

Agenda Date: May 24, 2002
Item Number: 3C

Docket: **TO-000712**
Rulemaking – Hazardous Liquid, Gas, Oil and Petroleum Pipeline
Companies--Safety

Staff: Sondra Walsh - Team Lead
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Recommendation:

Direct the Secretary to file a Notice of Proposed Rulemaking (CR-102) with the office of the Code Reviser in Docket No. TO-000712 that would propose new rules and amendments to chapter 480-75 WAC.

Background:

RCW 81.88 directs the Washington Utilities and Transportation Commission (WUTC) to adopt rules for pipeline safety standards for hazardous liquid pipeline companies. In addition, Staff reviewed the rules in Chapter 480-75 pursuant to Executive Order 97-02 for readability and content, with special attention given to need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost and fairness.

Participating in drafting new rules and reviewing the current rules, Staff endeavored to draft rules that::

1. Are clearly written, in plain English, so that they are understandable to everyone.
2. Are presented in a comprehensive, well-organized, and informative document.
3. State clearly Commission policies, processes, and procedures.
4. Facilitate voluntary compliance.

Process:

The review of chapter 480-75 WAC included:

1. Reviewing the requirements of RCW 81.88.and developing a list of issue questions;
2. Filing a CR-101 with the Code Reviser's Office in August, 2000;
3. Mailing the issue questions to stakeholders in October 2000 as a tool to:
 - Notify stakeholders of the topics:
 - Allow stakeholders to offer comments, and
 - Stimulate and focus discussion at scheduled meetings.
4. Creating discussion and drafting subgroups to prepare initial rules drafts;

5. Holding three stakeholder meetings at the Commission's headquarters in Olympia on November 16, 2000, January 23, 2001 and April 3, 2002. Members of the regulated industry, local governments, and members of the public attended the meetings and discussed with Staff the substance of the draft hazardous liquid rules;
6. Developing draft rules to reflect the information gathered at the stakeholder meetings;
7. Circulating preliminary drafts by rule groups to stakeholders for comment; and
8. Updating drafts to incorporate the comments received.

Public participation:

Comments submitted by stakeholders have been an integral part of the development of the draft rules attached. Members of the regulated industry, representative of local government, and consumers have all provided input to the draft rules. Staff appreciates the stakeholders' participation. Staff believes it is now time to publish the proposed rules in *The Washington State Register* so that comments can be obtained from a more broad-based audience.

Issues:

At this time Staff and McChord Pipeline Company are continuing discussions on the intent of proposed WAC 480-75-028. RCW 81.88.060 (b) requires the Commission to develop and implement rules that require pipeline companies to rapidly locate and isolate all reportable releases from pipelines, that may include: (i) installation of remote control shut-off valves; and (ii) installation of remotely monitored pressure gauges and meters. McChord believes that their pipeline meets the requirements of proposed WAC 480-75-028. Staff is unsure at this time whether this is true but will continue to work with the company.

Small Business Environmental Impact Statement (SBEIS):

Pursuant to chapter 19.85 RCW, Commission Staff prepared a SBEIS to examine the anticipated impact on small businesses of the proposed rules for chapter 480-75 WAC, and to propose plausible mitigation strategies, if necessary, based on the magnitude of economic impacts. The Commission has jurisdiction over seven intrastate hazardous liquid pipeline companies. These seven companies vary in size. Their pipeline miles range from 1.6 miles to 56.01 miles. Four of the companies submitted a SBEIS; These include Agrium U.S. Inc. (Agrium), with 1.6 miles of pipeline; Tidewater Terminal Company (Tidewater), with 2.79 miles of pipeline and 22 breakout tanks; McChord Pipeline Company (McChord) with 14.5 miles of pipeline; and Kaneb Pipeline Company (Kaneb) with 4.2 miles of pipeline. The analysis shows that three of the proposed rules could incur substantial cost to these companies. Staff's analysis of the SBEIS is detailed in the attached SBEIS report. A summary of the analysis follows:

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Proposed WAC 480-75-008 could financially impact Agrium and Tidewater substantially. Proposed WAC 480-75-012 will impact Tidewater financially. Staff and the companies have discussed possible mitigation strategies. Proposed WAC 480-75-028 could impact McChord financially if their current system fails to meet the requirements of the rule. Staff and the company will continue to discuss the intent of the rule.

Conclusion

Staff recommends that the Commission direct the Secretary to file a Notice of Proposed Rulemaking (CR-102) with the office of the Code Reviser in Docket No. TO-000712 that would propose rules and amendments to chapter 480-75 WAC, the rules relating to the regulation of Hazardous Liquid, Gas, Oil and Petroleum Pipeline Companies—Safety.

Attachments