



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: August 23, 2023

TIME: 10:03 AM

WSR 23-17-163

**Agency:** Washington Utilities and Transportation Commission

**Title of rule and other identifying information:** (describe subject) Expedited Amendment of WAC 480-93-240 and WAC 480-75-240.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules: Rulemaking to** permanently amend WAC 480-93-240 amended by emergency rulemaking under WSR 23-15-057, effective July 14, 2023, and WAC 480-75-240. The proposed amendment would allow the Commission to continue to fund the pipeline safety program through accurate calculation of pipeline safety program fees without an offset in conflict with the relevant statutory authority. The Commission filed a previous CR-105 proposing expedited amendment to WAC 480-93-240 only, published at WSR 23-25-059. This CR-105 amends and replaces WSR 23-25-059.

**Reasons supporting proposal:** Prior to emergency amendment, WAC 480-93-240 conflicted with statutes prescribing the method of calculation of pipeline safety fees, resulting in underfunding of the pipeline safety fee program. The rule required the Commission to offset pipeline safety fees by the total amount of penalties collected under RCW 19.122.055, but RCW 19.122.170 directs the Commission to spend those penalty funds on education, not to fund the pipeline safety program. WAC 480-75-240 still contains the conflicting provision. This rulemaking will allow the Commission to amend both rules and correctly calculate pipeline safety program fees.

**Statutory authority for adoption:** RCW 80.01.040, RCW 81.01.010, RCW 81.04.160, and RCW 80.24.020

**Statute being implemented:** RCW 19.122

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Name of proponent:** (person or organization) Washington Utilities and Transportation Commission

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Gregory J. Kopta	621 Woodland Square Loop SE, Lacey, WA 98503	(360) 664-1355
Implementation:	Amanda Maxwell	621 Woodland Square Loop SE, Lacey, WA 98503	(360) 664-1115
Enforcement:	Amanda Maxwell	621 Woodland Square Loop SE, Lacey, WA 98503	(360) 664-1115

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The amended rule relates purely to the Commission's internal calculations of regulatory fees, and is prescribed by statute. While the calculation will affect companies' financial liabilities for fees, it is consistent with the statutory requirements and comports with Commission practice. Further, the pipeline safety program provides for essential services that are necessary for the preservation of the public safety and therefore ensuring adequate funding is necessary.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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Other:

**AND RECEIVED BY** (date) October 23, 2023

**Date:** August 23, 2023

**Name:** Amanda Maxwell

**Title:** Executive Directory and Secretary

**Signature:**

