

**State of Utah**  
**Administrative Rule Analysis**  
Revised October 2019

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New \_\_\_; Amendment X; Repeal \_\_\_; Repeal and Reenact \_\_\_

**Title No. - Rule No. - Section No.**

**Utah Admin. Code Ref (R no.):**

**R746-409-1**

**Filing No. 52338**

**Agency Information**

|                           |                              |                        |
|---------------------------|------------------------------|------------------------|
| <b>1. Agency:</b>         | Public Service Commission    |                        |
| <b>Building:</b>          | Heber M. Wells Building      |                        |
| <b>Street address:</b>    | 160 E 300 S                  |                        |
| <b>City, state:</b>       | Salt Lake City, UT           |                        |
| <b>Mailing address:</b>   | PO BOX 45585                 |                        |
| <b>City, state, zip:</b>  | Salt Lake City UT 84111-5585 |                        |
| <b>Contact person(s):</b> |                              |                        |
| <b>Name:</b>              | <b>Phone:</b>                | <b>Email:</b>          |
| Michael Hammer            | 801-530-6729                 | michaelhammer@utah.gov |

Please address questions regarding information on this notice to the agency.

**General Information**

|   |
|---|
| <b>2. Rule or section catchline:</b>  |
| General Provisions  |
| <b>3. Purpose of the new rule or reason for the change</b> (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):  |
| Consistent with the Utah Code and federal requirements, the Public Service Commission has a rule in place, R746-409-1, that incorporates by reference provisions of the Code of Federal Regulations pertaining to pipeline safety. R746-409-1 presently incorporates the federal regulations "effective September 1, 2017." However, the federal rules have been amended since that date and the amendment sought here updates the reference to include such changes. |
| <b>4. Summary of the new rule or change:</b>  |
| Consistent with the Utah Code and federal requirements, the Public Service Commission has a rule in place, R746-409-1, that incorporates by reference provisions of the Code of Federal Regulations pertaining to pipeline safety. R746-409-1 presently incorporates the federal regulations "effective September 1, 2017." However, the federal rules have been amended since that date and the amendment sought here updates the reference to include such changes. |

**Fiscal Information**

|   |
|---|
| <b>5. Aggregate anticipated cost or savings to:</b>   |
| <b>A) State budget:</b>   |
| \$0. The amendment updates a current rule that already adopts federal safety regulations pertaining to pipeline safety such that recent federal amendments are reflected in the state rule. It should not affect the state budget.  |
| <b>B) Local governments:</b>  |
| \$0. The amendment updates a current rule that already adopts federal safety regulations pertaining to pipeline safety such that recent federal amendments are reflected in the state rule. It should not affect local governments. |
| <b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):  |

\$0. The amendment updates a current rule that already adopts federal safety regulations pertaining to pipeline safety such that recent federal amendments are reflected in the state rule. It should not affect small businesses.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

\$0. The amendment updates a current rule that already adopts federal safety regulations pertaining to pipeline safety such that recent federal amendments are reflected in the state rule. It should not affect non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

\$0. Businesses that perform work subject to the federal safety regulations may incur costs to comply under the existing rule, which is already incorporated by reference pursuant to Utah Code Ann. Section 54-13-3. However, the amendments to the rule since September 1, 2017 are not anticipated to add to such costs. Therefore, the amendment should have no fiscal impact.

**F) Compliance costs for affected persons:**

\$0. Businesses that perform work subject to the federal safety regulations may incur costs to comply under the existing rule, which is already incorporated by reference pursuant to Utah Code Ann. Section 54-13-3. However, the amendments to the rule since September 1, 2017 are not anticipated to add to such costs. Therefore, the amendment should have no fiscal impact.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

| <b>Regulatory Impact Summary Table</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>Fiscal Costs</b>                    | <b>FY 2020</b> | <b>FY 2021</b> | <b>FY 2022</b> |
| State Government                       | \$0            | \$0            | \$0            |
| Local Government                       | \$0            | \$0            | \$0            |
| Small Businesses                       | \$0            | \$0            | \$0            |
| Non-Small Businesses                   | \$0            | \$0            | \$0            |
| Other Person                           | \$0            | \$0            | \$0            |
| <b>Total Fiscal Costs:</b>             | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |
| <b>Fiscal Benefits</b>                 |                |                |                |
| State Government                       | \$0            | \$0            | \$0            |
| Local Government                       | \$0            | \$0            | \$0            |
| Small Businesses                       | \$0            | \$0            | \$0            |
| Non-Small Businesses                   | \$0            | \$0            | \$0            |
| Other Persons                          | \$0            | \$0            | \$0            |
| <b>Total Fiscal Benefits:</b>          | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |
| <b>Net Fiscal Benefits:</b>            | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

**H) Department head sign-off on regulatory impact:**

PSC Chair Thad LeVar has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The amendment should not impact businesses. Businesses that perform work subject to the federal safety regulations may incur costs to comply under the existing rule, which is already incorporated by reference pursuant to Utah Code Ann. Section 54-13-3. However, the amendments to the rule since September 1, 2017 are not anticipated to add to such costs. Therefore, the amendment should have no fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Thad LeVar, Chair

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Utah Code Ann. Section 54-13-3

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables)

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):**

|   | First Incorporation                   |
|---|---------------------------------------|
| <b>Official Title of Materials Incorporated (from title page)</b> | Code of Federal Regulations, Title 49 |
| <b>Publisher</b>  | Office of the Federal Register        |
| <b>Date Issued</b>  | 2019                                  |
| <b>Issue, or version</b>  | 2019                                  |

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until (mm/dd/yyyy):** 12/31/2019

**10. This rule change MAY\* become effective on (mm/dd/yyyy):** 01/07/2020

\*NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

|  |  |                           |            |
|--|--|---------------------------|------------|
| <b>Agency head or designee, and title:</b> | Michael Hammer, Administrative Law Judge | <b>Date (mm/dd/yyyy):</b> | 11/15/2019 |
|--|--|---------------------------|------------|

**R746. Public Service Commission, Administration.**

**R746-409. Pipeline Safety.**

**R746-409-1. General Provisions.**

A. Scope and Applicability -- Pursuant to Title 54, Chapter 13, the following rules shall apply to persons engaged in the transportation of gas as defined in CFR Title 49 Parts 191 and 192.

B. Adoption of parts of CFR Title 49 -- The Commission adopts and incorporates by this reference the following parts of CFR Title 49, effective September 1, 20~~17~~19:

1. Part 190 with the exclusion of Part 190.223 which is superseded by Title 54, Chapter 13, Part 8, Violation of chapter -- Penalty;

2. Part 191;

3. Part 192;

4. Part 198; and

5. Part 199.

C. Persons engaged in the transportation of gas, including distribution of gas through a master-metered system, shall comply with the requirements of CFR Title 49, identified in Section R746-409-1.B, including all minimum safety standards.

**KEY: rules and procedures, safety, pipelines**

**Date of Enactment or Last Substantive Amendment: [~~January 9, 2018~~]2020**

**Notice of Continuation: March 31, 2016**

**Authorizing, and Implemented or Interpreted Law: 54-13-3; 54-13-5; 54-13-6**