

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Title No. - Rule No. - Section No.		
Rule or Section Number:	R746-409-1	Filing ID: Office Use Only

Agency Information

1. Department:	Public Service Commission	
Agency:	Public Service Commission	
Room number:		
Building:	Heber M. Wells Building	
Street address:	160 E 300 S, 4th Floor	
City, state and zip:	Salt Lake City, Utah 84111	
Mailing address:	PO Box 4558	
City, state and zip:	Salt Lake City, Utah 84114-4558	
Contact persons:		
Name:	Phone:	Email:
John Delaney	801-530-6724	jdolaney@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R746-409-1. General Provisions.
3. Purpose of the new rule or reason for the change:
Rule R746-409-1 of the Public Service Commission Administrative Procedures Act Rules incorporates by reference provisions of the Code of Federal Regulations pertaining to pipeline safety. The federal guidelines for states participating in the Federal Pipeline Safety Grant program have changed since September 1, 2021. As a participant, the State of Utah must therefore update this rule to adopt amendments that have been added to the federal regulations after the date currently shown in this state rule.
4. Summary of the new rule or change:
Amendments have been added to Parts 190, 191, and 192 of the Code of Federal Regulations since September 1, 2021. Part 190 – Administrative Rulemaking – Criminal Referrals. PHMSA is incorporating within its regulations language noting its employees' ability to refer actual or possible criminal activity in connection with PHMSA's jurisdictional statutes directly to the DOT Office of Inspector General. This subpart is applicable to PHMSA employees. Part 191 - Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments. PHMSA is revising the Federal Pipeline Safety Regulations to improve the safety of onshore gas gathering pipelines. This final rule addresses Congressional mandates, Government Accountability Office recommendations, and public input received as part of the rulemaking process. The amendments in this final rule extend reporting requirements to all gas gathering operators and apply a set of minimum safety requirements to certain gas gathering pipelines with large diameters and high operating pressures. The rule does not affect offshore gas gathering pipelines. Parts 191 and 192 - Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments: Response to a Petition for Reconsideration; Technical Corrections; Issuance of Limited Enforcement Discretion. PHMSA is alerting the public to its April 1, 2022, response denying a petition for reconsideration of the final rule titled "Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments." This final rule also makes clarifications and two technical corrections to that rulemaking. Lastly, this final rule memorializes a limited enforcement discretion in connection with that rulemaking's amendment of the regulatory definition of "incidental gathering." Part 191 - Technical corrections. PHMSA is issuing corrections of certain changes to incident and annual reporting requirements for offshore gathering pipelines in its November 15, 2021, final rule titled "Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments." Part 192 - Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards. PHMSA is revising the Federal Pipeline Safety Regulations applicable to most newly constructed and entirely replaced onshore gas transmission, Type A gas gathering, and hazardous liquid pipelines with diameters of 6 inches or greater. In the revised regulations, PHMSA requires operators of these lines to install rupture-mitigation valves (i.e., remote

