

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Adoption of Federal Gas Pipeline Safety Regulations

1-AC-241

**NOTICE OF RULEMAKING WITHOUT HEARING
AND
REQUEST FOR COMMENTS**

The Public Service Commission of Wisconsin proposes an order to amend PSC s. 135.019 (1) regarding the adoption of federal pipeline safety regulations.

This rulemaking will be done without a hearing because, under s. 227.16 (2) (b), Stats., no hearing is required when an existing rule is being brought into conformity with a statute that has changed. However, written comments will be accepted.

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

The analysis is set forth as Attachment A.

TEXT OF PROPOSED RULE

SECTION 1. PSC s. 135.019 (1) is amended to read:

PSC 135.019 (1) The federal department of transportation, office of pipeline safety, pipeline safety standards, as adopted through ~~July 1, 2007~~ the effective date of these rules ... [LRB to insert date]..., and incorporated in 49 CFR Parts 192, 193 and 199, including the appendices, are adopted as state pipeline safety standards and incorporated by reference into this chapter.

SECTION 2. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

This rule has no effect on small businesses since gas utilities, as monopolies and unlike small businesses, are all dominant in their field. Further, the contract between the federal department of transportation and the commission requires that treatment be uniform across the state and across gas pipeline operators. As a result, the commission cannot make special provisions for small business.

FISCAL ESTIMATE

This rule will result in no fiscal impact since pipeline operators are already required, under federal law, to follow the federal regulations. Any economic impact of those federal regulations has already occurred. This rulemaking just updates the state's enforcement authority.

The Economic Impact Analysis for this rulemaking is included as Attachment B.

WRITTEN COMMENTS

Any person may submit written comments on these proposed rules. The record will be open for written comments from the public, effective immediately, and until Monday, October 22, 2012, at **noon**. All written comments must include a reference on the filing to docket 1-AC-241. File by one mode only.

Industry: File comments using the Electronic Regulatory Filing system. This may be accessed from the commission's website (psc.wi.gov).

Members of the Public:

Please submit your comments in one of the following ways:

- **Electronic Comment.** Go to the commission's web site at <http://psc.wi.gov>, and click on the "ERF - Electronic Regulatory Filing" graphic on the side menu bar. On the next page, click on "Need Help?" in the side menu bar for instructions on how to upload a document.
- **Web Comment.** Go to the commission's web site at <http://psc.wi.gov>, click on the "Public Comments" button on the side menu bar. On the next page select the "File a comment" link that appears for docket number 1-AC-241.
- **Mail Comment.** All comments submitted by U.S. Mail must include the phrase "Docket 1-AC-241 Comments" in the heading, and shall be addressed to:

Joyce Dingman
Public Service Commission
P.O. Box 7854
Madison WI 53707-7854

The commission does not accept comments submitted via e-mail or facsimile (fax). Any material submitted to the commission is a public record and may appear on the commission's web site.

CONTACT PERSON

Questions regarding this matter, including small business questions, should be directed to Joyce Dingman at (608) 267-6919 or joyce.dingman@wisconsin.gov. Media questions should be directed to Kristin Ruesch, Communications Director, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number. If calling from Wisconsin, use (800) 251-8345; if calling from outside Wisconsin, use (608) 267-1479.

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to get this document in a different format should contact the Docket Coordinator, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin, September 20, 2012

By the Commission:

/s/ Sandra J. Paske
Sandra J. Paske
Secretary to the Commission

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155 - PSC 135 - Pipeline Safety Regulations – Notice Without Hearing

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

A. Statutory Authority and Explanation of Authority

This rule is authorized under ss. 196.02 (1) and (3), 196.745 (1) (a), and 227.11, Stats.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02 (1) authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the commission specific authority to promulgate rules. Section 196.745 (1) (a) grants the commission specific authority to adopt rules requiring that the construction and operation of gas facilities be done in a reasonably adequate and safe manner.

B. Statutes Interpreted

This rule interprets s. 196.745, Stats., and, under a contract with the U.S. Department of Transportation, Office of Pipeline Safety, the federal pipeline safety regulations (49 CFR 190 to 199).

