

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: February 15, 2012

To: The Commission
(Meeting of February 16, 2012)

From: Office of Governmental Affairs (OGA) – Sacramento

Subject: **Proposed Legislation on Safety Inspections**
Pending Introduction

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT AS SPONSOR

SUMMARY OF BILL:

This proposed bill would amend Public Utilities Code sections 4353 and 4453 to allow the California Public Utilities Commission (CPUC) to employ a risk-based approach in determining the frequency of inspections for master-metered natural gas and propane systems.

The Commission was urged to pursue legislation to replace the mandatory minimum audit requirements with a risk-based regime as one of three legislative recommendations made in the Independent Review Panel's report on the San Bruno explosion.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

Public Utilities (PU) Code Sections 4353 and 4453 currently require that each mobilehome park (MHP) master-metered natural gas and propane system must be inspected by the CPUC at least once every five years, regardless of the condition and compliance history of the operator. Substituting a risk-based inspection schedule for the set schedule would enable the CPUC to allocate its inspection resources more effectively to focus on the MHP and propane systems it determines are at the highest priority for inspection.

A risk-based inspection program would also allow the CPUC to allocate additional resources towards educating MHP and propane operators. Although training is necessary and very useful in improving operator compliance, the Commission is currently able to staff only two or three training seminars per year. A risk-based approach would enable the staff to balance the need for operator training with the need for field audits. A risk-based approach is supported by the Pipeline and Hazardous

Materials Safety Administration, which oversees the CPUC's gas pipeline safety program.

SUMMARY OF SUGGESTED AMENDMENTS:

The CPUC supports a risk-based approach for scheduling inspections of MHP natural gas and propane pipeline systems. Although the risk-based approach will be more effective than the current methods used for determining the frequency of inspections, it will not eliminate the need for periodic evaluations. The CPUC recommends that each system be inspected at least once every 10 years.

PU Code Section 4353 (b) – MHP Inspection Frequency

The proposed bill would amend this code section to “If the operator demonstrates compliance pursuant to subdivision (a), the distribution systems shall thereafter be inspected pursuant to a risk-based inspection schedule adopted by the commission.”

Recommended revision to the Proposed Bill:

Add the following condition to the proposed language: “If the operator demonstrates compliance pursuant to subdivision (a), the distribution systems shall thereafter be inspected pursuant to a risk-based inspection schedule adopted by the commission, at least once every 10 years.”

PU Code Section 4453 (b) – Propane Inspection Frequency

The proposed bill would change this section to “If the operator demonstrates compliance pursuant to subdivision (a), the distribution systems shall thereafter be inspected pursuant to a risk-based inspection schedule adopted by the commission.”

Recommended revision to the Proposed Bill:

Add the following condition to the proposed language: If the operator demonstrates compliance pursuant to subdivision (a), the distribution systems shall thereafter be inspected pursuant to a risk-based inspection schedule adopted by the commission, at least once every 10 years.”

DIVISION ANALYSIS (Consumer Protection and Safety Division):

The CPUC has doubled the size of its natural gas inspection staff since September 2010 and created a dedicated Risk Assessment unit in September, 2011. The existing Risk Assessment unit will provide the necessary data and analysis to develop the risk-based inspection and auditing schedule. The CPUC does not anticipate any additional costs associated with implementation of a risk-based inspection schedule.

If the proposed bill passes, the CPUC would prioritize its inspection schedule using a risk-based approach. The CPUC would inspect operators it considers are a higher risk more frequently than operators who comply with the regulations and safely maintain their MHP natural gas or propane systems. In addition, if the CPUC were to implement a risk-based approach, it would expand its ability to inspect potentially unsafe systems as many times as it deems necessary to ensure safety and reliability. Including the CPUC's recommendation to inspect both MHP natural gas and propane systems at least once every 10 years will ensure that all systems are being safely maintained within a reasonable timeframe.

The Consumer Protection and Safety Division's (CPSD's) risk-based inspection process would be designed to ensure that only operators who consistently demonstrate an understanding of the regulations, cooperate with CPSD inspections, and comply with the most important aspects of regulations would be placed on a maximum 10-year inspection interval. Among the most important aspects related to regulations that CPSD's risk-based approach would consider include:

1. Operator maintains written plans for operating, maintaining, and responding to emergencies and these plans are acceptable to CPSD;
2. Leak surveys have been performed and documented as required by regulations;
3. Operator maintains cathodic protection to levels sufficient to reduce the likelihood of external corrosion on steel pipeline systems;
4. Operator has system maps which can be used to prevent excavation damage;
5. Operator's personnel have been qualified to perform covered tasks;
6. Operator has provided public awareness literature, which complies with regulations, to all customers served by the system.

