

**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

¹As 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.

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:

- **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.

**ANALYSIS PREPARED BY THE
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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.

A. Comments

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

B. 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.

C. 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.