

**Chapter 704 of NAC**

**LCB File No. T025-05**

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

**Filed with the Secretary of State on June 2, 2005**

**PUCN DOCKET NO. 05-2025**

**NAC 704.460 Adoption of certain federal regulations.** (NRS 703.025, 704.210) 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, 2004]~~. Copies of those parts are available at no charge from the United States Department of Transportation, Research and Special Programs Administration, Washington, D.C. 20590.

**NOTICE OF ADOPTION OF TEMPORARY REGULATION**  
**LCB File No. T025-05**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. T025-05 which pertain to chapter 704 of the Nevada Administrative Code on April 27, 2005.

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

**Date of adoption by agency:** 4/27/2005  
**Filing date:** 6/2/2005

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation of 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) 684-6100 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 of 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 office of the Commission. Copies of the transcripts may be obtained by calling the Commission at (775) 684-6100 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.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation 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 regulation on the business which it is to regulate and on the public. These must be stated separately, and in 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 regulation.**

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 which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, 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 State 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 regulation includes provisions that are more stringent than a federal regulation which regulates 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 regulation 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.

**BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA**

Rulemaking to amend NAC 704.460 to )  
Adopt the currently effective federal pipeline ) Docket No. 05-2025  
Safety regulations. )  
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At a general session of the Public Utilities Commission of Nevada, held at its offices on April 27, 2005.

PRESENT: Chairman Donald L. Soderberg  
Commissioner Carl B. Linvill  
Commissioner Jo Ann P. Kelly  
Commission Secretary Crystal Jackson

**ORDER ADOPTING TEMPORARY REGULATIONS**

The Public Utilities Commission of Nevada (“Commission”) makes the following findings of fact and conclusions of law:

1. On February 23, 2005, the Public Utilities Commission of Nevada (“Commission”) voted to open a rulemaking to amend Nevada Administrative Code (“NAC”) 704.460 to adopt the currently effective federal pipeline safety regulations. The Commission has designated this matter as Docket No. 05-2025.
2. This matter is being conducted by the Commission pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code, Chapters 233B, 703, and 704, including but not limited to, NRS 704.210.
3. The Commission issued a public notice of this matter in accordance with state law and the Commission’s Rules of Practice and Procedure.
4. On March 4, 2005, the Commission delivered the proposed temporary regulations to the Legislative Counsel Bureau.
5. On March 30, 2005, the Commission voted, pursuant to NRS 233B.0608, to accept the recommendation of the Regulatory Operations Staff (“Staff”) of the Commission and find that the proposed temporary regulations do not: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

6. A duly noticed workshop and a duly noticed hearing were held on April 13, 2005.

7. Appearances were made at the foregoing workshop and hearing by interested persons, including Staff; the Attorney General's Bureau of Consumer Protection; and Southwest Gas Corporation.

8. The Commission finds that it is in the public interest to adopt the proposed temporary regulation, attached hereto as Attachment 1 and incorporated herein by reference.

THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. The proposed temporary regulation, which is attached hereto as Attachment 1 and incorporated herein by reference, is ADOPTED.

2. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting of this Order.

By the Commission,

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DONALD L. SODERBERG, Chairman

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CARL B. LINVILL, Commissioner and  
Presiding Officer

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JO ANN P. KELLY, Commissioner

Attest: \_\_\_\_\_  
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

(SEAL) \_\_\_\_\_