is willing to recommend for the Commission's consideration. The settlement terms may include provisions for civil penalties and/or remedial actions.
- D. Any civil penalty included in a draft Settlement Order will be limited to the requirements set forth in Code § 56-257.2 and the federal Pipeline Safety Act.
- E. The NOPV will identify response options available to the operator by specified dates, which options may include: (i) agreement to the settlement terms contained in the draft Settlement Order;

- (ii) attending a settlement meeting with the Division; and
- (iii) submitting a written reply disputing the probable violations in the NOPV.

IV. *Results from NOPV*

- A. If the operator fails to respond in accordance with the provisions of the NOPV, the Division may recommend that the Commission issue a Rule to Show Cause against the operator.
- B. If a settlement is reached by the Division and the operator, the Division will submit the proposed Settlement Order, along with any relevant attachments, to the Commission for its consideration. The final decision to accept or modify a proposed settlement is made by the Commission.
- C. If the Division and the operator do not reach settlement, the Division may present the matter to the Commission for formal action, which may include issuance of a Rule to Show Cause directing the operator to show cause why it should not be penalized on account of the alleged probable violations.

V. *Injunctions*

- A. Whenever the Division finds a particular pipeline facility to be hazardous to health, life, or property, the Division may, pursuant to Code § 12.1-13, request that the Commission temporarily enjoin the operation of the facility until specific corrective action has been taken.
- B. Following the issuance of a temporary injunction, a hearing may be scheduled, as soon as possible, to determine if the injunction should be made permanent.