

Title 43
NATURAL RESOURCES
Part XI. Office of Conservation--Pipeline Division
Subpart 3. Pipeline Safety
Chapter 5. Pipeline Safety

§501. Service

A. Except as herein provided, any order, notice or other documents required to be served under this regulation shall be served personally or by registered or certified mail.

B. Should the assistant secretary elect to make personal service, it may be made by any officer authorized to serve process or any agent or employee of the assistant secretary in the same manner as is provided by law for the service of citation in civil actions in the district courts. Proof of service by an agent or employee shall be by the affidavit of the person making it.

C. Service upon a person's duly authorized representative, officer or agent constitutes service upon that person.

D. Service by registered or certified mail is complete upon mailing. An official U.S. Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:600 (September 1986).

§503. Subpoenas

A. The assistant secretary may sign and issue subpoenas either on his own initiative or, upon request and adequate showing by any person participating in any proceeding before the assistant secretary that the information sought is relevant and will materially advance the proceeding.

B. A subpoena may require the attendance of a witness for the purpose of giving testimony, or the production of documents or other tangible evidence in the possession or under the control of the person served, or both.

C. A subpoena may be served by any agent of the Office of Conservation, by the sheriff of the parish where service is to be made or the parish where the action is pending or by any other person authorized by law to serve process in this state.

D. Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person. Delivery of a copy of subpoena may be made by handing them to the person, leaving them at his office with person, leaving them at his office with persons in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, or by any method whereby actual notice is given to him.

E. When the person to be served is not a natural person, delivery of a copy of the subpoena may be affected by handing them to a designated agent or representative for service, or to any officer, director, or agent in charge of any office of the person.

F. The original subpoena bearing a certificate of service shall be filed in the assistant secretary's records for the proceedings in connection with which the subpoena was issued.

G. No person shall be excused from attending and testifying or producing books, papers, or records, or from obeying the subpoena of the assistant secretary, or of a court of record on the grounds that the testimony or evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. Pursuant to R.S. 30:8(4), no natural person shall be subject to criminal prosecution or to any penalty or forfeiture on account of anything concerning which he may be required to testify or produce evidence before the assistant secretary or a court of law; however, no person testifying shall be exempt from prosecution and punishment for perjury.

H. In the case of failure or refusal of a person to comply with a subpoena issued by the assistant secretary, or in the case of a refusal of a witness to testify or answer as to a matter regarding which he may be lawfully interrogated, any district court on the application of the assistant secretary may, in term time or in vacation, issue an attachment for the person to compel him to comply with the subpoena and to attend before the assistant secretary with the desired documents and to give his testimony upon whatever matters are lawfully required. The court may punish for contempt those disobeying its orders as in the case of disobedience of a subpoena issued by the court of refusal to testify therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:600 (September 1986).

§505. Inspection, Field Inspection Reports

A. Officers, employees or agents authorized by the assistant secretary, upon presenting proper credentials, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent that such records and properties are relevant to determining compliance of such person with R.S. 30:501 et seq., R.S. 33:4531 et seq., and R.S. 40:1892 et seq., or any rules, regulations or orders issued thereunder.

B. Inspection may be conducted pursuant to a routine schedule, a complaint received from a member of the public, information obtained from a previous inspection, report of accident or incident involving

facilities, or whenever deemed appropriate by the assistant secretary.

C. If, after inspection, the assistant secretary believes that further information is needed or required to determine compliance or appropriate action, the assistant secretary may request specific information of the person or operator to be answered within 10 days of receipt of said request.

D. The assistant secretary may, to the extent necessary to carry out his responsibilities, require reasonable testing of any portion of a facility in connection with a violation or suspected violation.

E. When information obtained from an inspection indicates that a violation has probably occurred, the inspector shall complete a field inspection report as to the nature of the violation citing the specific provisions which have been violated. Said field inspection report shall be filed with the assistant secretary for review and further action, if appropriate.

