

Regulatory Analysis Form

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(1) Agency

Public Utility Commission

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(2) I.D. Number (Governor*s Office Use)

L-00050172/57-238

INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number: 2511

(3) Short Title

Final Rulemaking Re: Amending 52 Pa. Code §59.33(b) (Gas Service: Safety Code)

(4) PA Code Cite

52 Pa. Code §59.33(b)

(5) Agency Contacts & Telephone Numbers

Primary Contact: Jaime M. McClintock 3-2811

Secondary Contact: Paul J. Metro 7-1063

(6) Type of Rulemaking (check one)

- ☐ Proposed Rulemaking
☒ Final Order Adopting Regulation
☐ Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- ☒ No
☐ Yes: By the Attorney General
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation modifies the current language of Section 59.33(b) so that future amendments to the federal pipeline safety laws, as set forth in 49 U.S.C.A. §§60101, et seq. and implemented in 49 C.F.R. Parts 191 -193 and 199, can be automatically adopted by the Commission, unless the Commission determines that the amendments should not be adopted.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Sections 501 and 1501 of the Public Utility Code, 66 Pa. C.S. §§501 and 1501; Sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, as amended, 45 P.S. §§1201 and 1202, and the associated regulations at 1 Pa. Code §§7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, Act of October 15, 1980, P.L. 950, as amended, 71 P.S. 732.204(b); Section 745.5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, as amended, 71 P.S. §745.5; Section 612 of the Administrative Code of April 9, 1929, P.L. 177, as amended, 71 P.S. §232, and the associated regulations at 4 Pa. Code §§7.231-7.234.

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Amending Section 59.33(b) by adding language that acts to automatically adopt future amendments to 49 C.F.R. Parts 191-193 and 199 will eliminate the burdensome requirements under the current regulation that direct the Commission to review, ratify, and publish new federal pipeline safety regulations. The current review and ratification process unnecessarily delays the Commission's adoption of amendments to the federal safety standards. This amendment will result in greater efficiency to the Commission, the gas industry, and consumers.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Nonregulation is not an issue. This amendment addresses an administrative change regarding the manner in which federal regulations will be adopted (See No. 11) and does not alter the safety standards in the current regulation. The current Section 59.33(b) sets forth the minimum safety standards for all gas transmission and distribution facilities in the Commonwealth and provides that these safety standards are the same as those issued under the federal pipeline safety laws. The regulation will continue to protect the public, employees, customers, and others from dangers and hazards that may be caused by reason of a utility's equipment and facilities.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

This amendment will remove the burdensome ratification and review requirements from the current Section 59.33(b) and result in greater efficiency to the Commission, the gas industry, and consumers. Specifically, the Commission will eliminate several hundred hours from the amount of time it currently spends on regulatory review and approval.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No one will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All regulated natural gas utilities will be required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

N/A.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Cost studies have not been conducted. However, this amendment will remove the burdensome ratification and review requirements from the current Section 59.33(b) and result in greater efficiency to the Commission, the gas industry, and consumers.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Cost studies have not been conducted.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Cost studies have not been conducted. However, this amendment will remove the burdensome ratification and review requirements from the current Section 59.33(b) and result in greater efficiency to the Commission. Specifically, the Commission will eliminate several hundred hours from the amount of time it currently spends on regulatory review and approval.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The only alternative regulatory scheme considered was the current procedure used by the Commission in its regulation at Section 59.33(b). This amendment will remove the burdensome ratification and review requirements from the current Section 59.33(b) and result in greater efficiency to the Commission, the gas industry, and consumers. Specifically, the Commission will eliminate several hundred hours from the amount of time it currently spends on regulatory review and approval.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Pennsylvania is currently the only state in the eastern region that does not automatically adopt the federal safety standards for natural gas transmission and distribution facilities. Moreover, the majority of the other 49 states currently have automatic adoption methods in place. As such, this regulation will not place Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No, other than amending the Commission's current regulation at 52 Pa. Code 59.33(b).

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

By removing the ratification and review requirements from the current Section 59.33(b), this amendment will eliminate several hundred hours from the amount of time the Commission currently spends on regulatory review and approval.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon final publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The regulation will be reviewed on an ongoing basis.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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INDEPENDENT REGULATORY
REVIEW COMMISSION

2511

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

☐ Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00050172/57-238

DATE OF ADOPTION March 16, 2006

BY James J. McNulty
James J. McNulty

TITLE Secretary
(SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

Bohdan R. Pankiw
Bohdan R. Pankiw
Chief Counsel

3-16-06
DATE OF APPROVAL

☐ Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00050172/57-238
Final Rulemaking
Amending 52 Pa. Code §59.33(b)
(Gas Service: Safety Code)
52 Pa. Code, Chapter 59

The Pennsylvania Public Utility Commission on March 16, 2006, adopted a final rulemaking order which amends the current language of Section 59.33(b) so that future amendments to 49 C.F.R. Parts 191-193 and 199 are automatically adopted by the Commission. The contact persons are Jaime McClintock, Law Bureau, 783-2811 and Paul Metro, Gas Safety Division, 787-1063.

