

Agenda Date: June 13, 2001  
Item Number: 2B

**Docket:** **UG-010522**  
Pipeline Safety Funding Emergency Rulemaking  
WAC 480-93-240 and WAC 480-75-240

Staff: Sondra Walsh, Senior Policy Strategist  
Doug Kilpatrick, Director, Pipeline Safety  
Karen Caille, Administrative Law Judge

### **Recommendation**

Staff recommends that the Commissioners adopt emergency rules, WAC 480-93-240 and WAC 480-75-240 setting the fee methodology for collecting a pipeline safety fee, as directed by Chapter 238, Laws of 2001.

### **Requirement**

Chapter 238, Laws of 2001 requires that the Commission establish in rule a methodology by which fees are set. The purpose of this rule is to ensure a sustainable, comprehensive, pipeline safety program, to protect the health and safety of the citizens of Washington, and maintain the quality of the state's environment. This will be accomplished by securing permanent funding for the pipeline safety program through establishment of a regulatory fee imposed on hazardous liquids and gas pipeline companies. These emergency rules will remain in effect only until permanent rules are adopted.

### **Background**

On May 11, 2001, Chapter 238, Laws of 2001 was signed into law with an effective date of July 1, 2001. The law authorizes the Commission to set a methodology for collecting a regulatory fee from gas and hazardous liquids pipeline companies subject to the Commission's safety enforcement and inspection. Chapter 238, Laws of 2001 also establishes a new pipeline safety account where all pipeline fees collected must be deposited.

Proposed rule language was sent to stakeholders on May 10, 2001, for their review prior to a May 17, 2001, stakeholder workshop. Many of the comments provided at the workshop and written comments have been incorporated in the proposed rule language. Revised proposed rule language was sent to stakeholders on May 25, 2001, with a comment date of May 31, 2001.

## **Proposed Rule**

The proposed rule language

- ❖ defines the companies that must pay an annual pipeline safety fee
- ❖ describes how the Commission will set fees each year
- ❖ establishes that the fee will be collected in four equal payments payable at the beginning of each quarter of each year beginning July 1, 2001
- ❖ explains that the pipeline fee will be collected to recover the costs of the authorized workload represented by current appropriations
- ❖ provides that the Federal Department of Transportation, Natural Gas and Hazardous Liquids Pipeline Safety Program Base Grants will be credited against the pipeline safety program cost
- ❖ establishes a fee methodology that provides for:
  - an allocation of cost between intrastate and interstate gas and hazardous liquids companies
  - direct assignment of average costs associated with a company's standard inspections
  - allocation of unassignable costs between interstate and intrastate companies, based on pipeline miles within the state
- ❖ requires that on or before April 1 of each year companies must submit annual report information necessary to establish the annual pipeline safety fee
- ❖ provides that by June 1 of each year Commission staff will mail to each company an annual invoice showing an estimate of the quarterly amounts
- ❖ provides that all pipeline fees received from gas and hazardous liquids companies must be deposited to the pipeline safety account, and
- ❖ establishes the procedure for handling a refund petition

Chapter 238, Laws of 2001, requires that the Joint Legislative Audit and Review Committee (JLARC) review the Commission's pipeline safety program. The audit will review staff use, inspection activity, the fee methodology, and the overall program costs. The cost for this review is included in the program costs. As directed by JLARC, 40% of the cost is to be recovered in year one, and 60% recovered in year two.

The program costs and the collection of the pipeline safety fee are based on the House, Senate and Governor's budget recommendation. If the budget approved is different from the recommended budget, the fees will be adjusted to reflect the budget change.

### **Public Comment**

At the May 17, 2001, stakeholder meeting an issue relating to the application of federal funds was raised. Commission Staff's analysis is that the funds to be credited against the Washington Utilities and Transportation pipeline safety program cost are those funds received from the Federal Department of Transportation's Natural Gas Pipeline Safety Program and the Hazardous Liquids Pipeline Safety Program base grants. Federal grants to implement special projects will not be credited against base program costs and the costs of such projects will not be included in the base program costs. No further comments have been received on this issue.

### **Adopting Permanent Rules**

The statute requires that the emergency rules remain in effect only until permanent rules are adopted. A rulemaking has been initiated under Docket, UG-010522, and the CR-101 was filed on April 26, 2001.

### **Conclusion**

Staff recommends that the Commissioners adopt emergency rules, WAC 480-93-240 and WAC 480-75-240 setting the fee methodology for collecting a pipeline safety fee, as directed by Chapter 238, Laws of 2001.

### **Attachments**