

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING\***  
 A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission	860
Agency and Division	Administrative Rules Chapter Number
Diane Davis	(53) 378-4372
Rules Coordinator	Telephone

PO Box 2148, Salem OR 97308

Address

**RULE CAPTION**

In the Matter of a Rulemaking to Adopt Federal Pipeline Safety Regulation Amendments.

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing  
**ADOPT:**

**AMEND:** 860-024-0020 and 860-024-0021

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS Ch. 183, 756.040 & 757.039

Other Auth.:

Stats. Implemented: ORS 757.039

**RULE SUMMARY**

The proposed rules adopt published US Department of Transportation (USDOT) amendments associated with the construction, operation and maintenance of intrastate gas pipelines and liquefied natural gas facilities. The amendments being adopted are from the Code of Federal Regulations, CFR Title 49, Part 191 (amendments through No. 22), Part 192 (amendments through No. 117), Part 199 (amendments through No. 25) and Part 40 (amendments through No. 29) .

Per ORS 757.039(3), the commission has agreements with the USDOT to enforce federal pipeline safety regulations pertaining to pipeline facilities in Oregon. As a condition of those agreements, the Commission must annually certify to the USDOT that the Commission adopted or is in the process of adopting all current federal pipeline safety regulations applicable to intrastate gas pipelines and liquefied natural gas facilities. These rule amendments update the Oregon pipeline safety rules to be current with the federal gas pipeline safety regulations and to comply with USDOT certification requirements.

The commission encourages participants to file written comments as early as practicable in the proceeding so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 569 on comments and file them by e-mail to the Commissions Filing Center at PUC.FilingCenter@state.or.us and also send a signed hard copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commissions Filing Center, please see

<http://www.puc.state.or.us/PUC/eFiling/fcindex.shtml>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=18226>.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

4/23/13 5:00 p.m.

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)

/s/ Diane Davis

Diane Davis    diane.davis@state.or.us

3/15/13

Signature

Printed name

Date

\*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State

**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of a Rulemaking to Adopt Federal Pipeline Safety Regulation Amendments

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: a Rulemaking to Adopt Federal Pipeline Safety Regulation Amendments

Statutory Authority: ORS Ch. 183, ORS 756.040 and 757.039

Other Authority:

Stats. Implemented: ORS 757.039

Need for the Rule(s): Under ORS 757.039, the Commission is empowered to adopt safety rules pertaining to the transmission, distribution, storage, or treatment of fuel gas transported by pipeline. The statute also authorizes the Commission to enter into agreements with the US Department of Transportation (USDOT) to enforce federal pipeline safety regulations pertaining to pipeline facilities in Oregon. The Commission has entered into agreements with USDOT for enforcement over intrastate gas pipeline facilities. As part of its annual agreement, the Commission certifies to USDOT that it has or is in the process of adopting all current federal pipeline safety regulations applicable to intrastate gas pipelines and liquefied natural gas facilities. Adoption of the federal amendments complies with the certification requirements.

Documents Relied Upon, and where they are available:

Code of Federal Regulations, CFR Title 49, Part 191 (amendments through No. 22), Part 192 (amendments through No. 117), Part 199 (amendments through No. 25), and Part 40 (amendments through 29):

Information is available online at the Pipeline and Hazardous Materials Safety Administration website at <http://www.phmsa.dot.gov/pipeline/regs>.

The current Electronic Code of Federal Regulations pertaining to pipeline safety is available online at

[http://www.ecfr.gov/cgi-bin/text-idx?SID=1d49a3b137cb1b6fc45251074e634b44&c=ecfr&tpl=/ecfrbrowse/Title49/49cfrv3\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=1d49a3b137cb1b6fc45251074e634b44&c=ecfr&tpl=/ecfrbrowse/Title49/49cfrv3_02.tpl)

ORS Chapter 757 is available online at <http://www.leg.state.or.us/ors/757.html>.

