

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 663

In the Matter of

Rulemaking to Update OAR 860-024-0020
and 860-024-0021 to Adopt USDOT
Amendments Related to Gas Pipeline and
Liquefied Natural Gas Safety.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our October 31, 2023, Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Made, entered, and effective Nov 02 2023.



Megan W. Decker
Chair



Letha Tawney
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. RM1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 31, 2023**

REGULAR ___ **CONSENT** ___ **RULEMAKING** X **EFFECTIVE DATE** N/A

DATE: October 18, 2023

TO: Public Utility Commission

FROM: Kevin Hennessy

THROUGH: Bryan Conway, Heide Caswell, and Diane Davis **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION:
(Docket No. AR 663)
Requesting Approval to Issue a Notice of Proposed Rulemaking to Update
OAR 860-024-0020 and 860-024-0021 to Adopt USDOT Amendments
Related to Gas Pipeline and Liquefied Natural Gas Safety.

STAFF RECOMMENDATION:

Approve the request to open a formal rulemaking without informal proceedings and issue a notice of proposed rulemaking to adopt USDOT amendments in permanent rules.

DISCUSSION:

Issue

Whether the Commission should open a formal rulemaking without informal proceedings and issue a notice of proposed rulemaking to adopt USDOT amendments, which regulations are incorporated by reference in ASME/ANSI B31.8-2022, in OAR 860-024-0020 and OAR 860-024-0021. These rule changes require subject operators to stay up to date with current national standards and practices used in the construction, operation, and maintenance of pipeline safety rules.

Applicable Rule or Law

Per ORS 757.039(3), the Commission has agreements with the US Department of Transportation to enforce federal pipeline safety regulations pertaining to pipeline facilities in Oregon. As a condition of those agreements, the Commission must annually

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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.

Per ORS 756.040, the Commission has authority to supervise and regulate every public utility in Oregon, and to do all things necessary and convenient in the exercise of such power and jurisdiction. Under ORS 756.060, the Commission may adopt reasonable and proper rules relative to all statutes administered by the Commission.

Analysis

Through rule change processes resulting from pipeline investigations, amendments to the Code of Federal Regulation were proposed. They culminated in rule changes that were posted to the Federal Register and resulted in changes to CFR 49, Parts 191 and 192. The Federal Register specifically identified the various elements that were amended, and they are consistent with improving the safety, reliability, and security of the natural gas pipeline system.

Background

The federal amendments that are being proposed for adoption are from the Code of Federal Regulations, CFR Title 49, Part 191 (amendments through No. 31), Part 192 (amendments through No. 134), and are subsequently incorporated by reference in ASME/ANSI B31.8-2022. The proposed rule amendments are shown in Attachment A.

Recommended Procedural Timeline

If the request to initiate the formal phase of rulemaking is adopted at this public meeting, the notice may be published in the December 2023 *Oregon Bulletin*, with comments due on December 22, 2023. Staff does not anticipate a fiscal or economic impact because any impact would have been at the time the federal rules and amendments went into effect, requiring compliance of the operators of the facilities. The request to adopt the rules may then be brought back to a public meeting in January 2024 to become effective upon filing in January 2024.

Conclusion

Staff recommends the Commission open a formal rulemaking without informal proceedings and issue a notice of proposed rulemaking to adopt the amendments to the federal regulations in OAR 860-024-0020 and OAR 860-024-0021, as shown in Attachment A, to align with USDOT certification requirements.

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PROPOSED COMMISSION MOTION:

Approve the request to initiate formal rulemaking without informal proceedings and issue a notice of proposed rulemaking to adopt the I amendments to the federal regulations in OAR 860-024-0020 and AOR 860-024-0021, as shown in Attachment A.

PROPOSED RULE AMENDMENTS

AMEND: 860-024-0020

RULE TITLE: Gas Pipeline Safety

RULE SUMMARY: This rule adopts the most recent amendments to the Pipeline and Hazardous Material Safety Administration (PHMSA) rules concerning pipeline safety, operator qualification, inspection intervals, valves and other PHMSA pipeline safety changes.

RULE TEXT:

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. **2731** — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on **July 1, 2020May 17, 2022**.

(2) 49 CFR, Part 192, and amendments through No. **126134** — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards in effect on **July 1, 2020August 1, 2023**.

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

STATUTORY/OTHER AUTHORITY: ORS 183, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 757.039

AMEND: 860-024-0021

RULE TITLE: Liquefied Natural Gas Safety

RULE SUMMARY: This rule adopts the most recent amendments to the Pipeline and Hazardous Material Safety Administration (PHMSA) rules concerning pipeline safety, operator qualification, inspection intervals, valves and other PHMSA pipeline safety changes.

RULE TEXT:

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. **2731** — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on **July 1, 2020May 17, 2022**.

(2) 49 CFR, Part 193, and amendments through No. 25 — Liquefied Natural Gas Facilities; Minimum Safety Standards in effect on March 6, 2015.

(3) 49 CFR, Part 199, and amendments — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on April 23, 2019.

(4) 49 CFR, Part 40, and amendments – Procedure for Transportation Workplace Drug and Alcohol Testing Programs in effect on April 23, 2019.

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

STATUTORY/OTHER AUTHORITY: ORS 183, ORS 756, ORS 757

STATUTES/OTHER IMPLEMENTED: ORS 757.039