

and maintenance manual and their emergency response manual to ensure that procedures are in place to successfully shut down the gas to PMVs, when necessary, including during high-water conditions.

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration (RSPA)

[Docket No. RSPA-00-8452; Notice 2]

#### Duke Energy; Grant of Waiver and Finding of No Significant Impact

**AGENCY:** Office of Pipeline Safety, Research and Special Programs Administration, DOT.

**ACTION:** Notice of grant of waiver and finding of no significant impact.

**SUMMARY:** The Office of Pipeline Safety (OPS) is approving a waiver of certain regulatory requirements relating to class location changes on fifteen natural gas pipeline segments (the "waiver segments") operated by Duke Energy (Duke) and is permitting Duke to carry out alternative risk control activities (the "Activities") in lieu of compliance with these requirements. The waiver segments are located on the three parallel lines 10, 15, and 25, downstream from the Mt. Pleasant Compressor Station. The waiver segments lie in Maury and Williamson Counties, Tennessee. The waiver segments include five locations in a 3-line system, ranging from 0.5 miles to 0.88 miles in length and totaling 12.2 miles.

#### Background

In 1997, OPS selected Duke Energy (Duke) as a candidate for participation in the Risk Management Demonstration Program; subsequently, OPS and Duke held discussions as part of a consultation process. During the consultation, Duke identified a portion of its system where it believed performing alternative risk control activities (the "Activities") in lieu of compliance with current pipeline safety regulations addressing class location changes would result in a comparable margin of safety and environmental protection. While OPS and Duke continued to consult, Duke applied for a temporary waiver of certain regulatory requirements for the waiver segments

and implementation of the Activities in lieu of compliance. Duke had previously reduced the operating pressure along the fifteen waiver segments in accordance with these requirements and sought to return the pipeline to its historical operating pressure. Duke had completed many of the proposed alternative risk control activities related to assuring integrity of the pipeline in the segments for which regulatory waiver was sought. Discussions continue between OPS and Duke regarding programmatic aspects of the company's risk management demonstration project.

#### Alternative Approach

Rather than replacing pipe, as required for each waiver segment under 49 CFR § 192.611 in order to increase operating pressure, Duke proposed to perform the following alternative risk control activities, with the objective of providing a margin of safety and environmental protection comparable to pipe replacement:

1. Internally inspect the waiver segments using geometry and magnetic flux leakage in-line inspection tools, which are not required under current regulations. These tools identify indications of wall loss (e.g. corrosion), as well as dents and gouges from initial construction damage or third party excavators working along the pipeline right-of-way. These internal inspections have been performed and the OPS Southern Region has reviewed the inspection results.

2. Internally inspect approximately 166 miles of additional pipe on the three parallel lines in the Mt. Pleasant Discharge. These internal inspections have been performed and the OPS Southern Region has reviewed the inspection results.

3. Investigate dents upon completion of the dent inspections for an extended length of pipe (the "extended segments") bordering and including each waiver segment to further extend the benefits of the integrity analysis. The extended segments cover a length of pipe totaling 660 feet on both ends of each waiver segment. These internal inspections have been performed and the OPS Southern Region has reviewed the inspection results.

4. Repair indications of corrosion, existing construction damage, and existing outside force damage identified by the internal inspection. Duke used more conservative investigation and repair criteria in the proposed waiver and extended segments than is currently required by the pipeline safety regulations. The criteria used by Duke call for investigation and repairs of

small dents and anomalies that are well below the threshold where pipeline integrity might be compromised.

5. Perform hydrostatic tests of the portions of Line 10 which have not previously been tested to 100 percent (SMYS). This includes two of the waiver segments, 2.5 miles northwest of Rally Hill in Maury County and 3.5 miles east-northeast of Arrington in Williamson County. These hydrostatic tests have been completed.

6. Perform enhanced damage prevention activities including implementing selected recommendations from a recent study of one-call systems and damage prevention programs best practice, "Common Ground". Duke will also install, for a trial period of one year, the TransWave monitoring system covering all of the waiver segments. This system will be tested to determine its reliability and usefulness for detecting third-party encroachments (construction, excavation, etc.) in the pipeline right-of-way.

#### Notice 1

In response to Duke's application and justification for performing the Activities in lieu of current regulatory requirements, OPS issued a Notice of Intent to Consider Waiver and Environmental Assessment of Waiver, inviting persons to submit written comments (65 FR 77419; December 11, 2000) (Notice 1). In that Notice, OPS explained its finding that Duke's implementation of the Activities in lieu of compliance with 49 CFR 192.611 is consistent with safety. OPS received no public comments in response to Notice 1.