control or automatic shut-off valves) or alternative equivalent technologies, and establishes minimum performance standards for those valves' operation to prevent or mitigate the public safety and environmental consequences of pipeline ruptures. This final rule establishes requirements for rupture-mitigation valve spacing, maintenance and inspection, and risk analysis. The final rule also requires operators of gas and hazardous liquid pipelines to contact 9–1–1 emergency call centers immediately upon notification of a potential rupture and conduct post-rupture investigations and reviews. Operators must also incorporate lessons learned from such investigations and reviews into operators' personnel training and qualifications programs, and in design, construction, testing, maintenance, operations, and emergency procedure manuals and specifications. PHMSA is promulgating these regulations in response to congressional directives following major pipeline incidents where there were significant environmental consequences or losses of human life. The revisions are intended to achieve better rupture identification, response, and mitigation of safety, greenhouse gas, and environmental justice impacts. **Part 192 - Pipeline Safety: Safety of Gas Transmission Pipelines: Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments and Correction to Definition.** PHMSA is revising the Federal Pipeline Safety Regulations to improve the safety of onshore gas transmission pipelines. This final rule addresses several lessons learned following the Pacific Gas and Electric Company incident that occurred in San Bruno, CA, on September 9, 2010, and responds to public input received as part of the rulemaking process. The amendments in this final rule clarify certain integrity management provisions, codify a management of change process, update and bolster gas transmission pipeline corrosion 5 Federal Register / Vol. 87, No. 68 / Friday, April 8, 2022 / Rules and Regulations 20940 DPU Memorandum 6 control requirements, require operators to inspect pipelines following extreme weather events, strengthen integrity management assessment requirements, adjust the repair criteria for high consequence areas, create new repair criteria for non-high consequence areas, and revise or create specific definitions related to the above amendments. **Part 192 - Pipeline Safety: Safety of Gas Transmission Pipelines: Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments: Technical Corrections; Response to Petitions for Reconsideration.** PHMSA is making necessary technical corrections to ensure consistency within, and the intended effect of, a recently issued final rule titled "Safety of Gas Transmission Pipelines: Repair Criteria, Integrity Management Improvements, Cathodic Protection, Management of Change, and Other Related Amendments." PHMSA also alerts the public to its November 18, 2022, and April 19, 2023, responses to petitions for reconsideration of this final rule. **Part 192 - Correcting Amendments: Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards: Technical Corrections.** PHMSA is issuing editorial and technical corrections clarifying the regulations promulgated in its April 8, 2022, final rule titled "Pipeline Safety: Requirement of Valve Installation and Minimum Rupture Detection Standards" for certain gas, hazardous liquid, and carbon dioxide pipelines. The final rule also codifies the results of judicial review of that final rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
\$0. The amendment updates a current rule that already adopts federal safety regulations pertaining to pipeline safety to incorporate recent federal amendments in the state rule. It should not affect the state budget because operators will continue to remain compliant with the federal and state pipeline safety rules without incurring any more than negligible cost increases, if any. The changes do not affect state government budgets.
B) Local governments:
\$0. The amendment updates a current rule that already adopts federal safety regulations pertaining to pipeline safety to incorporate recent federal amendments in the state rule. It should not affect local governments because operators will continue to remain compliant with the federal and state pipeline safety rules without incurring any more than negligible cost increases, if any. The changes do not affect local government budgets.
C) Small businesses ("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 to incorporate recent federal amendments in the state rule. It should not affect small businesses because operators will continue to remain compliant with the federal and state pipeline safety rules without incurring any more than negligible cost increases, if any. The changes do 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 to incorporate recent federal amendments in the state rule. It should not affect non-small businesses because operators will continue to remain compliant with the federal and state pipeline safety rules without incurring any more than negligible cost increases, if any. The changes do 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 Section 54-13-3. However, the amendments to the rule since September 1, 2021 are not anticipated to add any more than negligible cost increases, if any. Therefore, the amendment should have no fiscal impact.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

\$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 Section 54-13-3. However, the amendments to the rule since September 1, 2021 are not anticipated to add to any 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.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The amendments to Section R746-409-1 since September 1, 2021 are not anticipated to add any more than negligible cost increases, if any. Therefore, the amendment should have no fiscal impact. PSC Chair Jerry D. Fenn and Commissioners David R. Clark and John S. Harvey, Ph.D. have reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 54-13-3	Section 54-13-5	Section 54-13-6

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

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*):

Official Title of Materials Incorporated (from title page)	Code of Federal Regulations, Title 49
Publisher	Office of the Federal Register
Issue Date	2023
Issue or Version	2023

B) 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*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

Public Notice Information

8. 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. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	07/01/2024	
B) A public hearing (optional) will be held:		
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.		

9. This rule change MAY become effective on:	07/08/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee and title:	Jerry D. Fenn, Chair, Public Service Commission	Date:	05/10/2024

R746. Public Service Commission, Administration.

R746-409. Pipeline Safety.

R746-409-1. General Provisions.

A. Scope and Applicability -- Pursuant to Title 54, Chapter 13, Natural Gas Pipeline Safety, ~~the following rules~~ R746-409 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, 202~~+~~₃:

1. Part 190 with the exclusion of Part 190.223, which is superseded by Section 54-13-8, Violation of chapter -- Penalty;
2. Part 191;
3. Part 192;
4. Part 193;
5. Part 198; and
6. 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 Subsection R746-409-1~~(B)~~, including ~~at~~ the minimum safety standards.

R746-409-2. Definitions.

