



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

AUG 14 2014

Mr. Don A. Ledversis
Pipeline Safety Engineer
Rhode Island Division of Public Utilities
and Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Dear Mr. Ledversis:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), Eastern Region dated August 13, 2013, you requested an interpretation as to the applicability of the 49 CFR Part 192 requirements to a pipeline that transports gas from a landfill located in Johnston, Rhode Island to a power plant owned by BroadRock Renewables, LLC, headquartered in Tarrytown, New York.

The Rhode Island Division of Public Utilities and Carriers (DPUC) enforces the Federal Pipeline Safety Regulations in the State of Rhode Island. You stated that on July 16, 2013, the DPUC responded to a possible methane gas explosion at a landfill located on 65 Shun Pike in Johnston, Rhode Island (aerial photograph of the facility provided). The explosion appeared to have damaged both the property of BroadRock Renewables, LLC and the landfill itself.

You stated that the power plant receives methane gas from the Johnston landfill via pipeline which is then burned to produce electricity for the local electric grid. In a February 26, 2014, telephone conversation and email exchanges with my staff, you provided the following additional information. The pipeline is about 2,400 feet long and has an 8-inch diameter. The pipeline crosses a four-lane public road before it enters into the power plant's fenced property. The DPUC has never conducted an inspection of the property, but you believe the pipeline is constructed of stainless steel and operates at 300 psi.

You stated that the power plant receives the methane gas from the landfill at no cost. You therefore believe that the pipeline may not be subject to the Part 192 regulations because in the absence of a sale of gas by the landfill to the power plant, supplying the gas may not affect interstate or foreign commerce and may not meet the definition of the "transportation of gas" as the term is defined in 49 CFR § 191.3.

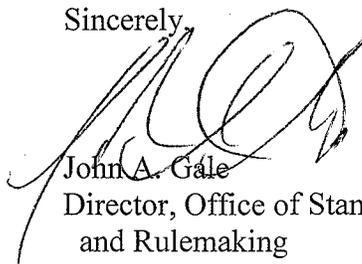
The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations do not create legally-enforceable rights or obligations and are provided to help the public understand how to comply with the regulations.

In this case, the gas being transported from the landfill to the power plant is pressurized by a compressor located at the landfill. The landfill operator then transports the gas off of the grounds of the landfill and across a public highway to another location. Under the first definition of a transmission line, the pipeline is regulated under 49 CFR Part 192 as a transmission pipeline from the treatment facility, or the outlet of the compressor at the landfill (whichever is the most downstream) to the power plant's property line. Therefore, the entity who controls the pressure on this pipeline is the presumed operator of the pipeline.

You stated that the power plant receives the landfill gas for no cost. The Pipeline Safety Laws (49 USC 60101 *et seq.*) and 49 CFR Part 192 provide for safety regulation of pipeline facilities and the transportation of gas, without regard to who owns the gas. Energy products are central to the national economy and even the local supply of energy products is considered to affect interstate commerce. For purposes of the Pipeline Safety Laws, a sale of the gas is not required and gas can be in transportation even if it is produced, transported and consumed by the same entity. As an industrial user of gas, the power plant would meet the § 192.3 definition of a large volume customer. Therefore, the pipeline would be regulated as a transmission pipeline. If the DPUC has limitations on its ability to assert authority over this pipeline due to the landfill operator not meeting Rhode Island's definition of a "public utility" or similar reason, please inform PHMSA's Director of State Programs who will then coordinate with PHMSA's Eastern Region Office as necessary.

I hope that this information is helpful to you. If we can be of further assistance, please contact Tewabe Asebe of my staff at (202) 366-5523.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DIVISION OF PUBLIC UTILITIES AND CARRIERS
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Mr. Byron Coy
Director, Eastern Region
PHMSA/OPS/Eastern Region/NJ
Mountainview Office Park
820 Bear Tavern Road, Suite 306
West Trenton, New Jersey 08628

August 7, 2013

Re: Request for Letter of Interpretation

On July 16, 2013, the Rhode Island Division of Public Utilities and Carriers (Division) responded to a possible methane gas explosion at a landfill located on 65 Shun Pike in Johnston, Rhode Island. Attached is an aerial photograph of the landfill and an adjacent power plant owned by BroadRock Renewables, LLC, headquartered in Tarrytown, New York. The methane gas incident appears to have damaged both the property of BroadRock Renewables, LLC and the landfill itself. The power plant receives methane gas from the landfill via pipeline which is then burned to produce electricity for the local electric grid.

As you are aware the Division enforces the Federal **Pipeline Safety Regulations** in the State of Rhode Island. In this particular situation the Division is of the opinion the power plant facility is not jurisdictional to the Federal **Pipeline Safety Regulations** due to the fact the power plant facility does not meet the definition of the "transportation of gas" as found in the **Pipeline Safety Regulations 49 CFR Part §191.3** which states,

...the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.

Since the power plant in question merely receives the methane gas from the landfill at no cost and then burns the methane gas to produce electricity there is no customer for the received gas, and therefore the power plant does not affect interstate or foreign commerce.

The Division requests your office review this matter and provide a *Letter of Interpretation* regarding the above issue. If, after your review of the matter you feel our office does in fact have jurisdiction we will conduct an inspection for compliance with the operator.

Thank you in advance for your time in this matter, please do not hesitate to call if you have any further questions.

Don A. Ledversis
Pipeline Safety Engineer
Rhode Island Division of Public Utilities & Carriers

CC: James Anderson, PHMSA Eastern Region Liaison
Kevin Lynch, RIDPUC
James Lanni, RIDPUC



Cedar Swamp Brook

Shun Pike

Shun Pike

Gas at 100 psi

Gas is cleaned here and piped to compressors

Gas is cleaned here and piped over the gas turbines

Gas burned in gas turbines to produce electricity

Compressors here Gas transfers to new owner

Simmons Upper Reservoir

Green Hill Rd

29/07/2013