#### OPS Review

OPS has compared the expected risk reduction produced by the Activities to that which would be achieved by compliance with 49 CFR § 192.611 and concluded that the Activities will likely achieve a comparable margin of safety and environmental protection.

OPS has determined that the conduct of the Activities in lieu of compliance with 49 CFR § 192.611 is consistent with pipeline safety. The following factors were considered when making this determination:

1. The proposed Activities will provide a comparable margin of safety and protection for the environment and the communities in the vicinity of Duke's pipelines.

2. Duke's risk-based justification of the alternatives to the class location change regulations is technically sound.

3. The fifteen waiver segments have a good integrity history, with no leaks

recorded during operation or hydrostatic testing.

4. Duke has internally inspected a total of 191 miles of pipe on the three parallel lines in the Mt. Pleasant discharge, including all of the waiver segments. These inspections provide added protection against pipeline failures from corrosion, manufacturing and construction defects, and outside third-party damage along the full 191 mile length. Compliance with 49 CFR § 192.611 would require replacement of pipe within the waiver segments only (approximately 12 miles of pipe) with no added protection for the extended segments (approximately 181 miles of pipe). The proposed Activities provide added protection by including the additional pipe. Duke also conducted hydrostatic tests to 100% SMYS on Line 10. In addition, Duke has installed the TransWave system and will be evaluating it over the coming year.

5. Duke was selected as a candidate for the Risk Management Demonstration Program and has participated in a rigorous consultation process with OPS, which required a greater sharing of information with OPS related to the integrity of Duke's pipeline. The consultation process is nearly complete and may result in acceptance of Duke into the Risk Management Demonstration Program including enforceable commitments for the additional risk control activities.

#### **Action on Application for Waiver**

In accordance with the foregoing and by this order, OPS finds that Duke's requested waiver is consistent with pipeline safety. Accordingly, Duke's application for waiver from compliance with the requirements of 49 CFR 192.611 is granted, provided that Duke carries out all the alternative risk control activities described in the

"Alternative Approach" section of this notice. This waiver will expire upon approval of Duke's risk management demonstration project.

OPS is considering whether or not additional regulations to enhance pipeline integrity in high consequence areas are warranted for natural gas transmission pipelines. Additional information on integrity management rule-related activities is available on the OPS web site at <http://ops.dot.gov>. No more than 90 days after OPS adopts new rules related to integrity management of natural gas pipelines, Duke will be required to re-evaluate the terms and effects of this waiver and report to OPS on its findings. If final action is taken on Duke's risk management demonstration project and this waiver therefore expires earlier than 90 days after OPS adopts new rules related to integrity management of natural gas pipelines, then this re-evaluation will not be required.

OPS will review Duke's report, evaluate Duke's assessment, and determine whether the waiver remains appropriate and consistent with pipeline safety. If the OPS evaluation finds that the waiver is no longer appropriate or no longer consistent with pipeline safety, then OPS will revoke the waiver and require Duke to comply with 49 CFR 192.611 and all other applicable regulations.

#### **Finding of No Significant Impact (FONSI)**

OPS has reviewed the Duke waiver for conformity with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. section 4332), the Council on Environmental Quality regulations (40 CFR sections 1500–1508), and Department of Transportation (DOT) Order 5610.1c, Procedures for Considering Environmental Impacts.

OPS conducted an Environmental Assessment of granting the Duke waiver (65 FR 77419, "Pipeline Safety: Intent to Consider Waiver and Environmental Assessment of Waiver for Duke Energy," December 11, 2000).

OPS received no public comment on the Environmental Assessment. Based on the analysis and conclusions of the Environmental Assessment, OPS has determined that no significant impacts on the environment are associated with granting this waiver. The Environmental Assessment is incorporated by reference into this FONSI.

In summary, OPS believes that the Activities performed under the waiver by Duke in lieu of regulatory requirements are consistent with pipeline safety and environmental protection. Although the waiver is expected to provide net environmental benefits, these beneficial impacts are not expected to be significant, because of the minimal environmental impact associated with gas pipeline failures. In addition, if OPS denied the proposed waiver, Duke would be required to replace pipe in the waiver segments in order to increase operating pressure. Pipe replacement would likely introduce some adverse environmental impacts that are avoided with the proposed action. Denying the waiver request would likely result in Duke replacing pipe along portions of the waiver segments, thereby causing environmental disruption due to excavation activity.

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**Jeffrey D. Wiese,**

*Acting Associate Administrator for Pipeline Safety.*

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