C. Related Statutes or Rules

The federal pipeline safety statutes may be found in 49 USC 60101 to 60133. The federal pipeline safety regulations may be found in 49 CFR 190 to 199. Under an agreement with the U.S. Department of Transportation, Office of Pipeline Safety, the commission enforces the federal pipeline safety regulations for Wisconsin's natural gas pipeline operators, primarily public utilities. Under this agreement, the commission has the authority to make additions to the federal code that are more stringent than the federal standards.

Chapter PSC 134 is the rule that deals with gas service standards. That rule also has some requirements concerning safe interactions between pipeline operators and their customers.

D. Brief Summary of Rule

Under an agreement with the U.S. Department of Transportation, Office of Pipeline Safety, the commission is authorized to enforce federal natural gas pipeline safety requirements as set out in the Code of Federal Regulations, 49 CFR. Parts 192, 193, and 199. As part of the agreement, the commission adopts the federal pipeline safety code in Wis. Admin. Code s. PSC 135.019. The commission's latest version of that rule adopts the federal code up to July 1, 2007. New gas pipeline safety code requirements are generally enacted in October of each year. As a result, the commission needs to amend its rule to include those federal regulation changes made since October 2007. Adoption of these

amendments will keep the commission in compliance with its obligation to adopt all federal changes in the pipeline safety area.

E. Comparison with Existing or Proposed Federal Regulations

As this is the adoption of the federal regulations, it is the same as the federal regulations.

F. Comparison with Similar Rules in Adjacent States

All states, including Michigan, Iowa, Illinois, and Minnesota, adopt the federal pipeline regulations.

G. Effect on Small Business

This rule has no effect on small businesses since gas utilities, as monopolies and unlike small businesses, are all dominant in their field. Further, the contract between the federal department of transportation and the commission requires that treatment be uniform across the state and across gas pipeline operators. As a result, the commission cannot make special provisions for small business.

H. Comments

Comments on this rule may be submitted as outlined in the Notice of Rulemaking without Hearing and Request for Comments.

I. Accommodation

The commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to receive this document in a different format should contact the Docket Coordinator, as indicated in the following paragraph, as soon as possible.

J. Agency Contacts

Questions regarding this matter, including small business questions, should be directed to Docket Coordinator Joyce Dingman at (608) 267-6919 or joyce.dingman@wisconsin.gov. Media questions should be directed to Kristin Ruesch, Communication Director, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number. If calling from Wisconsin, use (800) 251-8345; if calling from outside Wisconsin, use (608) 267-1479.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

155 – PSC 135 – Pipeline Safety Regulations

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

PSC 135, Gas Safety

3. Subject

Adoption of federal gas pipeline regulations

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

9. Policy Problem Addressed by the Rule

Under an agreement with the U.S. Department of Transportation, Office of Pipeline Safety, the commission is authorized to enforce federal natural gas pipeline safety requirements as set out in the Code of Federal Regulations, 49 C.F.R. Parts 192, 193, and 199. As part of the agreement, the commission adopts the federal pipeline safety code in Wis. Admin. Code s. PSC 135.019. The commission's latest version of that rule adopts the federal code up to July 1, 2007. New gas pipeline safety code requirements are generally enacted in October of each year. As a result, the commission needs to amend its rule to include those federal rule changes made since October 2007. Adoption of these amendments will keep the commission in compliance with its obligation to adopt all federal changes in the pipeline safety area.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

All gas utilities, Wisconsin Utilities Association, Utility Workers' Association, Wisconsin Manufacturers and Commerce, National Federation of Independent Businesses, and Metropolitan Milwaukee Association of Commerce.

11. Identify the local governmental units that participated in the development of this EIA.

N/A

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule will result in no economic impact since pipeline operators are already required, under federal law, to follow the federal regulations. Any economic impact of those federal regulations has already occurred. This rulemaking just updates the state's enforcement authority.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Adoption of these amendments will keep the commission in compliance with its obligation to adopt all federal changes in the pipeline safety area. Being in compliance increases the amount of federal money received by the state.

14. Long Range Implications of Implementing the Rule

The only long-range implication is that the state's enforcement authority will be updated.

15. Compare With Approaches Being Used by Federal Government

As this is the adoption of the federal regulations, it is the same approach as the federal government.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

All states, including the neighboring states, adopt the federal pipeline regulations.

17. Contact Name

Sarah Klein

18. Contact Phone Number

(608) 266-3587

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

N/A

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A

5. Describe the Rule's Enforcement Provisions

N/A

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes
- No