CPSD performed a preliminary analysis, using data from previous inspections, to determine how many operators would have inspection frequencies extended, or decreased, compared to current requirements. Based on its analysis, CPSD found the following:

Natural Gas Master-metered:

- ❖ ~50%, or 1,738, operators would be candidates for an extended cycle
 - ~51% would have inspection intervals extended to up to 10 years
 - ~49% would be extended to seven years.
- ❖ ~43% will remain on current inspection frequency
- ❖ ~7%, or 179, operators would have inspection frequencies increased to less than 5 years

Propane:

- ❖ ~66%, or about 408, operators would be candidates for an extended cycle
 - ~58% would have inspection interval extended to up to 10 years
 - ~42% would be extended to seven years.

- ❖ ~24% will remain on current inspection frequency
- ❖ ~10%, or about 62, operators would have inspection frequencies increased below current requirements.

Changes to the current inspection frequency would not impact any master-metered operators served by Publicly Owned Utilities, who are not under the jurisdiction of the CPUC. Because they are not jurisdictional to the CPUC, it does not inspect such systems, nor do residents served gas by such systems pay a surcharge for the CPUC's inspection program.

Currently, Rulemaking (R.11-02-018) is underway to look for ways to transfer master-metered natural gas and electric systems to the serving Investor Owned Utilities (IOUs). It is unclear if R.11-02-018 will result in a mandatory transfer of all systems, or if transfers will be permitted on a voluntary basis. CPSD believes that any transfer program that may be established by R.11-02-018 would have to be carried out over a 10-20 year long program in order to balance IOU workloads and the significant costs such a program is expected to entail. Even with the many unknowns related to R.11-02-018, CPSD does not believe that any potential outcome of the rulemaking would inhibit CPSD from pursuing the risk-based program to inspect master-metered operators in mobilehome parks, or propane operators, as proposed here.

PROGRAM BACKGROUND:

Currently, the CPUC must inspect MHP master-metered natural gas distribution systems at least once every five years. The inspection frequency for propane systems is more stringent. The CPUC must inspect propane distribution systems once every five years for systems with less than 100 customers, once every three years for systems with 100 or more but less than 200 customers, and once every two years for systems with 200 or more customers.

The Independent Review Panel recommended in Recommendation 6.4.3.2 that the CPUC request the California legislature pass legislation that would replace the mandatory minimum five-year audit requirements with a risk-based regime that would provide CPSD with the needed flexibility in how it allocates inspection resources.

LEGISLATIVE HISTORY:

In September 1990, legislation was enacted which created authority for the CPUC to establish a gas safety inspection and enforcement program for MHPs with master-metered gas distribution systems. In September 1994, similar legislation was enacted for propane systems.

FISCAL IMPACT:

None.

STATUS:

This bill is pending introduction.

SUPPORT/OPPOSITION:

None on file.

STAFF CONTACTS:

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BILL LANGUAGE:

4353. (a) The commission shall conduct an initial inspection of each distribution system which shall take place on the mobilehome park premises. The inspection shall consist of all of the following:

(1) An inspection of the adequacy of the operator's operation and maintenance plan.

(2) The information contained in the required annual report.

(3) The records of leak surveys and repairs, corrosion control, and cathodic protection of the system.

(4) If deemed appropriate from the review of the records, a physical inspection of the mobilehome park's distribution system to ensure compliance with the federal law; the applicable sections of Commission General Order 112 relating to mobilehome park distribution systems, excluding the sections relating to gas transmission facilities, LNG facilities, and gathering lines; and any rules and orders adopted by the commission pursuant to this chapter.

(b) If the operator demonstrates compliance pursuant to subdivision (a), the distribution system shall thereafter be inspected ~~once every five years pursuant to a risk-based inspection schedule adopted by the commission~~. The subsequent inspections shall consist of the elements specified in subdivision (a). However, the commission may institute an inspection at any time if it determines, following a review of a subsequent annual report or receipt of a complaint, that an additional inspection is necessary.

