



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

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

**JUL 12 2011**

Mr. Mark McCarver  
Director, Pipeline Safety  
Mississippi Public Service Commission  
501 N West Street, Suite 201-A  
Jackson, MS 39201

Dear Mr. McCarver:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated March 31, 2011, you asked whether two gas distribution pipeline systems located on Federal properties but operated by non-Federal entities would be subject to the requirements of 49 CFR Parts 191 and 192 and, if so, be regulated by the Mississippi Public Service Commission (MSPSC). You stated that both systems had formerly been operated by Federal personnel and were considered for many years to be exempt from the Federal pipeline safety regulations. You stated, however, that both systems have been recently privatized and that each gas system is now operated by an outside contractor. You also mentioned that both systems also transport gas for resale as defined in § 191.3.

You described the facilities as follows: The first gas system is located on the grounds of the National Aeronautics and Space Administration's (NASA's) Stennis Space Center in Hancock County, Mississippi. The system consists of 30.788 miles of 8-inch, 6-inch, 4-inch and 2-inch steel and polyethylene pipelines. This pipeline is operating at 50-55 pounds per square inch gauge (psig). The maximum allowable operating pressure (MAOP) is 150 psig. There are no regulator stations on site and the pressure is regulated by the supplier. There are several cafeterias (buildings) that are owned by NASA and operated by contract personnel. There are several private companies that lease buildings from NASA. This system is now operated by an outside contractor.

The second gas system is located on the grounds of the Kessler Air Force Base in Biloxi, Mississippi. This system consists of approximately 12 miles of 8-inch steel pipeline which carries gas from a Gulf South Pipeline transmission line in Gulfport, Mississippi to the Base. You stated that this line is reported to have a MAOP of 150 psig with a normal operating range of 80 to 100 psig. There are several regulator stations along this line serving military housing with some of the services located outside the perimeter of the Base. This system is now operated by an outside contractor.

The pipeline safety regulations are applicable to pipeline facility operators. The gas pipeline safety regulations at Parts 191 and 192 define an *operator* to mean a person who engages in the transportation of gas.

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.

The definition of a person in these Federal pipeline safety regulations is:

*Person* means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

Based on these definitions and the legislative history of the pipeline safety laws, while a pipeline system is operated by a Federal entity, it is exempt from compliance with the pipeline safety regulations.<sup>1</sup> However, if a system is privatized and becomes operated by a non-Federal entity, the operator must comply with the pipeline safety regulations. Therefore, the answer to the first part of your question is yes, both of these gas pipeline systems are subject to the Part 191 and Part 192 requirements. As to the second part of your question, because the MSPSC has an annual certification at 49 U.S.C. § 60105, both of these gas distribution systems, as intrastate gas pipeline operations, are subject to the authority of the MSPSC as the primary regulator of these pipelines.

I hope that this information is helpful to you. If I can be of further assistance, please contact me at (202) 366-4046.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Gale', is written over the typed name and title.

John A. Gale  
Director, Office of Standards  
and Rulemaking

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<sup>1</sup> PHMSA strongly recommends that even exempt facilities follow the pipeline safety requirements on a voluntary basis to ensure the safety of facility personnel.

# Mississippi Public Service Commission

APR 06 2011



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**MARK McCARVER**, DIR.  
PIPELINE SAFETY

March 31, 2011

Jeff Wiese, Associate Administrator for Pipeline Safety  
U.S Department of Transportation, PHMSA  
1200 New Jersey Ave SE  
Room E22 - 321  
Washington, DC 20590

RE: Inspections of federal facilities

Dear Mr. Wiese:

The Mississippi Public Service Commission's Office of Pipeline Safety has questions concerning jurisdiction over two Federal entities in Mississippi.

The first is NASA's Stennis Space Center in Hancock County, MS. The second is Keesler Air Force Base in Biloxi, MS. Both of these installations have operated a gas distribution system for many years and our office considered these to be exempt from our jurisdiction. However, both have recently "privatized" the public works departments (to include the gas utilities) and each is now operated by an outside contractor. Both systems also transport gas for resale as defined in 191.3.

