

Clearinghouse Rule 24-056

PUBLIC SERVICE COMMISSION OF WISCONSIN

Revision of Wisconsin Administrative Code Chapter PSC 135 Gas Safety to Adopt Updates to the Federal Gas Pipeline Safety Code

1-AC-258

ORDER ADOPTING PROPOSED RULES

This is an Order of the Public Service Commission of Wisconsin proposing to **repeal** PSC 135.319 (3), 135.375; **amend** PSC 135.011, 135.013 (1), 135.019 (1) and (3), 135.319 (1), 135.727; **renumber and amend** PSC 135.714; **create** PSC 135.018, 135.08, relating to gas safety.

ANALYSIS PREPARED BY THE PUBLIC SERVICE OF WISCONSIN

A. Text of Rule

The proposed rule text is provided in Appendix A.

B. Statute Interpreted

This rule interprets Wisconsin Stat. § 196.745. Pursuant to the Commission's contract with the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety, this rule interprets the federal pipeline safety regulations (49 CFR Parts 190 to 199).

C. Statutory Authority and Explanation of Authority

This rulemaking is authorized under Wisconsin Stat. §§ 196.02 (1) and (3), 196.745 (1) (a), and 227.11 (2). Wisconsin Stat. § 196.02 (1) authorizes the Commission to do all things necessary and convenient to its jurisdiction. Wisconsin Stat. § 196.02 (3) grants the Commission specific authority to promulgate rules. Wisconsin Stat. § 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. Wisconsin Stat. § 227.11 authorizes agencies to promulgate administrative rules.

D. Related Statutes or Rules

The federal pipeline safety statutes are found in 49 USC Parts 60101 to 60143. The federal pipeline safety regulations may be found in 49 CFR Parts 190 to 199. Under an agreement with the U.S. Department of Transportation, PHMSA, 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. Wisconsin Admin. Code ch. PSC 134 relates to gas service standards and has some requirements concerning safe interactions between pipeline operators and their customers.

E. Plain Language Analysis

Since 1968 the Commission has incorporated and adopted updates to the federal pipeline safety code in Wisconsin Admin. Code ch. PSC 135. This rulemaking revises Wisconsin Admin. Code ch. PSC 135 to incorporate updates to the federal pipeline safety code since the last revision to Wisconsin Admin. Code ch. PSC 135 took effect.

An existing agreement with the U.S. Department of Transportation, Office of Pipeline Safety, authorizes the Commission to enforce federal natural gas pipeline safety requirements as set out in the Code of Federal Regulations, 49 CFR Parts 191, 192, 193, and 199. As part of this agreement, the Commission adopts the federal pipeline safety code in Wisconsin Admin. Code § PSC 135.019. Wisconsin Admin. Code § PSC 135.019 currently adopts the federal code as it exists through March 21, 2021. Since that date, PHMSA updated the federal code with respect to plastic piping systems, onshore gas transmission pipelines, underground storage facilities, gas pipeline regulatory reform, and references to technical standards necessary to enhance pipeline safety by adopting innovative technologies and best practices. These proposed revisions adopt the federal code through June 28, 2024.

Amendments to the federal code related to gas gathering pipelines to enhance pipeline safety include the following requirements: (1) extend reporting requirements to all gas gathering operators; and

(2) apply a set of minimum safety requirements to certain gas gathering pipelines with large diameters and high operating pressures.

Amendments to the federal code related to valve installation and rupture detection to enhance pipeline safety include the following requirements: (1) install rupture-mitigation valves (i.e., remote-control or automatic shut-off valves) or alternative equivalent technologies on transmission and certain gathering pipelines; (2) minimum performance standards for those valves' operation to prevent or mitigate the public safety and environmental consequences of pipeline ruptures; (3) rupture-mitigation valve spacing, maintenance and inspection, and risk analysis; (4) to contact 9-1-1 emergency call centers immediately upon notification of a potential rupture and conduct post-rupture investigations and reviews; and (5) to incorporate lessons learned from such investigations and reviews into operators' personnel training and qualifications programs, and in design, construction, testing, maintenance, operations, and emergency procedure manuals and specifications.

