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OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 5, 2019

Mr. Chris Bailey
Rules Ombudsman in
The Executive Office of the Governor
Reg.Reform@eog.myflorida.com

SENT VIA E-MAIL

Re: Docket No.20190047-GU, Rule 25-12.005, Codes and Standards Adopted, F.A.C.

Dear Mr. Bailey:

The Florida Public Service Commission proposed the above-listed rule at its regular agenda conference on April 2, 2019. The Commission has determined that these rules will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b)2.b.(I), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rules, which was published in the April 4, 2019, edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendments will not have an adverse effect on small business. Pursuant to your instructions, we have filled out and included a copy of the OFARR rulemaking notification form.

If there are any questions with respect to these rules, please contact me at (850) 413-6082 or aharper@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink that reads "Adria E. Harper".

Adria E. Harper
Senior Attorney

Enclosures

cc: Office of the Commission Clerk

RECEIVED-FPSC
2019 APR -5 PM 1:38
COMMISSION
CLERK

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

SELECT A TYPE: amendment

RULE NO: RULE TITLE:

25-12.005 Codes and Standards Adopted

PURPOSE AND EFFECT: To incorporate by reference the 2018 edition of 49 CFR Parts 191, 192, and 199.

Docket No. 20190047-GU

SUMMARY: This rule incorporates and implements the minimum federal safety standards and reporting requirements for pipeline facilities and transportation of natural gas.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be transactional cost savings to the individual and entities, including government entities, required to comply with the rule.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 368.03, 368.05(2), 350.127(2), FS.

LAW IMPLEMENTED: 368.03, 368.05, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adria E. Harper, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, aharper@psc.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

25-12.005 Codes and Standards Adopted.

The Minimum Federal Safety Standards and reporting requirements for pipeline facilities and transportation of gas prescribed by the Pipeline and Hazardous Materials Safety Administration in 49 C.F.R. 191 and 192 (2019) (2017), are adopted and incorporated by reference as part of these rules. 49 C.F.R. 191 (2019) (2017) may be accessed at [insert hyperlink] <http://www.flrules.org/Gateway/reference.asp?No=Ref-07920>. 49 C.F.R. 192 (2019) (2017) may be accessed at [insert hyperlink] <http://www.flrules.org/Gateway/reference.asp?No=Ref-07923>. 49 C.F.R. 199 (2019) (2017), "Drug and Alcohol Testing," is adopted and incorporated by reference to control drug use, by setting standards and requirements to apply to the testing and use of all emergency response personnel under the direct authority or control of a gas utility or pipeline operator, as well as all employees directly or indirectly employed by gas pipeline operators for the purpose of operation and maintenance and all employees directly or indirectly employed by intrastate gas distribution utilities for onsite construction of natural gas transporting pipeline facilities. 49 C.F.R. 199 (2019) (2017) may be accessed at [insert hyperlink] <http://www.flrules.org/Gateway/reference.asp?No=Ref-07921>. Part 199 also is adopted to prescribe standards for use of employees who do not meet the requirements of the regulations.

Rulemaking Authority 368.03, 368.05(2), 350.127(2) FS. Law Implemented 368.03, 368.05 FS. History—New 11-14-70,

Amended 9-24-71, 9-21-74, 10-7-75, 11-30-82, 10-2-84, Formerly 25-12.05, Amended 8-8-89, 1-7-92, 5-13-99, 4-26-01, 12-15-09, 10-11-12, 3-2-17,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick Moses

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 2, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 44, Number 204, October 18, 2018.

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 15, 2019

TO: Lauren Davis, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst II, Division of Economics *L.K.G.*

RE: Statement of Estimated Regulatory Costs for Proposed Adoption of Rule 25-12.005, Florida Administrative Code (F.A.C.), Codes and Standards Adopted

Adoption of the current federal codes is required under the 60105 certification agreement between the Pipeline Hazardous Materials Safety Administration (PHMSA) of the federal government and the Florida Public Service Commission. PHMSA prescribes reporting requirements for pipeline facilities and transportation of natural gas in the 49 Code of Federal Regulations (C.F.R.).

The purpose of the proposed revisions to Rule 25-12.005, F.A.C., is to incorporate by reference the most current edition of 49 C.F.R. Parts 191, 192 and 199, as it pertains to the regulation of natural gas. Parts 191, 192, and 199 address gas safety-related condition reports, minimum safety requirements for transportation of gas, and drug and alcohol testing for gas transportation operators. The proposed revisions to Rule 25-12.005, F.A.C. also include updated hyperlinks to Parts 191, 192, and 199 of 49 C.F.R.

The number of entities required to comply with this rule are 53 natural gas companies (includes investor-owned natural gas companies, municipal gas utilities, gas districts, master meter systems, and transmission operators). The proposed rule revisions are not imposing any new regulatory requirements and only seek to reflect the 2019 version of 49 C.F.R. No workshop was requested by affected parties in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), Florida Statutes (F.S.). None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: SERC file

**FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Chapter 25-12.005, F.A.C.**

1. Will the proposed rule have an adverse impact on small business?
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)1, F.S.]