Stennis Space Center owns and operates 30.788 miles of 8", 6", 4" and 2" steel and PE pipelines. This pipeline is operating at 50-55 psig. The MAOP is 150lbs. There are no regulator stations on site and the pressure is regulated by the supplier. There are several cafeterias (buildings) that are owned by NASA and operated by contract personnel. There are several private companies that lease buildings from NASA. All maintenance on the pipeline is performed by contract personnel.

Keesler Air Force Base owns and operates approximately 12 miles of 8" steel pipeline from a Gulf South Pipeline transmission line in Gulfport MS to the Base. This line is reported to have an MAOP of 150 psig with a normal operating range of 80 to 100 psig. There are several regulator stations along this line serving military housing, some of which are not inside the perimeter of the base.

Enclosed are copies of letters that we have used in the past to base our policy of not inspecting these facilities. Are these gas systems (1) subject to CFR 49 Parts 191 and 192 and (2) should these systems be under the jurisdiction of the MS Public Service Commission? Thank you for your assistance on this matter.

Sincerely,

A handwritten signature in black ink that reads "Mark McCarver".

Mark McCarver, Director  
Pipeline Safety

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**From:** Carnley, Lyla  
**Sent:** Thursday, February 10, 2011 12:00 PM  
**To:** Walker, Wiley; Sharp, Michael; Ward, Bill  
**Cc:** McCarver, Mark  
**Subject:** RE: Exemption of federally owned gas systems from jurisdiction

Int 192.1 Privatizing Department of the Army natural gas distribution systems

June 24, 1998  
U.S. Department of Transportation  
Research and Special Programs Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590

June 24, 1998  
Mr. Ronald R. Lein, P.E.  
Director of Engineering  
Huntsville Center, Corps of Engineers  
Department of the Army  
P.O. Box 1600  
Huntsville, Alabama 35807-4301

Dear Mr. Lein:

Thank you for your May 20, 1998, and June 15, 1998, letters to Mr. Frederick A. Joyner requesting courtesy inspections of the natural gas distribution systems and associated records at Fort Campbell, Kentucky and Fort Bragg, North Carolina. You indicated the two facilities are in the process of privatizing their natural gas distribution systems and would like to obtain a report detailing what actions, if any, are necessary to bring the pipeline systems into compliance with DOT standards. Furthermore, you solicited DOT opinion regarding jurisdiction of the privatized distribution systems.

The Office of Pipeline Safety does not have sufficient resources to conduct an in-depth engineering analysis of these previously unregulated distribution systems. The Federal pipeline safety regulations are mostly written in performance language: The regulation identifies the safety goal but not the specific method to achieve it. This type of regulation provides flexibility for the individual characteristics of different pipeline systems, but makes compliance determinations difficult on newly regulated systems.

In order to determine whether the Fort Campbell and Fort Bragg distribution systems are in compliance with these regulations, it will be necessary to systematically evaluate each operational and physical aspect of the pipeline systems and determine if the operations, maintenance and emergency response procedures adequately address each regulatory requirement and safety purpose. A thorough system integrity assessment must be conducted on each distribution system. You may want to consider using an engineering firm to conduct this analysis. I am enclosing copies of our regulations and our inspection forms to assist you in this effort.

While a pipeline system is operated by the Department of the Army, it is exempt from compliance with the pipeline safety regulations. However, when the system becomes operated by a private entity it must comply with the regulations created under 49 United States Code, Chapter 601. The Department of Transportation enters into certifications/agreements with states for oversight of certain pipeline facilities. These state pipeline safety programs must adopt regulations that are at least as stringent as those contained in Chapter 601.

