

CR 12-042

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Adoption of Federal Gas Pipeline Safety Regulations

1-AC-241

Clearinghouse Rule 12-042

ORDER ADOPTING FINAL RULES

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

REPORT TO THE LEGISLATURE

The Report to the Legislature is set forth as Attachment A.

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 A2.

FINAL 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.

EFFECTIVE DATE

These rules 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.

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

Dated at Madison, Wisconsin, November 2, 2012

By the Commission:

/s/ Cynthia E. Smith, for

Sandra J. Paske
Secretary to the Commission

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Attachments

REPORT TO THE LEGISLATURE**A. TEXT OF THE 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.

B. PLAIN LANGUAGE ANALYSIS**1. 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.

2. 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).

3. 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.

4. 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.

5. Comparison with Existing or Proposed Federal Regulations

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

6. Comparison with Similar Rules in Adjacent States

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

7. 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.

8. 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 to receive this document in a different format should contact the Docket Coordinator, as indicated in the following paragraph, as soon as possible.

9. 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.

C. 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 Economic Impact Analysis for this rulemaking is included as Attachment A2.

D. RESPONSE TO LEGISLATIVE COUNCIL COMMENTS

The Legislative Council did not have any comments on this rule. A copy of the Clearinghouse Report to Agency is included as Attachment A1.

E. BASIS AND PURPOSE OF 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 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.

F. PUBLIC APPEARANCES AND COMMENTS

This rulemaking was 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. Written comments were allowed, but none were received.



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Pam Shannon
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Assistant Directors

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **12-042**

AN ORDER to amend PSC 135.019 (1), relating to adoption of federal pipeline safety regulations.

Submitted by **PUBLIC SERVICE COMMISSION**

09-20-2012 RECEIVED BY LEGISLATIVE COUNCIL
10-01-2012 REPORT SENT TO AGENCY.

PS:DLL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO

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.

Although they will not be affected by this rule other than in terms of who enforces the national pipeline safety regulations, comments were solicited from all gas utilities, Wisconsin Manufacturers and Commerce, and National Federation of Independent Businesses.

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

None, as they will not be affected by the rulemaking.

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 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.

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

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

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

17. Contact Name
Sarah Klein

18. Contact Phone Number
608/266-3587

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

**ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis**

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

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.

5. Describe the Rule's Enforcement Provisions

This rule is enforced in the manner prescribed in s. 196.66, Stats., and other means provided in statutory sections administered by the PSC.

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

- Yes No This rule will result in no economic impact since pipeline operators are 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.
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