EXECUTIVE SUMMARY

L-00050172/57-238

Final Rulemaking

Amending 52 Pa. Code §59.33(b) (Gas Service: Safety Code)

On February 3, 2005, the Commission adopted a proposed rulemaking order at L-00050172 to amend 52 Pa. Code §59.33(b) so that future amendments to the federal pipeline safety laws can be automatically adopted by the Commission. The proposed rulemaking was published in the *Pennsylvania Bulletin* on December 17, 2005, at 35 *P. B.* 6775, with a 30-day public comment period. The Commission did not receive any comments from the public concerning this rulemaking, nor did the Independent Regulatory Review Commission or the House and Senate Committees file comments. As such, the final rulemaking language does not contain any changes to the proposed rulemaking language. On March 17, 2006, the Commission entered a final rulemaking order adopting the final regulation language.

Section 59.33(b) sets forth the minimum safety standards for all gas transmission and distribution facilities in Pennsylvania and provides that these safety standards are the same as those issued under the federal pipeline safety laws, as set forth in 49 U.S.C.A. §§60101, *et seq.*, and implemented in 49 C.F.R. Parts 191-193 and 199. Under the current language of §59.33(b), the Commission is required to review, ratify, and publish amendments to the federal pipeline safety regulations prior to the Commission's adoption of such laws. The amendment to §59.33(b) will remove the burdensome review and ratification requirements that unnecessarily delay the Commission's incorporation of amendments to the federal safety standards. The amendment provides that any future amendments to the federal pipeline safety regulations will result in an amendment to §59.33(b), effective 60 days after the effective date of the federal amendment unless the Commission determines that specific amendments should not be adopted. As a result of the amendment, the Commission's Gas Safety Division will eliminate several hundred hours from the amount of time it currently spends on regulatory review and approval.

The contact persons for this rulemaking are Paul J. Metro, Chief, Gas Safety Division (technical), (717) 787-1063 and Jaime M. McClintock, Assistant Counsel, Law Bureau (legal), (717) 783-2811.

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg PA 17105-3265**

Public Meeting held March 16, 2006

Commissioners Present:

Wendell F. Holland, Chairman
James H. Cawley, Vice Chairman
Bill Shane
Kim Pizzingrilli
Terrance J. Fitzpatrick

Final Rulemaking Amending
52 Pa. Code § 59.33(b) (Gas Service: Safety Code)

Docket No. L-00050172

FINAL RULEMAKING ORDER

BY THE COMMISSION:

On February 3, 2005, the Commission adopted a proposed rulemaking order amending 52 Pa. Code § 59.33(b) (relating to safety) so that future amendments to the federal pipeline safety laws can be automatically adopted by the Commission. On December 7, 2005, the Commission submitted the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. The proposed rulemaking was published in the *Pennsylvania Bulletin* on December 17, 2005, at 35 *P. B.* 6775, with a 30-day public comment period. The Commission did not receive any comments from the public concerning this rulemaking, nor did IRRC or the Committees file comments. Thus, the final rulemaking language does not contain any changes to the proposed rulemaking language.

Section 59.33(b) sets forth the minimum safety standards for all gas transmission and distribution facilities in Pennsylvania and provides that these safety standards are the same as those issued under the federal pipeline safety laws, as set forth in 49 U.S.C.A. §§ 60101, *et seq.*, and implemented in 49 C.F.R. Parts 191-193 and 199. Currently, § 59.33(b) requires the Commission to review and ratify all amendments to the federal safety laws prior to the Commission's adoption of such laws. Amendments to the federal safety laws do not become effective until the entry date of a Commission ratification order or, in the case of publication, the date of the order's publication in the *Pennsylvania Bulletin*.

The purpose of this final rulemaking is to modify the current language of §59.33(b) so that future amendments to the federal safety laws can be automatically adopted by the Commission. The final rulemaking eliminates the language in the current regulation that requires the Commission to review, ratify, and publish amendments to the federal pipeline safety regulations. Additionally, the final rulemaking language provides that any future amendments to the federal pipeline safety laws will result in an amendment to § 59.33(b), effective 60 days after the effective date of the federal amendment unless the Commission publishes a notice in the *Pennsylvania Bulletin* identifying specific amendments that should not be adopted.

