

**ADOPTED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R085-05

Effective October 31, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 703.025 and 704.210.

A REGULATION relating to public utilities; revising the provisions governing the intrastate transportation of gas; and providing other matters properly relating thereto.

Section 1. NAC 704.460 is hereby amended to read as follows:

704.460 The Commission hereby adopts by reference the regulations contained in 49 C.F.R. Parts 191, 192, 193 and 199, as those regulations existed on ~~[February 14,]~~ *October 1*, 2004. Copies of those parts are available at no charge from the United States Department of Transportation, Research and Special Programs Administration, Washington, DC 20590.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R085-05**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R085-05 which pertain to chapter 704 of the Nevada Administrative Code on October 4, 2005.

Notice date: 3/3/2005
Hearing date: 4/13/2005

Date of adoption by agency: 10/4/2005
Filing date: 10/31/2005

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Regulations concerning adopting the currently effective federal pipeline safety regulations in Public Utilities Commission of Nevada (“Commission”) Docket No. 05-2025 were noticed by a Notice of Intent to Amend/Adopt/Repeal Regulations, Request for Comments, Notice of Workshop and Notice of Hearing issued on March 3, 2005. The Notice was published in the Elko Daily Free Press, Las Vegas Review Journal, Nevada Appeal, Reno Gazette Journal, and Tonopah Times-Bonanza. Additionally, the notice was mailed to county clerks, county libraries and all persons who requested inclusion on the Commission’s service list.

In addition to the public response from affected businesses discussed in #3 below, the following summary represents public responses that were made to the Commission at the duly-noticed Workshop held on April 13, 2005: Andrew Bettwy, representing Southwest Gas Corporation (“SW Gas”), stated that SW Gas did not have any objection to adopting the current pipeline safety Regulations, but wanted to express a concern whether automatically adopting the current federal pipeline safety rules as the Code of Federal Regulations is revised is an unlawful or unconstitutional delegation of authority by the Commission; David Noble, of Commission Staff stated that the regulation is a temporary one and an in-depth discussion should be held with the Legislative Counsel Bureau and discuss the situation with the Federal regulations to alleviate any concerns that have been expressed regarding adopting the regulation.

A copy of the summary may be obtained by calling the Commission at (775) 687-6001 or (702) 486-2600, or by writing to the Commission at 1150 East William Street, Carson City, Nevada 89701 or 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

2. The number of persons who:

(a) Attended the workshop:

April 13, 2005: 10

(b) Testified at the workshop:

April 13, 2004: 2

(c) **Attended the hearing:**
April 13, 2005: 11

(d) **Submitted to the agency written comments:**
None.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited by notices placed in the newspapers mentioned in the response to question #1 above, by direct mailings to interested persons on the Commission's mailing list and by posting of notices at county libraries, courthouses and the Commission's website.

Appearances were made at the foregoing workshops and hearings by interested persons, including: Staff and SW Gas.

Transcripts of the workshops and hearings, copies of the comments and this summary are on file and available for public viewing at the offices of the Commission. Copies of the transcripts may be obtained by calling the Commission at (775) 687-6001 or (702) 486-2600, or by writing to the Commission at: 1150 East William Street, Carson City, Nevada 89701 and 101 Convention Center Drive, Suite 250, Las Vegas, Nevada 89109.

4. If the Regulations were adopted without changing any part of the Proposed Regulations, a summary of the reasons for adopting the Regulations without change.

Any concerns regarding an unconstitutional or unlawful delegation of authority by the Commission by adopting the current federal pipeline safety regulations automatically would be discussed in depth with the Legislative Counsel Bureau after the 2005 Legislative Session. Before being adopted as a permanent Regulation, discussions concerning any of the above concerns would occur that could result in revisions to the Regulation.

5. The estimated economic effect of the adopted Regulations on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) **Both adverse and beneficial effects; and**
- (b) **Both intermediate and long-term effects.**

The Commission completed a small business impact statement pursuant to Nevada Revised Statute ("NRS") 233B.0608. On March 11, 2005, the Presiding Officer issued a Procedural Order instructing Staff to conduct an investigation into whether the Proposed Regulation is likely to: (i) impose a direct and significant economic burden upon a small business; or (ii) directly restrict the formation, operation or expansion of a small business. Staff was required to present a report on the investigation to the Commission. At the March 30, 2005, general session of the Commission, Staff presented its report. The Commission voted at that general session to accept Staff's recommendation that the Proposed Regulations do not impose a

direct and significant burden on small businesses in Nevada or restrict the formation, operation or expansion of small businesses in Nevada.

6. The estimated cost to the agency for enforcement of the adopted Regulations.

At this time, the Commission cannot quantify what, if any, estimated cost it will incur to enforce the adopted Regulations. The regulation does not establish any new fee or increase any existing fees.

7. A description of any Regulations of other state or government agencies that the Proposed Regulations overlap or duplicates and a statement explaining why the duplication or overlapping is necessary. If the Regulations overlaps or duplicates a federal Regulations, the name of the regulating federal agency.

The Regulation adopts the currently effective federal pipeline safety regulations in which the state of Nevada, through the Commission, participates in a contract with the United States Department of Transportation, Research and Special Programs Administration, Office of Pipeline Safety, in enforcement of the Code of Federal Regulations, Parts 191, 192, 193, 195 and 199, applicable to natural gas, liquefied natural gas and liquefied petroleum gas pipelines, but does not overlap or duplicate other state and local regulations. The adopted temporary regulations will ensure that Nevada complies with the federal pipeline safety regulations as soon as they become effective.

8. If the Regulations include provisions that are more stringent than federal Regulations that regulate the same activity, a summary of such provisions.

The Regulation would adopt the same provisions of the currently effective federal safety pipeline regulations.

9. If the Regulations provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The Commission does not anticipate any new fees or an increase in any existing fees as a result of the adoption of these Regulations.