

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending and Adopting)	DOCKET PG-140105
)	
)	
WAC 480-93-223)	GENERAL ORDER R-577
)	
Relating to Civil Penalty for Violation of Chapter 81.88 RCW and Commission Gas Safety Rules)	ORDER AMENDING AND ADOPTING RULE PERMANENTLY
)	
.....)	

1. **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 14-10-083, filed with the Code Reviser on May 7, 2014. The Commission has authority to take this action pursuant to RCW 80.01.040(4), RCW 81.04.160, and RCW 81.88.040.

2. **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3. **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.

4. **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission’s responses to the comments reflecting the Commission’s consideration of them.

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 03, 2014
TIME: 3:31 PM

WSR 14-19-002

5. The Commission amends WAC 480-93-223, to increase the maximum civil penalty for violation of RCW 81.88 and commission gas safety rules. The amendment aligns with recent changes to federal rules by the Pipeline and Hazardous Materials Safety Administration (PHMSA) that increased maximum administrative civil penalties in conformance with the federal Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. The revised rule provides that any gas pipeline company that violates any pipeline safety provision of any commission order, or any rule in chapter 480-93 WAC including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation persists. It also provides that the maximum civil penalty for a related series of violations is two million dollars.
6. **REFERENCE TO AFFECTED RULES:** This Order amends the following section of the Washington Administrative Code:

Amend WAC 480-93-223 Civil penalty for violation of RCW 80.28.210 and
commission gas safety rules

7. **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**
THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on February 19, 2014, at WSR # 14-05-090, advising interested persons that the Commission was considering entering a rulemaking to amend WAC 480-93-223, a rule relating to “Gas Companies – Safety”, to increase the maximum civil penalties for violations involving gas pipeline operators, in an effort to adopt the more stringent administrative civil penalties set in federal pipeline safety rules. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission’s list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to a list of all gas pipeline companies. The Commission posted the relevant rulemaking information on its Internet website at <http://www.utc.wa.gov/140105>. Pursuant to the notice, the Commission received written comments by March 24, 2014.

8. **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on May 7, 2014, at WSR # 14-10-083. The Commission scheduled this matter for oral comment and adoption under Notice WSR # 14-10-083 at 10:30 a.m., July 2, 2014, in the Commission's Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.
9. **WRITTEN COMMENTS:** The Commission did not receive comments on the proposed CR-102. Summaries of all written comments are contained in Appendix A, attached to, and made part of, this Order.
10. **RULEMAKING HEARING:** The Commission considered the proposed rule for adoption at a rulemaking hearing on Wednesday, July 2, 2014, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Jeffrey D. Goltz. No interested person made oral comments.
11. **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rule as proposed in the CR-102 at WSR # 14-10-083 with the changes described below.
12. **CHANGES FROM PROPOSAL:** After reviewing the entire record, the Commission adopts the CR 102 proposal with the following change from the text of the title of the rule noticed at WSR # 14-10-083:

WAC 480-93-223 Civil penalty for violation of chapter 81.88 RCW ~~80.28.210~~ and commission gas safety rules.
13. The Commission also corrects a minor grammatical error in WAC 480-93-223, first sentence to read:

Any gas pipeline company that violates any pipeline safety provision of any commission order, or any rule in this chapter including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation persists.

14. **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-93-223 should be amended to read as set forth in Appendix B as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

15. **THE COMMISSION ORDERS:**

16. The Commission amends WAC 480-93-223 to read as set forth in Appendix B as a rule of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).
17. This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, September 3, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Chairman



PHILIP B. JONES, Commissioner



JEFFREY D. GOLTZ, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Appendix A
(Comment Summary Matrix)

Appendix B
(WAC 480-93-223)