

Agenda Date: August 11, 2004

Item Number: **C1**

**Docket: P-041344**

Re: Rulemaking WAC 480-93-240 and WAC 480-75-240 Annual Pipeline Safety Fee Methodology

Staff: Sondra Walsh, Senior Policy Strategist

**Recommendation:**

Direct the Secretary to file a preproposal statement of inquiry CR-101 in Docket No. P-041344 to consider reviewing WAC 480-93-240 and WAC 480-75-240.

**Discussion:**

In 2001, the legislature passed the Pipeline Safety Funding bill that was codified into RCW 80.24.060 and 81.24.090. These sections require a methodology for assessing fees to hazardous liquid and natural gas companies be adopted into rule. Rules were adopted in 2002 and the current methodology has been in practice since that time. In 2003, the Joint Legislative Audit Review Committee (JLARC) reviewed the Commission's fee calculations and recommended modifications, not in the methodology, but in the calculation of direct costs of inspection activities. Given greater experience in the new inspection program, amendments were made in the 2003-2004 fees to more accurately reflect actual costs.

In review of the fees proposed for 2004-2005, some companies expressed concern that too much of the Commission's costs are still spread using the indirect "per mile" formula. Only the more routine "standard inspections" are directly spread on an actual cost basis. Further, concern has been raised that the Commission's practice of "truing up" fees where actual costs differ greatly from projections is inconsistent with the fee methodology in rule.

Therefore, Staff recommends a review of the current methodology. The following areas will be explored during this review:

- Requirements of current rule;
- Flexibility in methodology under statutory authority;

- Potential expansion of directly assignable costs using workload data and staff time by activity;
- Seek operator feedback on the current fee setting methodology;
- Propose alternative fee setting methodologies for discussion with pipeline operators; and
- Determine a fee method that includes a true-up mechanism for higher or lower than expected federal reimbursements and/or inspection activity.

Staff is seeking a consultant to assist in the review of the current methodology. Industry representatives and other stakeholders will be asked to comment on the current rule as well as alternative recommendations put forth by the consultant. Staff plans on making a determination by the end of calendar year 2005 as to whether the current rule should be revised.

**Conclusion:**

Direct the Secretary to file a preproposal statement of inquiry CR-101 in Docket No. P-041344 to consider reviewing WAC 480-93-240 and WAC 480-75-240.