

**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: ADMINISTRATIVE HEARINGS DIVISION RECOMMENDATION
ADOPTED**

This order memorializes our decision, made and effective at the January 9, 2024 Regular Public Meeting, to adopt the Administrative Hearings Division's (AHD) recommendation in this matter to adopt proposed permanent rule changes as presented in Attachment 1 of the AHD January 2, 2024 Public Meeting Report. The AHD report with the recommendation is attached as Appendix A.

Made, entered, and effective Jan 09 2024.



Megan W. Decker
Chair



Letha Tawney
Commissioner



A person may petition the Oregon Public Utility Commission for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

ITEM NO. RM1

**PUBLIC UTILITY COMMISSION OF OREGON
AHD REPORT**

PUBLIC MEETING DATE: January 9, 2024

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

DATE: January 2, 2024

TO: Public Utility Commission

FROM: Christopher J. Allwein **SIGNED**

THROUGH: Diane Davis, Nolan Moser

SUBJECT: OREGON PUBLIC UTILITY COMMISSION ADMINISTRATIVE
HEARINGS DIVISION (AHD): (Docket No. AR 663) Requesting the
Commission adopt amendments to OAR 860-024-0020 and 860-024-0021
to reflect USDOT amendments related to gas pipeline and liquefied
natural gas safety.

AHD RECOMMENDATION:

Adopt the proposed amendments to OAR 860-024-0020 and 860-024-0021 to reflect
US Department of Transportation (USDOT) amendments related to gas pipeline and
liquefied natural gas safety as presented in Attachment 1.

DISCUSSION:

Issue

Whether the Public Utility Commission of Oregon (Commission) should update
OAR 860-024-0020 and 860-024-0021 to reflect recent USDOT updates related to gas
pipeline and liquefied natural gas safety.

Applicable Law or Rule

Under ORS (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 and amend reasonable and proper
rules and regulations relative to all statutes administered by the commission....” The
Oregon Administrative Procedures Act sets forth the process for rulemaking.

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.

Analysis

Background

On November 2, 2023, the Commission issued Order No. 23-419, adopting Staff's recommendation to open a formal rulemaking, without informal proceedings, and issue a notice of proposed rulemaking to adopt USDOT amendments in permanent rules related to gas pipeline and liquefied natural gas safety.

AHD filed the notice of proposed rulemaking on November 22, 2023, and served the notice on November 27, 2023, to the AHD Administrative Rule Gas Notification List and to certain legislators as required by ORS 183.335. The proposed rule modifications were published in the Oregon Secretary of State's December 1, 2023 Bulletin.

AHD did not conduct a rulemaking hearing. Written comments were due on or before December 22, 2023. No person requested a hearing and no comments were received.

Overview

The October 18, 2023 Staff Report notes that, via processes resulting from various pipeline investigations, amendments to the Code of Federal Regulation were proposed. These amendments culminated in rule modifications 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 natural gas pipeline systems.

The federal amendments proposed for adoption in Oregon rules 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 B31.8-2022.¹

OAR 860-024-0020 lists federal prescriptive safety standards for gas operators and facilities, as adopted by the Commission. OAR 860-024-0021 lists federal prescriptive safety standards for operators of liquified natural gas facilities, also as adopted by the Commission. The October 18, 2023 Staff Report notes that these rules require subject

¹ Staff Report at 2 (Oct. 18, 2023).

operators to be current with the national standards and practices used in the construction, operation, and maintenance of pipeline facilities in Oregon.

Conclusion

It is recommended that the proposed Oregon rule amendments presented by Staff and modified to reflect the federal rule updates, be adopted by the Commission. The proposed rule amendments are shown in Attachment 1.

AHD RECOMMENDATION:

Adopt the proposed amendments to OAR 860-024-0020 and 860-024-0021 to reflect USDOT amendments related to gas pipeline and liquefied natural gas safety as presented in Attachment 1.

PROPOSED RULE AMENDMENTS

AMEND: 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. ~~2731~~ — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on ~~July 1, 2020~~ May 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, 2020~~ August 1, 2023.

(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, 756, 757

STATUTES/OTHER IMPLEMENTED: ORS 757.039

AMEND: 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. ~~2731~~ — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on ~~July 1, 2020~~ May 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