

Clearinghouse Rule 16-084

PUBLIC SERVICE COMMISSION OF WISCONSIN

Adopting Updated Federal Gas Pipeline Safety Code

1-AC-248

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

Comments Due: Monday, January 16, 2017 - Noon	Address Comments to: Sandra J. Paske, Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854
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The Public Service Commission of Wisconsin (Commission) proposes an order to amend Wis. Admin. Code § PSC 135.019 (1) regarding the adoption of federal pipeline safety regulations.

This rulemaking will be done without a hearing because, under Wis. Stat. § 227.16 (2)(b), 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 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 ~~May 1, 2015~~ 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 rulemaking has no effect on small businesses. The s. 227.114 (12), Stats., definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since gas utilities are monopolies in their service territories, they are dominant in their field and, so, are not small businesses. 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 AND ECONOMIC IMPACT ANALYSIS

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 Fiscal Estimate and Economic Impact Analysis are 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, January 16, 2017, at noon**. All written comments must include a reference on the filing to docket 1-AC-248. File by one mode only.¹

Utilities/Organizations

Any utilities, organizations, or interest groups shall file one comment using the Commission’s Electronic Regulatory Filing (ERF) system.

To file such a 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.

Members of the Public:

Any members of the general public shall file only one comment either through the Commission’s web site or by mail as follows:

¹ As an alternative to submitting your comment directly to the Commission, state law allows anyone to file a web comment on the Legislative Rules Clearinghouse website, <https://docs.legis.wisconsin.gov/code/comment>. This site forwards the comment to the Commission.

Docket 1-AC-248

- **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-248.
- **Mail Comment.** All comments submitted by U.S. mail must include the phrase “Docket 1-AC-248 Comments” in the heading, and shall be addressed to:

Sandra J. Paske, Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

The Commission does not accept comments submitted via e-mail or facsimile. Any material submitted to the Commission is a public record and may appear on the Commission’s web site. The Commission may reject a comment that does not comply with the requirements described in this notice.

WISCONSIN ENVIRONMENTAL POLICY ACT

This is a Type III action under Wis. Admin. Code § PSC 4.10(3). The Commission will review the potential environmental effects of the project. Type III actions normally do not require the preparation of an environmental impact statement under Wis. Stat. § 1.11 or an environmental assessment.

CONTACT PEOPLE

Questions regarding this matter should be directed to Thomas Stemrich, at (608) 266-2800 or Tom.Stemrich@wisconsin.gov. Media questions should be directed to the Communications Director at (608) 266-9600. Hearing or speech impaired individuals may also use the commission’s TTY number, if calling from Wisconsin, (800) 251-8345, if calling from outside Wisconsin, (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, this 8th day of December, 2016.

By the Commission:



Sandra J. Paske
Secretary to the Commission
SJP:ev:DL: 01487554

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

A. Statutory Authority and Explanation of Authority

This rulemaking is authorized under ss. 196.02 (1) and (3). This rule is authorized under ss. 196.02 (1) and (3), 196.745 (1) (a), and 227.11, Stats. and 227.11 (2), 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 227.11 authorizes agencies to promulgate administrative 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. Statute 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 May 1, 2015. 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 May 1, 2015. 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 Legislation

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

F. Comparison with Similar Rules in Surrounding States

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

G. Effect on Small Business

This rule will not affect small businesses. The s. 227.114(12), Stats., definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since electric, gas, and water utilities are monopolies in their service territories, they are dominant in their fields and, so, are not small businesses.

FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

A completed Fiscal Estimated and Economic Impact Analysis are included as Attachment B.

H. Comments

Comments on this rule may be submitted as outlined in the Notice of Hearing.

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 obtain this document in a different format should contact the docket coordinator listed below.

J. Agency Contact People

Questions regarding this rule should be directed to Thomas Stemrich, at (608) 266-2800 or Tom.Stemrich@wisconsin.gov. Media questions should be directed to the Communications Director, at (608) 266-9600. Hearing or speech-impaired individuals may also use the commission’s TTY number; if calling from Wisconsin, (800) 251-8345; if calling from outside Wisconsin, (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

FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

PSC 135, Gas Safety

3. Subject

Adoption of updated 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 Could Absorb Within Agency's Budget
 Decrease Cost

Revenues

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 May 1, 2015. 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 May 2015. 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, and National Federation of Independent Businesses.

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

Not applicable.

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

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	18. Contact Phone Number
Lisa Farrell	(608) 267-9086

This document can be made available in alternate formats to individuals with disabilities upon request.

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
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