(c) If the operator does not demonstrate compliance pursuant to subdivision (a), the distribution system may be inspected on an annual basis until such time as there is compliance and, thereafter, shall be inspected as specified in subdivision (b).

(d) If upon the initial inspection or any subsequent inspection, the commission determines the presence of a gas leak or other safety hazard in the distribution system which poses a significant or immediate danger to the health and safety of the park residents, the distribution system may be inspected more frequently until the condition is corrected. Once corrected, the park shall be inspected as specified in subdivision (b).

(e) The commission may require an operator to provide necessary assistance to commission inspectors in entering and inspecting the mobilehome park, including, but not limited to:

(1) Allowing commission inspectors entry to mobilehome park premises.

(2) Having, upon notice, the necessary records specified in subdivision (a) available for the commission inspector's review during the physical inspection.

(3) Assisting in surveying or uncovering portions of a distribution system for purposes of inspection, verification, and testing.

(f) It shall be a violation for a mobilehome park operator to willfully obstruct a commission inspector's access, entry, or inspection of a mobilehome park.

(g) The commission may enforce subdivision (f) by issuing a citation in the manner specified in subdivision (b) of Section 4357 and shall notify the United States Department of Transportation, the department or local enforcement agency, the utility serving the distribution system, and the operator of any the citation issued

pursuant to subdivision (f) of Section 4353.

4453. (a) The commission shall conduct an initial inspection of each distribution system which shall take place on the premises. The inspection shall determine if the distribution system falls under the commission's safety program pursuant to paragraph (2) of subdivision (c) of Section 4452. If it is determined that it does not, then the inspection shall be terminated immediately. Otherwise, the inspection, and all followup inspections, shall consist of all of the following:

(1) A review of the adequacy of the operator's operation and maintenance plan, emergency plan, and system map or maps.

(2) Evaluation of the information contained in the required annual report.

(3) A review of the records of leak surveys and repairs, corrosion control, and cathodic protection of the system.

(4) If deemed appropriate from the review of the records, a physical inspection of the propane distribution system to ensure compliance with the federal law, the applicable sections of General Order 112 relating to the distribution system, NFPA 58, and any rules and orders adopted by the commission pursuant to this chapter.

(b) If the operator demonstrates compliance pursuant to subdivision (a), the distribution system shall thereafter be inspected ~~once every five years for distribution systems with less than 100 customers, once every three years for distribution systems with 100 or more but less than 200 customers, and once every two years for distribution systems with 200 or more customers pursuant to a risk-based inspection schedule adopted by the commission.~~ The

subsequent inspections shall consist of the elements specified in subdivision (a). However, the commission may institute an inspection for a distribution system of any size, at any time, if it determines, following a review of a subsequent annual report or receipt of a complaint, that an additional inspection is necessary.

(c) If the operator does not demonstrate compliance pursuant to subdivision (a), the distribution system may be inspected on an annual basis until such time as there is compliance, and thereafter, shall be inspected as specified in subdivision (b).

(d) If upon the initial inspection or any subsequent inspection, the commission determines the presence of a propane leak or other safety hazard in the distribution system that poses a significant or immediate danger to the health and safety of the customers, the distribution system may be inspected more frequently until the condition is corrected. Once corrected, the distribution system shall be inspected as specified in subdivision (b).

(e) The commission may require an operator to provide necessary assistance to commission inspectors in entering and inspecting the distribution systems, including, but not limited to:

(1) Allowing commission inspectors entry to the premises.

(2) Having, upon notice, the necessary records specified in subdivision (a) available for the commission inspector's review during the physical inspection.

(3) Assisting in surveying or uncovering portions of distribution system for purposes of inspection, verification, and testing.

(f) It shall be a violation for an operator to willfully obstruct a commission inspector's access, entry, or inspection of a distribution system or to remove a warning tag placed on the operator'

s tank by a commission inspector pursuant to subdivision (b) of Section 4456.

(g) The commission may enforce subdivision (f) by issuing a citation in the manner specified in subdivision (b) of Section 4457, and shall notify the department or local enforcement agency, the supplier serving the distribution system, the State Fire Marshal, local fire districts, and the operator of any citation issued pursuant to this subdivision.

(h) If the commission determined, upon inspection or a receipt of a complaint or disclosure, that a distribution system pursuant to paragraph (2) of subdivision (c) of Section 4452 is serving more than nine customers, or if any portion of the system is located in a public place, then the distribution system shall be subject to the commission's safety program as set forth in this chapter.