Economic growth

Yes No

Private-sector job creation or employment

Yes No

Private-sector investment

Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)

Yes No

Productivity

Yes No

Innovation

Yes No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: The affected entities should benefit from the proposed rule changes; the gas utilities will have clear and consistent rules that reflect the most current federal and state regulations as they pertain to the natural gas industry. Natural gas customers and ratepayers will benefit from continued safety standards by the implementation of this rule.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

53 natural gas companies (includes investor-owned natural gas companies, municipal gas utilities, gas districts, master meter systems, and gas transmission operators) are likely to be required to comply with Rule 25-12.005, F.A.C.

(2) A general description of the types of individuals likely to be affected by the rule.

Individuals likely to be affected by the rule are 53 natural gas companies and their customers.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

- None. To be done with the current workload and existing staff.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

None.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.
[120.541(2)(d), F.S.]

None. The rule will only affect the Commission.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities:
[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

No adverse impact on small business.

- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

- None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
 - Adopted in its entirety.
 - Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

**Office of Fiscal Accountability and Regulatory Reform
Rulemaking Notification**

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

To: Chris Bailey, Director

Submitted By: Adria E. Harper, Senior Attorney
Florida Public Service Commission
850-413-6082

Re: Rulemaking Notification for: Rule 25-12.005, Florida Administrative Code

Rule Number	Rule Title
Rule 25-12.005	Codes and Standards Adopted

List EACH rule singly. Add lines as needed.

Date: [Date request sent to OFARR]

Date of anticipated publication:

Does this rule qualify for Rules Ombudsman review in accordance with section 120.54(3)(b), F.S.?

Yes No

Please complete this form when submitting rulemaking notification to the Office of Fiscal Accountability and Regulatory Reform (OFARR) pursuant to Executive Order 11-211. **If any information or documents are missing, the notification will be returned without review. OFARR will indicate what is missing, and the completed notification must be resubmitted.**

I. Proposed Rulemaking Activity:

_____ Notice of Development of Rulemaking – Attach the proposed Notice. If no text is available, give a detailed explanation of the rulemaking, including why it is necessary.

Notice of Proposed Rule – Attach the proposed Notice, “Is a SERC Required” Checklist, and SERC (if required), all materials incorporated by reference, and all forms referenced or required by the rule.

_____ Notice of Emergency Rule – Attach the proposed Notice. Explain fully why emergency rulemaking is appropriate.

_____ Notice of Change – Attach the proposed Notice. Be sure the text is coded correctly according to Rule 1B-30.003(5)(f), F.A.C. Explain why a change is required. Attach any correspondence from JAPC or the public. If no documents exist, summarize any public comment the agency has received or public hearings/workshops the agency has held.

_____ Notice of Withdrawal – Attach the proposed Notice. Explain why it is necessary to withdraw the rulemaking. Include any JAPC correspondence.

_____ Other – Attach the proposed Notice. Include detailed information about the rulemaking.

Notices should be coded according to Rule 1B-30.003(5)(f), F.A.C.

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

2. Is this rulemaking included in the agency's Annual Regulatory Plan (ARP)? yes

3. For each rule:

If the rule decreases regulation, explain in detail how it alleviates unnecessary, disproportionate, or adverse effects to business. You should address all relevant considerations, including: restriction on entry into a profession; effect on availability of services to public; effect on job retention; restriction on employment seekers; imposition of burdensome costs; cost-effectiveness vs. economic impact of rule.

If the rule increases regulation, explain in detail what statute or statutes are being implemented and why the rule is necessary to implement the statutory language.

Rule Number	Detailed Explanation

List EACH rule singly. Add lines as needed.

4. Has the agency received any public comment about this rulemaking, since the last rulemaking notification? No

If yes, please summarize the comment and the agency's position regarding the comment (i.e. has made or intends to make changes based on the comment, disagrees with the comment, etc.) and attach any documents.

5. Has the agency received any lower cost regulatory alternatives (LCRA)? No

If yes, describe in detail what action the agency took in response to the LCRA.

6. Has the agency received any comment from JAPC, since the last rulemaking notification? No

If yes, please summarize the comment and attach any documents.

Julie Phillips

From: Adria Harper
Sent: Friday, April 05, 2019 10:54 AM
To: Reg.Reform@eog.myflorida.com
Cc: Julie Phillips
Subject: Public Service Commission Rule Amendment, Rule 25-12.005, FAC, Codes and Standards Adopted
Attachments: Ltr to Ombudsman.pdf

Good morning,

Please accept the attached letter and corresponding rule documents for the Public Service Commission's Rule Amendments for Rule 25-12.005, F.A.C. If you could please confirm receipt of this correspondence, I would appreciate it.

Thank you in advance for your attention to this matter,
Adria

Adria E. Harper
Senior Attorney
Florida Public Service Commission
AHarper@psc.state.fl.us
(850) 413-6082

Please note: Florida has very broad public records laws. Many written communications to or from the Florida Public Service Commission may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.