F. The assistant secretary or his agent, after review of the field inspection report, and depending upon the severity of the violation and the exigency of the situation, may issue to the operator a letter of noncompliance or initiate one or more enforcement proceedings prescribed by §§509-517 hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:600 (September 1986).

§507. Letter of Noncompliance, Relief Therefrom

A. Upon determination that a probable violation of R.S. 30:501 et seq., R.S. 33:4521 et seq., or R.S. 40:1892 et seq., or any rule, regulation or order issued thereunder has occurred, the assistant secretary may institute enforcement procedures by serving upon the intrastate natural gas pipeline operator a letter of noncompliance notifying said operator of said probable violation and directing said operator to correct said violation within a designated period of time to be determined by the assistant secretary or be subject to enforcement action prescribed by §§509-517 hereof. A copy of the field inspection report or other evidence of violation shall be attached to the letter of noncompliance. The letter of noncompliance may inform the operator of the time at which reinspection of the facility will be conducted to confirm compliance and shall inform the operator of the time delays and procedure available to said operator for securing relief from said letter of noncompliance.

B. Except in cases of emergency action instituted pursuant to §513 hereof, within seven days of receipt of a letter of noncompliance, the operator who believes himself to be in compliance with the applicable statute and the rules, regulations or orders issued thereunder or who believes the time limits imposed upon him for compliance to be

burdensome, may request a conference before the assistant secretary or his designated agent. The operator's request for said conference may be verbal or presented in writing.

C. The conference before the assistant secretary or his agent shall be informal without strict adherence to rules of evidence. The operator may submit any relevant information and materials which shall become part of the record and may examine the assistant secretary's files relative to the probable violation. If circumstances are deemed appropriate by the assistant secretary and upon request of the operator, this conference may be held by telephone conference.

D. Upon conclusion of the conference for relief, the assistant secretary may issue to the operator a modified letter of noncompliance extending the time for compliance or containing such other terms and conditions as may be appropriate considering the nature of the probable violation, the circumstances and exigency of the situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:601 (September 1986).

§509. Reinspection, Show Cause Conference

A. Upon expiration of the delay allowed in the letter of noncompliance or modified letter of noncompliance for correcting said probable violation, the operators facilities shall be reinspected and if the operator is found to be in compliance, the enforcement file for said violation will be closed.

B. If upon reinspection the operator is found to be in violation of the statute, rule or regulation for which a letter of noncompliance has been issued, the assistant secretary may:

1. reissue citation to the operator in the form of a letter of noncompliance containing such modifications or extensions of time as the case may warrant;

2. require that the operator attend a show cause conference with the assistant secretary or his agent to review the complaint and the operators effect in resolving or correcting the violation and at the conclusion of said conference the assistant secretary may reissue a modified letter of noncompliance containing such modifications or extensions of time as the case may warrant; or

3. immediately after reinspection or after the show cause conference, initiate one or more enforcement proceedings prescribed by §§511-517.

C. The show cause conference shall be conducted informally without strict adherence to the rules of evidence. The operator may submit any relevant information, call witnesses on his behalf, and examine the evidence and witnesses against him. No detailed record of said conference shall be prepared but said record shall contain the materials in the enforcement case file pertinent to the issues, relevant submissions of the operator and the written recommendations of the assistant secretary or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:601 (September 1986).

§511. Show Cause Hearing, Notice, Rules of Procedure, Record, Order of Compliance

A. At any time that the assistant secretary determines that such action is appropriate, he may direct that an operator attend a formal show cause hearing and to show cause at said hearing why he should not be compelled to comply with applicable statutes and the rules and regulations promulgated thereunder.

B. The operator shall be given at least 10 days notice of said show cause hearing in the manner herein provided and shall be required to attend. The assistant secretary may issue such subpoenas as may be necessary for the attendance of witnesses and the production of documents.

C. The show cause hearing shall be conducted in accordance with the procedures for adjudication prescribed by the Administrative Procedure Act (R.S. 49:950 et seq.).