Fiscal and Economic Impact:

The Public Utility Commission experienced additional costs of compliance resulting from the adoption of the amendments at the federal level. The gas pipeline operators experienced fiscal and economic impact when they complied with the regulations upon adoption at the federal level. The Commission's adoption of the amendments by reference will not further impact the gas pipeline operators.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The Public Utility Commission anticipates that it will experience additional costs of compliance resulting from the adoption of the amendments at the federal level. Commission Staff has additional recordkeeping, reporting and administrative activities. Additional attorney costs may arise as a result of

the increased monitoring. The potential magnitude of these additional costs cannot be quantified at this time. Units of local government and the public are not impacted.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Of the gas pipeline operators subject to the rules, there are three that are small businesses -- one liquefied petroleum gas operator and two master meter operators. The gas pipeline operators experienced fiscal and economic impact when they complied with the regulations upon adoption at the federal level. The Commission's adoption of the amendments by reference will not further impact the gas pipeline operators who comply with the federal requirements. Gas pipeline operators identified as not in compliance with federal regulations may bear the costs resulting from enforcement activities, and the potential magnitude of those costs cannot be quantified at this time because they would be dependent on the nature and severity of the noncompliance.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The gas pipeline operators are required to comply with the regulations upon adoption at the federal level. Any increase in reporting and recordkeeping costs was the result of compliance with the regulations upon adoption at the federal level. The Commission's adoption of the amendments by reference will not further impact the gas pipeline operators.

c. Equipment, supplies, labor and increased administration required for compliance:

The gas pipeline operators are required to comply with the regulations upon adoption at the federal level. The Commission's adoption of the amendments by reference will not further impact the gas pipeline operators.

How were small businesses involved in the development of this rule?

Small businesses were not involved at the state level. This rulemaking adopts the federal amendments as required by ORS 757.039. These amendments were subject to the federal rule making processes where gas pipeline operators and interested parties had sufficient opportunity to comment and to take appropriate compliance actions.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

These amendments were subject to the federal rule making processes where gas pipeline operators and interested parties had sufficient opportunity to comment and to take appropriate compliance actions.

/s/ Diane Davis

Signature

Diane Davis

Printed name

3/15/13

Date

## Gas

### 860-024-0020

#### Gas Pipeline Safety

Every gas operator must construct, operate, and maintain natural gas and other gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. ~~1422~~ — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on ~~July 13, 1998~~ **April 4, 2011.**

(2) 49 CFR, Part 192, and amendments through No. ~~115117~~ — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards in effect on ~~November 26, 2010~~ **August 15, 2011.**

(3) 49 CFR, Part 199, and amendments through No. 24 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on ~~March 28, 2008~~ **February 17, 2009.**

**(4) 49 CFR, Part 40, and amendments through No. 29 – Procedure for Transportation Workplace Drug and Alcohol Testing Programs in effect on October 3, 2012.**

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 172, f. & ef. 1-14-76 (Order No. 76-036); PUC 180, f. 4-8-77, ef. 5-1-77 (Order No. 77-232); PUC 2-1978, f. & ef. 3-16-78 (Order No. 78-158); PUC 6-1980, f. & ef. 10-22-80 (Order No. 80-777); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09; PUC 2-2011, f. & cert. ef. 5-4-11

### 860-024-0021

#### Liquefied Natural Gas Safety

Every gas operator must construct, operate, and maintain liquefied natural gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. ~~1422~~ — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on ~~July 13, 1998~~ **April 4, 2011.**

(2) 49 CFR, Part 193, and amendments through No. 23 — Liquefied Natural Gas Facilities; Minimum Safety Standards in effect on November 26, 2010.

(3) 49 CFR, Part 199, and amendments through No. 24 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on ~~March 28, 2008~~ **February 17, 2009.**

**(4) 49 CFR, Part 40, and amendments through No. 29 – Procedure for Transportation Workplace Drug and Alcohol Testing Programs in effect on October 3, 2012.**

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09; PUC 2-2011, f. & cert. ef. 5-4-11