~~For purposes of these rules, the following terms shall bear the following meanings~~ The following definitions apply to this rule:

- A. "Authorized Inspector" means a person employed or authorized by the Commission or the director of the Division.
- B. "CFR" means the Code of Federal Regulations;
- C. "Commission" means the Public Service Commission of Utah;
- D. "Division" means the Division of Public Utilities, Utah Department of Commerce;
- E. "Federally Reportable Incident" has the same meaning set forth in CFR Title 49, Part 191.3, Definitions, Incident.
- F. "Operator" has the same meaning set forth in CFR Title 49, Part 191.3, Definitions, Operator.
- G. "Part 190" means CFR Title 49, Part 190, Pipeline Safety Programs and Rulemaking Procedures.
- H. "Part 191" means CFR Title 49, Part 191, Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports.
- I. "Part 192" means CFR Title 49, Part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.
- J. "Part 198" means CFR Title 49, Part 198, Regulations for Grants to Aid State Pipeline Safety Programs.
- K. "Part 199" means CFR Title 49, Part 199, Drug and Alcohol Testing.
- L. "Pipeline Facility" has the same meaning set forth in CFR Title 49, Part 191.3, Definitions, Pipeline ~~facility~~ or Pipeline system.
- M. "State Reportable Incident" means an event that falls within the definition of a federally reportable incident or a safety-related condition as identified in ~~C~~ R FR Title 49, Part 191.23, Reporting safety-related conditions, or meets one or more of the following:
 1. Results in damage to any segment of:

- a. steel main, twelve inches or greater in diameter, or
- b. transmission pipeline;
- 2. Requires removal from service or repair of any segment of:
 - a. steel main, twelve inches or greater in diameter, or
 - b. transmission pipeline;
- 3. Results in property damage of \$15,000 or more, including the loss to the operator, ~~and~~ others, or both, but excluding the cost of gas that is lost;
- 4. Results in the loss of gas service to ten or more customers; or
- 5. Results in the known evacuation of any highly populated areas including commercial businesses, office buildings, eateries, schools, churches, or public meeting places.
- N. "Transportation of Gas" has the same meaning set forth in CFR Title 49, Part 191.3, Definitions, Transportation of gas.

R746-409-3. Inspections.

- A. Access for inspection
 - 1. During Normal Business Hours -- During normal business hours, an authorized inspector, upon presentation of appropriate credentials, may enter an operator's offices and pipeline facilities to inspect and examine the records and pipeline facilities, if the records and pipeline facilities are relevant to determining compliance with applicable state and federal pipeline safety statutes, rules, and regulations.
 - 2. Outside of Normal Business Hours -- For incidents occurring outside of normal business hours, an authorized inspector, upon presentation of appropriate credentials, may enter an operator's pipeline facilities involved in or associated with an incident to inspect and examine the pipeline facilities, if inspection of the pipeline facility is relevant to determining compliance with applicable state and federal pipeline safety statutes, rules, and regulations.
- B. Reasons for Inspection -- Inspections are ordinarily conducted pursuant to one of the following:
 - 1. Routine inspection, including ~~but not limited to~~ a compliance inspection;
 - 2. A complaint received from a member of the public;
 - 3. Information obtained from a previous inspection;
 - 4. A pipeline incident; or
 - 5. When ~~deemed~~ considered appropriate by the Commission.
- C. Testing -- To the extent necessary to carry out its responsibilities, the Commission may require testing of portions of intrastate pipeline facilities ~~which~~ that have been involved in or affected by an incident.
- D. Further Action -- When information obtained from an authorized inspector or from other appropriate sources ~~indicates~~ shows that further action is warranted, the Division shall issue a warning letter to an operator and, if necessary, initiate proceedings, including ~~but not limited to~~ seeking the issuance of Commission subpoenas to compel the production of records and the taking of testimony, hearings, and related procedures, before the Commission.

R746-409-4. Reporting and Notification Requirements.

- A. An operator must comply with the notification and reporting requirements contained in Part 191 and Section R746-409-4.
- B. Telephonic notification to the Division.
 - 1. For incidents requiring immediate notice under Part 191.5, an operator must also provide contemporaneous telephonic notification of the ~~same~~ information required under Part 191.5 to the Division at (844)-GAS-2525 or (844)-427-2525.
 - 2. State Reportable Incidents. An operator ~~must~~ shall provide telephonic notice to the Division at (844)-GAS-2525 or (844)-427-2525 of ~~all~~ each state reportable incident[s], including the location and known details ~~at the time of~~ when reporting, at the earliest practicable moment when safely possible following discovery.
- C. Written Reports required by Part 191. For ~~all~~ the reports required under Part 191, including updates and supplemental reports, an operator shall contemporaneously furnish these reports to the Commission and the Division in accordance with Subsection R746-409-4~~-(F)~~.
- D. Excavation Damage Quarterly Report. Each operator with more than 10,000 customers shall file a quarterly excavation damage report within 60 days after the end of ~~the~~ each quarter with the Commission and the Division in accordance with Subsection R746-409-4~~-(F)~~ on a form approved by the Division.
- E. Reports Relating to Safety Issues. An operator shall prepare and file reports relating to safety issues as requested and described by the Commission or the Division in accordance with Subsection R746-409-4~~-(F)~~.
- F. Filing of Written Reports:
 - 1. ~~All~~ Each required written report[s] shall be filed with the Commission in accordance with the Commission's filing requirements posted on the Commission's website at <https://www.jpsc.utah.gov/> ~~at the "Filing Req" tab under the Document column labeled "Pipeline Safety."~~
 - 2. ~~All~~ Each required written report[s] shall be filed electronically with the Division at the following e-mail address: pipelinesafety@utah.gov.

