

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

LCB File No. R030-04

Effective May 25, 2004

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 the Public Utilities Commission of Nevada; revising the provisions governing the adoption by reference of certain federal regulations by the Commission; 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 ~~[October 10, 2000.]~~ *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 PROPOSED REGULATION
LCB File No. R030-04**

The Public Utilities Commission of Nevada adopted regulations assigned LCB File No. R030-04 which pertain to chapter 704 of the Nevada Administrative Code on May 4, 2004.

Notice date: 2/2/2004
Hearing date: 3/19/2004

Date of adoption by agency: 5/4/2004
Filing date: 5/25/2004

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 adoption of the current federal pipeline safety regulations in Nevada in Public Utilities Commission of Nevada (“Commission”) Docket No. 03-12019 were noticed twice: a combined Notice of Intent to Adopt/Amend/Repeal Regulations, Notice of Workshop and Notice of Hearing was issued on January 13, 2004; and a combined Renotice of Intent to Amend/Adopt/Repeal Regulations, Notice of Workshop and Notice of Hearing was issued on February 2, 2004. The Renotice postponed the Workshop and Hearing date from March 16, 2004, to March 19, 2004. Both notices were published in the Elko Daily Free Press, Las Vegas Review Journal, Nevada Appeal, Reno Gazette Journal, and Tonopah Times-Bonanza. Additionally, the notices were 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 March 19, 2004: David Noble, Assistant Counsel for the Commission’s Regulatory Operations Staff (“Staff”), proposed that the regulation incorporate recent revisions to federal regulations relating to pipeline integrity management in high consequence areas, and change the October 1, 2002 date in Section 1 of the proposed regulation to February 14, 2004; J.J. Prucnal, State Regulatory Affairs Analyst for Southwest Gas Corporation, did not oppose the change suggested by Mr. Noble; and David Norris, Associate General Counsel for Sierra Pacific Power Company, also agreed with Mr. Noble after seeking clarification as to the date.

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:
March 19, 2004: 5

(b) Testified at the workshop:

March 19, 2004: 3

(c) Attended the hearing:

March 19, 2004: 4

(d) Submitted to the agency written comments:

No one submitted written comments to the Commission during the proceedings for this rulemaking.

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 from affected businesses 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; Southwest Gas Corporation; and Sierra Pacific Power Company.

No written responses were received, as set forth in the response to question 2(d).

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 regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Changes were made to the proposed regulation before it was adopted by the Commission. The Commission received LCB revisions to its regulation on March 5, 2004. On March 19, 2004, at the duly-noticed Hearing, the Presiding Officer changed the October 1, 2002 date in Section 1 of the proposed regulation to February 14, 2004, to incorporate the most recent revisions to the federal pipeline safety regulations. The Commission adopted the proposed regulation with the date change on April 28, 2004, at a duly-noticed general session.

5. The estimated economic effect of the adopted regulation 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 February 2, 2004, 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 3, 2004 general session, Staff presented its report to the Commission. The Commission voted at that general session to accept Staff’s recommendation that the proposed regulations did not impose a direct and significant burden on small businesses in Nevada or restrict the formation, operation or expansion of small businesses in Nevada.

The regulation has no addition economic effect on businesses subject to the regulation. Nevada, through the Commission, participates in a contract with the United States Department of Transportation Office of Pipeline Safety (“DOT-OPS”) to enforce federal regulations applicable to natural gas, liquefied natural gas and liquefied petroleum gas pipelines. Nevada asserts jurisdiction over all intrastate operators of those facilities. At the request of the DOT-OPS, the Commission may perform inspections of interstate operators of those facilities. The regulation adopted by the Commission merely adopts federal regulations that already apply to the businesses that own and operate those facilities. Therefore, the revised Nevada regulation will not have an economic impact either in the intermediate or long term.

Likewise, the public will not be affected by the regulation because the regulation imposes no fee or other charges, and any potential rate impact would occur regardless of state action because of the federal mandate. Failure to adopt the most recent federal regulation, however, could possibly result in the revocation of delegated authority from the DOT-OPS regarding pipeline safety inspections.

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 regulation.

7. A description of any regulations of other state or government agencies that 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 overlaps the regulations of the DOT-OPS. The State of Nevada participates in a contract with the DOT-OPS to enforce federal pipeline safety regulations. Failure to adopt the current federal pipeline safety regulations could affect the delegated authority outlined in that contract and expose the State of Nevada to fines from the DOT-OPS.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The regulation is not more stringent than any federal regulation that regulates the same activity.

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 this regulation.