

Agenda Date: June 30, 2004  
Item Number: C1

**Docket:** UG-011073  
Rulemaking – Gas 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. UG-011073 proposing new rules and amendments to Chapter 480-93 WAC.

**Background:**

Chapter 480-93 WAC governs the safety of gas pipeline companies and their operations. The Commission initiated a review of Chapter 480-93 WAC by filing a CR-101 form with the Office of the Code Reviser in August 2001. The Commission undertook the rulemaking to comply with Executive Order 97-02, which requires agencies to review significant rules against specified standards. Specifically, the Commission must review the rules for readability and content, with special attention given to need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost and fairness.

During the CR-101 rulemaking process, Staff has 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. Clearly state Commission policies, processes, and procedures; and
4. Facilitate voluntary compliance.

**The Rulemaking Process:**

After the CR-101 form was filed with the Code Reviser's Office in August 2001, the Commission held three stakeholder meetings concerning Chapter 480-93 WAC on

September 25, 2001, February 25, 2003, and December 9, 2003. Notices of the initiation of the rulemaking, opportunities to provide written comments and of the dates and locations of the stakeholder meetings were mailed to all members of the regulated industry and their representatives, as well as other interested persons. Members of the regulated industry, such as Puget Sound Energy, Northwest Natural Gas, Avista Utilities, Cascade Natural Gas, and the Industrial Gas Users Association, attended the meetings and discussed with Staff the substance of the gas safety rules and various draft rules prepared by Staff.

In developing draft rules, Staff reviewed federal pipeline safety rules in 49 CFR Part 192 to determine whether the rules in Chapter 480-93 WAC should be more stringent or whether additional rules would provide increased public safety. Staff also incorporated the information gathered at the stakeholder meetings when preparing the initial and subsequent versions of draft rules. Staff has circulated these draft rules for written comments and has provided responses to those comments in comment summaries posted on the Commission's website.

In April 2004, Staff surveyed pipeline companies to prepare a small business economic impact statement (SBEIS), as required under Chapter 19.85 RCW. Staff has prepared an SBEIS for this rulemaking, a copy of which is attached to this memorandum as Attachment A.

Comments submitted by stakeholders on the draft rules and the SBEIS survey have been an integral part of the development of the draft proposed rules attached to this memorandum in Attachment B. The current draft rules in Attachment B are in legislative format, reflecting some of the comments Staff received from stakeholders after circulating the draft rules with the SBEIS survey. Staff has consulted with stakeholders throughout the rulemaking process, has refined the draft rules to best promote safety in the industry while taking the needs of and costs born by the industry into consideration, and believes that it is appropriate to publish a notice of proposed rules in the Washington State Register.

### **Rule Discussion:**

The proposed rules clarify existing state and federal rules and definitions, and add to certain federal rules more stringent but compatible state requirements. The following proposed rules include some of these more stringent requirements:

- perform monthly odorization tests;
- calibrate and maintain all equipment when feasible;
- comply with welding procedures qualified to API standards;
- require welders be qualified every six months;
- maintain a detail written emergency valve maintenance program; and
- require service valves on churches, schools, hospitals and commercial businesses.

When corrosion is detected on a pipeline, a company must take remedial action within 90 days, and take corrosion protection reads on all steel pipe when it is exposed. The rules require companies to install pipeline markers on all railroad crossings, river crossings, creeks, and survey the markers every three years, and maintain the records for ten years. The proposed rules include a new rule for the protection of plastic pipe requiring companies to monitor all above ground installations. In addition, the proposed rules add additional reporting requirements that require companies to report more severe incidents within two hours of discovery and other types of incidents within six to twenty-four hours. The incident reporting requirements will provide data to enable the Commission to compile statistics on incidents.

The proposal to add “new construction” to the federal definition for covered task is more clear in the adoption by reference section than in the proposed state definition. Before the publication of the CR-102 it will be moved from the definition section to rule WAC 480-93-999.

### **Small Business Environmental Impact Statement (SBEIS):**

Pursuant to Chapter 19.85 RCW, the Regulatory Fairness Act, Commission Staff has prepared a SBEIS to examine the anticipated impact on small businesses of the proposed rules for Chapter 480-93 WAC, and to propose plausible mitigation strategies,

if necessary, based on the magnitude of economic impacts. The Regulatory Fairness Act requires the Commission to consider mitigation proposals to minimize disproportionate impact on *small* businesses in the industry. Although none of the pipeline companies regulated by the Commission fit the definition of small businesses under the Regulatory Fairness Act, the Staff has prepared the SBEIS to evaluate the impact on the industry and endeavored to mitigate any disproportionate impact on the industry.

The Commission has jurisdiction over 15 intrastate gas companies. These 15 companies represent local distribution companies, municipalities, and direct sales companies. Their pipeline miles range from 1.0 miles to 10,932 miles. Three of the companies submitted responses to the Commission's SBEIS survey: Camas Mill (Georgia Pacific), Puget Sound Energy (PSE), and Cascade Natural Gas (CNG). The SBEIS analysis shows that one of the proposed rules, WAC 480-93-100 addressing valves, could cause substantial compliance costs for pipeline companies. Staff's analysis of the SBEIS is detailed in the attached SBEIS report.

Based on an analysis of the cost impacts of the rules on gas pipeline companies, Staff concludes that:

- 1.) Pipeline companies will incur costs to comply with some of the proposed rules, in some cases costs that are more than minor, and may reduce the costs of complying with other proposed rules;
- 2.) No small businesses are affected by the proposed rules;
- 3.) The changes in the rules are expected to provide additional safety for pipelines operating within the Commission's jurisdiction;
- 4.) Although it was not possible to directly compare the costs and benefits of implementing the proposed rules, Staff believes that, on balance, the benefits of implementing the proposed rules relating to pipeline safety are at least equal to the costs of compliance; and
- 5.) Staff proposes to mitigate the cost impact of the proposed requirements in WAC 480-93-100 concerning valves by delaying the effective date of the rule by three years to allow companies time to conduct surveys and studies to implement the proposed rule.

**Mitigation:**

Changes to the definition of “Business District” and to the requirements of WAC 480-93-100 concerning valves, have the potential to cause significant compliance costs for companies. As described above, Staff believes that the changes in these rules are necessary to address concerns over how pipeline companies identify and maintain valves necessary to shut off gas in an emergency. In order to address the significant impact of the proposed rule, Staff proposes to mitigate the cost impact of the proposed requirements in WAC 480-93-100 by delaying the effective date of the rule for three years to allow companies to conduct the necessary surveys and studies to implement the proposed 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. UG-011073 proposing rules and amendments to Chapter 480-93 WAC, the rules relating to the regulation to the safety of gas company operations.

Attachments