I understand that the pipeline system at Fort Campbell includes portions in both Kentucky and Tennessee. Once privatized, each respective portion would fall under the regulatory authority of the Kentucky Public Service Commission (KYPSC) and the Tennessee Regulatory Authority (TNRA). The Fort Bragg pipeline system, when privatized, will be subject to the regulatory authority of the North Carolina Utilities Commission (NCUC). Mr. William Bowker of the KYPSC at 502-564-3940, ext. 425, Mr. Glynn Blanton of the TNRA at 615-741-2844, ext. 185 and Mr. James Anderson of the NCUC at 919-733-6000 can provide you with more information about their state pipeline safety programs. They may be able to provide you with more specific guidance in readying the Fort Campbell and Fort Bragg distribution system for privatization.

I regret that we are unable to assist you further, but hope the enclosed information will be useful to you. If you have questions about a specific regulation, please contact Mr. Fred Joyner or his staff at 404-562-3530.

Sincerely,  
Richard B. Felder  
Associate Administrator  
Office of Pipeline Safety

Enclosures  
cc: Fred Joyner, OPS Southern Region  
Tom Fortner, OPS HQ  
Glynn Blanton, TNRA  
William Bowker, KYPSC  
James Anderson, NCUC

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**From:** Walker, Wiley  
**Sent:** Thursday, February 10, 2011 11:24 AM  
**To:** Carnley, Lyla; Sharp, Michael; Ward, Bill  
**Cc:** McCarver, Mark  
**Subject:** Exemption of federally owned gas systems from jurisdiction

All of us have state or federal systems that are not presently inspected because of a belief that Federal facilities are exempt from compliance with Part 192. I have looked through the regulations and I cannot find this in the code.

Can any of you assist me with locating this specific language and/or the discussion that apply to this question?

My specific question applies to Kessler Air Force Base, Biloxi. Send any help you can.

Thanks,

Wiley

**From:** Carnley, Lyla  
**Sent:** Thursday, February 10, 2011 11:57 AM  
**To:** Walker, Wiley; Sharp, Michael; Ward, Bill  
**Cc:** McCarver, Mark  
**Subject:** RE: Exemption of federally owned gas systems from jurisdiction

Below is an interpretation that I found...  
192.1 1991 1

January 10, 1991

Mr. Charles H. Batten  
Chief, Pipeline Division  
National Transportation Safety Board  
Washington, DC 20594

(ViaData Note – Ref:192.1)

Dear Mr. Batten:

This letter is in response to your request related to the December 9, 1990, explosion at Fort Benjamin Harrison and the question of jurisdiction over gas systems on Department of Defense (DOD) property.

- We have no authority to require gas systems located on DOD property that are owned, operated, and maintained by DOD to meet the minimum federal pipeline safety standards. The Natural Gas Pipeline Safety Act of 1968, as amended, applies to any "person," which is defined as "any individual, firm, joint venture, partnership, corporation, association, or joint stock association." The definition does not include "federal government." Gas systems located on DOD property that are owned, operated, or maintained by gas operators subject to Title 49 CFR 192 are required to meet the minimum federal pipeline safety standards.

The Department of Transportation (DOT) has not entered into any written agreements with DOD relative to pipeline facilities on DOD property. In the mid 1970's, the Department of the Army apparently wrote a letter to DOT indicating that it would voluntarily follow the minimum federal pipeline safety standards on Army installations. That letter became misplaced over the years and cannot be located.

The Mineral Leasing Act of 1920, as amended, requires the examination of all pipelines and associated facilities on federal lands and prompt reporting of any potential leaks or safety problems. A description of these provisions, which appears in the current Annual Report on Pipeline Safety, is enclosed for your information.

If you have any further questions related to this issue, please contact Cesar De Leon on 366-4583.

Sincerely,

George W. Tenley, Jr.  
Associate Administrator for Pipeline Safety

Enclosure

cc: DPS-1,2,10,20, 33, All Regions, R. Sanders, TSI  
File: 3M Disk A:\BATTEN.NTS  
DPS-33\KSagett\366-4577\01-10-91

*Lyla J. Carnley, Investigator  
Pipeline Safety Division  
MS Public Service Commission  
769-798-1830 (cell)*