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STATE OF FLORIDA



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(850) 413-6199

Public Service Commission

March 12, 2025

Kenneth J. Plante
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400
japc@leg.state.fl.us

VIA EMAIL

Re: Docket No. 20250018-GU; Rule 25-12.100, F.A.C.

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. A copy of the F.A.R. notice.
3. A Statement of the facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. Statement of Estimated Regulatory Costs for the rule.

If there are any questions with respect to this rule, please do not hesitate to contact me at jrubotto@psc.state.fl.us, or at (850) 413-6191.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Rubottom", written over a horizontal line.

Jon Rubottom
Senior Attorney

Enclosures: See above
cc: Office of Commission Clerk

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25-12.100 Penalties.

If a utility violates part I of Chapter 368, F.S., or any rule issued in Chapter 25-12, F.A.C., the utility is subject to a civil penalty of not more than \$272,926 for each violation for each day that the violation persists, except that the maximum civil penalty will not exceed \$2,729,245 for any related series of violations.

PROPOSED EFFECTIVE DATE: July 1, 2025

Rulemaking Authority 368.03, 368.05(2), 368.061(4), 350.127(2) FS. Law Implemented 368.061 FS. History—New 7-01-25.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-12.100 Penalties

PURPOSE AND EFFECT: To adopt new Rule 25-12.100, F.A.C., establishing civil penalties for violation of the Gas Safety Law of 1967, and Rules issued thereunder, as required by Section 368.061, F.S., as amended in the 2024 Legislative Session by Ch. 2024-167, Laws of Florida. Docket No. 20250018-GU

SUMMARY: The rule establishes civil penalties for violation of the Gas Safety Law of 1967, and Rules issued thereunder, pursuant to Section 368.061, F.S. This rule will become effective on July 1, 2025.

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.

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 will not have an adverse impact on economic growth, business competitiveness, or small business and that the rule is not likely to result in transactional costs to the individuals 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), 368.061(4), 350.127(2), F.S.

LAW IMPLEMENTED: 368.061, F.S.

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: Jon Rubottom, jrubotto@psc.state.fl.us, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6199.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-12.100 Penalties.

If a utility violates part I of Chapter 368, F.S., or any rule issued in Chapter 25-12, F.A.C., the utility is subject to a civil penalty of not more than \$272,926 for each violation for each day that the violation persists, except that the maximum civil penalty will not exceed \$2,729,245 for any related series of violations.

PROPOSED EFFECTIVE DATE: July 1, 2025

Rulemaking Authority 368.03, 368.05(2), 368.061(4), 350.127(2) FS. Law Implemented 368.061 FS. History—New 7-01-25.

NAME OF PERSON ORIGINATING PROPOSED RULE: Todd Brown

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 04, 2025

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 50, Number 209, October 24, 2024

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

The rule is being proposed pursuant to Section 368.061, F.S., as amended by Ch. 2024-167, Laws of Florida, which requires the Commission to establish civil penalties for violation of the Gas Safety Law of 1967 by rule to be effective on or after July 1, 2025.

STATEMENT ON FEDERAL STANDARDS

This rule is related to federal penalties promulgated by the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) in 49 C.F.R. pt. 190. This rule is no more restrictive than the federal standards.



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: February 11, 2025

TO: Jon Rubottom, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst IV, Division of Economics *SKG*

RE: Statement of Estimated Regulatory Costs for Proposed Adoption of: Amended Rule 25-12.005, F.A.C., Codes and Standards Adopted;
Rule 25-12.008, F.A.C., New, Reconstructed or Converted Facilities;
Rule 25-12.027, F.A.C., Welder Qualification;
Rule 25-12.045, F.A.C., Inactive Gas Service Lines;
Rule 25-12.052, F.A.C., Corrosion Control Criteria for Cathodic Protection of Buried or Submerged Metallic Pipeline;
and Adoption of New Rule 25-12.100, F.A.C.; Penalties

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 purposes of the proposed revisions to Rules 25-12.005, 25-12.008, 25-12.027, 25-12.045, and 25-12.052, Florida Administrative Code (F.A.C.), are to update and clarify the existing rules and 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, drug and alcohol testing for gas transportation operators, welder qualifications, annual risk assessment of inactive gas service lines, and corrosion control criteria. 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.

Additionally, this rulemaking is also to adopt new Rule 25-12.100, F.A.C., pertaining to civil penalties for violation of the Gas Safety Law of 1967, and Rules issued thereunder, as required by Section 368.061, Florida Statutes (F.S.), as amended in the 2024 Legislative Session by Chapter 2024-167, Laws of Florida.

The number of entities required to comply with these rules are 58 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 2024 version of 49 C.F.R. to implement amendments to Section 368.061, F.S., and to establish civil penalties pursuant to Section

368.061, F.S. 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), F.S. None of the impacts/cost criteria established in Section 120.541(2)(a)-(e), F.S., will be exceeded as a result of the recommended revisions.

cc: SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-12.100, F.A.C., Penalties.

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 proposed new Rule 25-12.100, F.A.C., related to civil penalties implements Section 368.061, F.S. The Florida Public Service Commission (PSC) has the authority to perform appropriate actions to enforce compliance with the Gas Safety Law of 1967, which includes imposing maximum civil penalties. The current maximum civil penalties are \$25,000 for each violation of the Gas Safety Law and \$500,000 for any related series of violations.

Section 368.061, F.S., was amended during the 2024 legislative session to set the current penalties at \$266,015 for each violation for each day, up to a maximum penalty of \$2,660,135 for any related series of violations. On December 30, 2024, PHMSA adopted revised civil penalties; \$272,926 as maximum penalty for each pipeline safety violation and \$2,729,245 as the maximum penalty for related series of pipeline safety violations.

The proposed new Rule 25-12.100, F.A.C., adopts the same PHMSA daily civil penalty of \$272,926 for each violation for each day, and a maximum penalty of \$2,729,245 for any related series of pipeline safety violations.¹ These penalties are only assessed if a utility violates a statute or rule and therefore an adverse fiscal impact is speculative. Additionally, the statute requires the Commission to review the penalties annually and revise as necessary to maintain its certification agreement with PHMSA.

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.

58 natural gas operators (including investor-owned natural gas companies, municipal gas utilities, gas districts, master meter systems, and gas transmission operators) are required to comply with proposed Rule 25-12.100, 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 58 natural gas operators ((including investor-owned natural gas companies, municipal gas utilities, gas districts, master meter systems, and gas transmission operators).

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.

¹ Revisions to Civil Penalty Amounts, 2025, 89 Fed. Reg. 106,282, 106,294 (Dec. 30, 2024) (to be codified at 49 C.F.R. pt. 190).

☐ 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.

☐ 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.