Amendments to the federal code related to safety of gas transmission pipelines include the following requirements: (1) clarify certain integrity management provisions; (2) codify a management of change process; (3) update and bolster gas transmission pipeline corrosion control requirements; (4) require operators to inspect pipelines following extreme weather events; (5) strengthen integrity management assessment requirements; (6) adjust the repair criteria for high-consequence areas; (7) create new repair criteria for non-high consequence areas; and (8) revise or create specific definitions related to the above amendments.

Amendments to the federal code related to references to technical standards include the following requirements: (1) incorporate by reference all or parts of more than 20 new or updated voluntary, consensus industry technical standards; and (2) clarify certain regulatory provisions and make several editorial corrections.

Adoption of the latest changes to the federal code will: (1) keep the state standards for gas safety up to date with national industry trends, (2) allow the Commission to enforce these standards in Wisconsin, and

(3) maintain the Commission's compliance with its agreement with the U.S. Government to enforce these standards in exchange for reimbursement of program costs.

Safety related updates to ch. PSC 135, include: (1) adoption of federal reporting requirements; (2) clarifying requirements for gathering pipelines; (3) abandonment of services not used for ten years; (4) prohibiting new master meter operators absent a waiver; (5) amending and renumbering PSC 135.319 and 135.714 to coincide with the federal code; and (6) repealing PSC 135.375 due to redundancy with federal code.

F. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

As this is the adoption of the federal regulations, the pipeline safety standards in Wisconsin Admin. Code ch. PSC 135 are the same as the federal regulations. The federal pipeline safety statutes and regulations are found in 49 USC Parts 60101 to 60143 and 49 CFR Parts 190 to 199.

G. Comparison with Similar Rules in Adjacent States

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

H. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen

No factual data or methodologies were relied upon. The rule changes adopt the federal pipeline safety regulations into Wisconsin Admin. Code ch. PSC 135.

I. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report

The Commission's fiscal estimate and economic impact analysis determined that the proposed rules will not have an economic effect on small businesses. The Commission sought input from all gas utilities, Wisconsin Utilities Association, Utility Workers' Coalition, and the National Federation of Independent Businesses.

J. Effect on Small Business (initial regulatory flexibility analysis)

These rules will not have an economic impact on small businesses. The Wisconsin Stat. § 227.114 (12) 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 are not small businesses. Further, the contract between the U.S. Department of Transportation, PHMSA, 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.

K. Agency Contact Person

Questions regarding this matter should be directed to the docket coordinator Alex Kirschling at (608) 266-5576 or Alex.Kirschling@wisconsin.gov. Small business questions should be directed to Tara Kiley at (608) 266-7165 or Tara.Kiley@wisconsin.gov. Media questions should be directed to the Communications Director Meghan Sovey at (608) 267-3871 or Meghan.Sovey@wisconsin.gov.

L. Place Where Comments are to be Submitted and Deadline for Submission

Comments may be submitted at the public hearing, by regular mail, or on the Commission web site. The record will be open for written comments from the public until August 29, 2024. All written comments must include a reference on the filing to docket 1-AC-258. File by one mode only. Written comments may be submitted either through the Commission’s website at <https://psc.wi.gov>¹ or by mail and addressed to:

Docket 1-AC-258 Comments
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and on the Commission’s web site at <https://psc.wi.gov>.

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

Dated at Madison, Wisconsin

By the Commission:

Cru Stublely
Secretary to the Commission

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Appendix A

TEXT OF PROPOSED RULE

Section 1. PSC 135.011 is amended to read:

PSC 135.011 Character of construction, maintenance, and operation. All gas transmission, distribution, regulated gathering, and utilization equipment and facilities shall be constructed, installed, operated, and maintained in a reasonably adequate and safe manner and as more specifically provided for in this chapter.

Section 2. PSC 135.013 (1) is amended to read:

PSC 135.013 (1) Every gas public utility and gas pipeline operator that operates gas transmission, or distribution, or regulated gathering facilities in this state shall comply with this chapter.