R746-409-5. Written Plans.

- A. An operator must develop and implement ~~all~~ the plans required in Parts 192 and 199, including operations and maintenance plans, emergency response plans, public awareness plans, operator qualifications plans, anti-drug and alcohol misuse plans, and integrity management plans (both transmission and distribution). These plans must be made available to the Commission or the Division upon request.

R746-409-6. Remedies.

- A. Rules of Practice and Procedure -- The Commission's Administrative Procedures Act Rule, ~~Subsection~~ Rule R746-1, shall govern and control proceedings before the Commission regarding pipeline safety, with the exception of the additional remedies and procedures ~~specified herein~~ named in Section R746-409-6.
- B. Hazardous Facility Order -- If the Commission finds, after notice and a hearing, that a particular intrastate pipeline facility is hazardous to life or property, it may issue a Hazardous Facility Order requiring the owner or operator of the intrastate pipeline facility to take corrective action. Civil penalties set forth in Section 54-13-8 may also be imposed. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action as may be appropriate.
- C. Waiver of Notice and Hearing -- The Commission may waive the requirement for notice and hearing in Subsection R746-409-6(B) ~~above~~ before issuing an order pursuant to this section when it or the Division determines that the failure to do so would result in the likelihood of serious harm to life or property. However, the Commission shall include in the order an opportunity for hearing as soon as practicable after issuance of the order.
- D. Hazardous Conditions -- The Commission may find an intrastate pipeline facility to be hazardous under ~~paragraph 2 of this~~ Subsection R746-409-6(B) if:

1. Under the facts and circumstances the Commission determines the particular facility is hazardous to life or property; or
 2. The intrastate pipeline facility, or a component ~~[there]~~of, has been constructed or operated with equipment, material, or technique ~~[which]~~that the Commission determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Commission that, under the particular facts and circumstances involved, ~~[such]~~that equipment, material, or technique is not hazardous to life or property.
- E. Considerations -- In making a determination under ~~[paragraph]~~Subsection R746-409-6(D)(2)~~[of this section]~~, the Commission may consider, if relevant:
1. The characteristics of the pipe and other equipment used in the intrastate pipeline facility involved, including its age, manufacturer, or physical properties, including its resistance to corrosion and deterioration, and the method of its manufacture, construction, or assembly;
 2. The nature of the materials transported by the facility, including their corrosive and deteriorative qualities, the sequence in which the materials are transported, and the pressure required for the transportation;
 3. The aspects of the areas in which the intrastate pipeline facility is located, in particular the climatic and geologic conditions, including soil characteristics, associated with the areas, and the population density and population and growth patterns of ~~[such]~~these areas;
 4. A recommendation of the National Transportation Safety Board issued in connection with an investigation conducted by the board;
 5. Other factors as the Commission may consider appropriate.
- F. Contents of Hazardous Facility Order -- A Hazardous Facility Order issued by the Commission shall contain the following information:
1. A finding that the pipeline facility is hazardous to life or property;
 2. The relevant facts ~~[which]~~that form the basis for the finding;
 3. The legal basis for the order;
 4. The nature and description of particular corrective action required of the respondent;
 5. The date by which the required action must be taken or ~~[completed]~~finished and, ~~[where]~~when appropriate, the duration of the order.
- G. No Longer Hazardous -- The Commission shall rescind or suspend a Hazardous Facility Order when~~[ever]~~ it determines that the facility is no longer hazardous to life or property.

KEY: rules and procedures, safety, pipelines

Date of Last Change: ~~[July 22, 2022]~~2024

Notice of Continuation: March 10, 2021

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