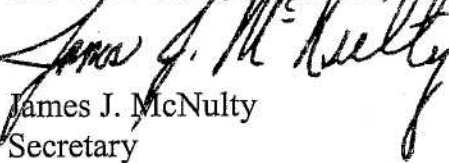
Accordingly, under Sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5, Section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b), Section 5 of the Regulatory Review Act, 71 P. S. § 745.5, and Section 612 of the Administrative Code of 1929, 71 P. S. § 232, we propose to amend our regulations as set forth in Annex A; **THEREFORE,**

IT IS ORDERED:

1. That this docket adopts the final regulations in Annex A.

2. That the Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to form and legality.
3. That the Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
4. That the Secretary shall submit this order and Annex A for review by the designated standing committees of both Houses of the General Assembly, and for review by the Independent Regulatory Review Commission.
5. That the Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
6. That the revisions to 52 Pa. Code § 59.33(b) embodied in Annex A shall become effective upon publication in the *Pennsylvania Bulletin*.
7. That the contact persons for this rulemaking are (technical) Paul J. Metro, Chief, Gas Safety Division, (717) 787-1063 and (legal) Jaime M. McClintock, Assistant Counsel, Law Bureau, (717) 783-2811. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

BY THE COMMISSION,


James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: March 16, 2006

ORDER ENTERED: MAR 17 2006

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 59. GAS SERVICE

SERVICE AND FACILITIES

§ 59.33. Safety.

* * * * *

(b) *Safety code.* [Unless otherwise authorized by the Commission, the] The minimum safety standards for all gas transmission and distribution facilities in this Commonwealth shall be those issued under the pipeline safety laws as found [at] in 49 U.S.C.A. §§ 60101--60503 and as implemented in 49 CFR Parts 191--193 and 199, including all subsequent amendments thereto [which have been reviewed by the Commission and ratified by an order published in the *Pennsylvania Bulletin* or alternatively served on all jurisdictional gas utilities. The date the Commission's order is entered, or in the case of publication, the date of publication in the *Pennsylvania Bulletin* shall serve as the effective date of the amendments]. Future Federal amendments to 49 CFR Parts 191--193 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission's regulations with regard to the minimum safety standards for all gas transmission and distribution facilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.

* * * * *



PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG, PENNSYLVANIA

WENDELL F. HOLLAND
CHAIRMAN

April 11, 2006

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

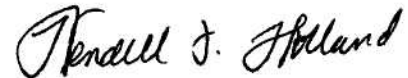
Re: L-00050172/57-238
Final Rulemaking
Amending 52 Pa. Code §59.33(b)
Gas Service: Safety Code
52 Pa. Code, Chapter 59

Dear Chairman McGinley:

Enclosed please find one (1) copy of the regulatory documents concerning the above-captioned rulemaking. Under Section 745.5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission, on December 7, 2005, submitted a copy of the Notice of Proposed Rulemaking to the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and to the Independent Regulatory Review Commission (IRRC). This notice was published at 35 Pa.B. 6775, on December 17, 2005.

In preparing this final form rulemaking, the Commission acknowledges that no comments were received from the Committees, IRRC or the public.

Very truly yours,

A handwritten signature in black ink, reading "Wendell F. Holland". The signature is written in a cursive style with a large, stylized "W" and "H".

Wendell F. Holland
Chairman

Enclosures

cc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert J. Flick
The Honorable Joseph Preston, Jr.
Legislative Affairs Director Perry
Chief Counsel Pankiw
Regulatory Coordinator DelBiondo
Assistant Counsel McClintock
Ms. Bailets

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

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2006 APR 11 AM 11:07

ID Number: L-00050172/57-238

Subject: Amending 52 Pa. Code §59.33(b) (Gas Service: Safety Code)

INDEPENDENT REGULATORY
REVIEW COMMISSION

Pennsylvania Public Utility Commission

TYPE OF REGULATION

- ☐ Proposed Regulation
- ☐ Final Regulation with Notice of Proposed Rulemaking Omitted.
- ☒ Final Regulation
- ☐ 120-day Emergency Certification of the Attorney General
- ☐ 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
4/11/06	Linda Gascoyne	HOUSE COMMITTEE Consumer Affairs
4/11/06	Holly Renna	SENATE COMMITTEE Consumer Protection and Professional Licensure
4/11/06	Kathy Coops	Independent Regulatory Review Commission
		Attorney General
		Legislative Reference Bureau