D. The record of the case shall include those items required by R.S. 49:955.E together with the enforcement file for the violation in question which enforcement file may include inspection reports and other evidence of violation, letters of noncompliance, modified letters of noncompliance, materials submitted by the operator pursuant to §§507-509, all correspondence and orders directed to the operator by the assistant secretary, all correspondence received by the assistant secretary from the operator, and evaluations and recommendations of the assistant secretary or his staff.

E. After conclusion of the show cause hearing the assistant secretary shall issue an order of compliance directed to the operator setting forth findings and determinations on all material issues, including a determination as to whether each alleged violation has been proven, and a statement of the actions required to be taken by the operator and the time by which such actions must be accomplished. The compliance order shall become final as specified by the Administrative Procedure Act.

F. The assistant secretary may tax the operator with all costs of said hearing including but not limited to transcription and service costs and hearing fees in the amount prescribed by R.S. 30:21.

G. The operator and the assistant secretary may consent to waiver of the show cause hearing and enter into a consent order which will become final and nonappealable upon its issuance.

H. If the operator fails to comply with the final order of compliance, the assistant secretary may take whatever civil or criminal action is necessary to enforce said order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:601 (September 1986).

§513. Emergency

A. Should the assistant secretary, the director of pipelines or the chief of pipeline safety find an existing emergency due to noncompliance with law or the rules, regulations or orders issued pursuant thereto or due to gas leakage or lack of malodorization which in his judgment requires the issuance of an emergency order or an order for the immediate termination of the offending service without first complying with the procedures set forth herein and without having a hearing, he may issue the emergency order or terminate said offending service and invoke a show cause hearing pursuant to §511 requiring the operator to show cause why the circumstances giving rise to the emergency should not be corrected. The emergency order or order for termination of the offending service shall remain in force no longer than 15 days from its effective date. In any event, the emergency order shall expire when the order made after notice and hearing with respect to the same subject matter becomes effective. An emergency is defined as the lack of malodorant in gas required to be malodorized or any situation where there is a substantial likelihood that loss of life, personal injury, health or property will result before the procedures under this regulation for notice and hearing can be fully complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:601 (September 1986).

§515. Civil Enforcement Injunction

A. Whenever it appears to the assistant secretary that any person or operator has engaged, is engaged, or is about to engage in any act or practice constituting a violation of R.S. 30:501 et seq., R.S. 33:4521 et seq., or R.S. 40:1892 et seq., or any rule, regulation or order issued thereunder, he may bring an action in the court having jurisdiction, to enjoin such acts or practice and to enforce compliance with the applicable statute and the rules, regulations and orders issued pursuant thereto, and upon proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunction commanding any person to comply with the applicable law or any rule, regulation or order issued thereunder, and to make restitution of money received in violation of any such rule, regulation or order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:602 (September 1986).

§517. Criminal Enforcement, Penalties

A. The assistant secretary may transmit such evidence as may be available concerning acts or practice in violation of R.S. 30:501 et seq., R.S. 33:4521 et seq.,

and R.S. 40:1892 et seq., or any rule, regulation or order issued pursuant thereto or any order issued pursuant to this regulation to the district attorney having jurisdiction over same who, in his discretion, may institute necessary proceedings to collect the penalties provided by statute.

B. Any person who willfully violates any provision of R.S. 30:501 et seq., or any rule, regulation or order issued pursuant thereto or any order issued pursuant to these enforcement regulations or who willfully furnishes false information to the assistant secretary shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than \$10,000 or

imprisoned for not more than one year, or both, for each violation.

C. Any person who fails to fully comply, within 60 days after receipt thereof, with any rules, regulation or order of the Office of Conservation adopted pursuant to the provisions of R.S. 33:4521 et seq., or R.S. 40:1892, or any order issued pursuant to this regulation shall be fined \$1,000 for each day he fails to comply therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 and 40:1892.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 12:602 (September 1986).