Section 3. PSC 135.018 is created to read:

PSC 135.018 Master meter systems. No person may operate a master meter system, as defined under s. PSC 133.02 (8).

Section 4. 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 ~~March 21, 2024~~ June 28, 2024, and incorporated in 49 CFR Parts 191, 192, 193 and 199, including the appendices, are adopted as state pipeline safety standards and incorporated by reference into this chapter.

Section 5. PSC 135.019 (3) is amended to read:

PSC 135.019 (3) Pursuant to s. 227.21, Stats., the attorney general and the legislative reference bureau have consented to the incorporation by reference of the provisions in 49 CFR Parts 191, 192, 193, and 199, including the appendices. Copies are on file at the office of the public service commission, the secretary of state, and the legislative reference bureau.

Section 6. PSC 135.319 (1) is amended to read:

PSC 135.319 Installation of pipe in a ditch additions [49 CFR 192.319].

(1) After 49 CFR 192.319(a), insert:

(aw) The provisions of 49 CFR 192.319(a) shall also apply to mains operating at less than 20 percent of the SMYS. This includes grading the ditch so that the pipe has a firm, substantially continuous bearing on the bottom of the ditch. When long sections of pipe that have been welded alongside the ditch are lowered in, care shall be exercised so as not to jerk the pipe or impose any strains that may kink or put a permanent bend in the pipe.

Section 7. PSC 135.319 (3) is repealed.

Section 8. PSC 135.375 is repealed.

Section 9. PSC 135.714 is renumbered PSC 135.711 and amended to read:

PSC 135.711 Transmission lines: General requirements for repair procedures Addition-addition [49 CFR ~~192.714w~~ 192.711]. After 49 CFR ~~192.713~~ 192.711(a)(2), insert:

192.714w Repair of Steel Pipe Operating below 40 Percent of the Specified Minimum Yield Strength.

(3w) For all steel transmission lines, ~~if~~ if inspections at any time reveal an injurious defect, gouge, groove, dent, or leak, immediate temporary measures shall be employed to protect the property and public if it is not feasible to make permanent repair at time of discovery. ~~As soon as feasible, permanent repairs shall be made using recognized methods of repair.~~

Section 10. PSC 135.727 is amended to read:

PSC 135.727 Abandonment or deactivation of facilities addition [49 CFR 192.727]. After 49 CFR 192.727 (g), insert:

~~(hw) Special efforts shall be made to include services which have not been used for ten years in a way that will remove gas from the customers' premises.~~ Each operator shall have a plan in its operating and maintenance procedure for sealing off the supply of gas to all distribution facilities for which there is no planned use including service lines, mains, control lines, equipment, and appurtenances. The plan shall include all of the following provisions:

(1) If the facilities are abandoned in place, they shall be physically disconnected from the main at the service tee. The open ends of all abandoned facilities shall be capped, plugged, or otherwise effectively sealed.

(2) In cases where a main is abandoned, together with the service lines connected to it, insofar as service lines are concerned, only the customers' end of such service lines need be sealed.

(3) Until the time a service is abandoned, it shall be treated as active for purposes of applying the regulations of 49 CFR 192. If a service line is not treated as an active line, it shall be physically disconnected at the main and purged, no later than 2 years after becoming inactive.

(4) Service lines which have not been used for ten years and do not have a planned use shall be abandoned. In circumstances where there is a planned use for a service line which has not been used for ten years or it is not feasible to abandon a service line, take additional measures to protect the service from damage. Additional measures include:

- (i) Ensuring the service line has a means for locating;
- (ii) Marking the presence of the service line by line marker or similar means if feasible, and;
- (iii) Annually notifying the customer in writing of the service line's presence to determine if there is a planned use for the service line.

Section 11. PSC 135.08 is created to read:

PSC 135.08 Determination of onshore gathering pipelines and regulated onshore gathering pipelines additions [49 CFR 192.8]. After 49 CFR 192.8(a)(5), insert:

(5w) Incidental gathering may not be used for steel pipelines operated at 100 p.s.i.g. or greater that leave the operator's property.

Section 12. Effective Date. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
