

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of Adopting)
) DOCKET NO. UG-010522
WAC 480-093-240 And)
WAC 480-075-240) GENERAL ORDER NO. R-486
)
Relating to) ORDER ADOPTING RULES ON AN
Pipeline Safety Funding) EMERGENCY BASIS
)
)

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1 This is an emergency rulemaking proceeding to adopt rules that will become effective when filed. The emergency rules that are the subject of this rulemaking address Chapter 238, Laws of 2001– Pipeline Safety – Funding to become effective July 1, 2001.

2 The Washington Utilities and Transportation Commission is conducting this rulemaking pursuant to RCW 80.01.040 and RCW 34.05.350. This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), and the State Environmental Policy Act of 1971 (chapter 43.21C RCW).

3 While the emergency rule process set forth in RCW 34.05.350 permits agencies to dispense with the requirements of notice and opportunity to comment, the Commission did provide notice of its consideration of the rules including a CR-101 filed on April 26, 2001, opportunity to file comments by May 10, 2001, and May 31, 2001, and a stakeholder workshop held on May 17, 2001. Many of the comments proposed by the stakeholders have been incorporated in the proposed rule language.

4 The Commission designates the discussion in this order as a concise explanatory statement,¹ supplemented where not inconsistent by the Commission Staff memoranda presented at the open meeting on June 13, 2001, where the Commission considered whether to adopt an emergency rule.

¹ A concise explanatory statement as provided for in RCW 34.05.325 is not required in emergency rulemakings. Because of the level of interest in this rule and the public involvement, the Commission believes that it is appropriate to acknowledge the involvement by describing in a concise explanatory statement how comments affected the development of the rule.

5 The reasons requiring emergency action are as follows: Chapter 238, Laws of 2001 requires that the Commission establish in rule a methodology by which fees are set and that the fees collected be based upon that methodology. The law does not become effective until July 1, 2001; funds to sustain the program are required immediately. Therefore, emergency rulemaking is required to set the methodology for calculating the fees and payments subject to revision upon adoption of a permanent rule. 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. Current funding authority for the existing pipeline safety program expires June 30, 2001. Without an emergency rule in place, there would not be sufficient funds to meet program needs. These emergency rules will remain in effect only until permanent rules are adopted.

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

7 For the reasons stated above, the Washington Utilities and Transportation Commission finds that an emergency exists. The Commission finds that immediate adoption of new rules establishing the fee methodology by July 1, 2001, is necessary, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. Chapter 238, Laws of 2001 requires that a new pipeline safety account be established and all monies be deposited to that account. Funding for the existing pipeline safety program ends on June 30, 2001; therefore, the rule is necessary to begin collecting pipeline fees to meet expenses payable after that date.

ORDER

8 THE COMMISSION ORDERS That WAC 480-93-240 and WAC 480-75-240, as set forth in Appendix A, are adopted to take effect as emergency rules of the Washington Utilities and Transportation Commission pursuant to RCW 34.05.350 and RCW 34.05.380(2), to be effective July 1, 2001.

9 THE COMMISSION FURTHER ORDERS That this Order and the rules set forth in Appendix A, after being first recorded in the order register of the Washington Utilities and Transportation Commission, be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this day of June, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner