

STATE OF FLORIDA

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

# Public Service Commission

January 18, 2023

Kaley Flynn, Director  
Rules Ombudsman in  
The Executive Office of the Governor  
Reg.Reform@eog.myflorida.com

SENT VIA E-MAIL

**Re: Docket No. 20220182-GU; Rule 25-12.005, F.A.C., Codes and Standards Adopted.**

Dear Ms. Flynn:

The Florida Public Service Commission proposed the above-listed rule at its regular agenda conference on January 10, 2023. The Commission has determined that this rule 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 rule, which was published in the January 18, 2023 edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendment 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 this rule, please contact me at (850) 413-6191 or [jrubotto@psc.state.fl.us](mailto:jrubotto@psc.state.fl.us).

Sincerely,

/s/ Jonathan H. Rubottom  
Jonathan H. Rubottom  
Attorney

Enclosures: FAR Notice of Proposed Rule  
SERC  
OFARR Rulemaking Notification Form

cc: Office of the Commission Clerk

## Notice of Proposed Rule

### **PUBLIC SERVICE COMMISSION**

RULE NO.: 25-12.005  
RULE TITLE: Codes and Standards Adopted

PURPOSE AND EFFECT: To incorporate by reference the 2021 edition of 49 C.F.R. Parts 191, 192, and 199.

Docket No. 20220182-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), F.S., and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business.

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), F.S.

LAW IMPLEMENTED: 368.03, 368.05, 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, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6191, jrubotto@psc.state.fl.us.

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

#### **25-12.005 Codes and Standards Adopted.**

The reporting requirements for ~~operators of natural gas pipeline facilities and transportation of gas~~ prescribed by the Pipeline and Hazardous Materials Safety Administration in 49 C.F.R. ~~Part 191 (October 1, 2021 2018)~~, ~~are~~ adopted and incorporated by reference as part of these rules and may be accessed at ~~[new hyperlink] http://www.flrules.org/Gateway/reference.asp?No=Ref 10790~~. The ~~m~~Minimum ~~f~~Federal ~~s~~Safety ~~s~~Standards for ~~natural gas~~ pipeline facilities and ~~the~~ transportation of ~~natural~~ gas prescribed by the Pipeline and Hazardous Materials Safety Administration ~~in~~ 49 C.F.R. ~~Part 192 (October 1, 2021) Sections 192.121, 192.123, 192.143, 192.145, 192.149, 192.191, 192.204, 192.281, 192.283, 192.285, 192.3, 192.313, 192.321, 192.329, 192.367, 192.375, 192.376, 192.455, 192.513, 192.59, 192.720, 192.756, of 49 C.F.R. 192, as amended by 83 Federal Register 58716, November 20, 2018,~~ are adopted and incorporated by reference as part of these rules and may be accessed at ~~[new hyperlink] http://www.flrules.org/Gateway/reference.asp?No=Ref 10792~~. The remaining sections of 49 C.F.R. 192, as of October 1, 2018, are adopted and incorporated by reference as part of these rules and may be accessed at ~~http://www.flrules.org/Gateway/reference.asp?No=Ref 10794~~. 49 C.F.R. 199 (October 1, 2018), "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. ~~The drug and alcohol testing requirements prescribed by the Pipeline and Hazardous Materials Safety Administration in 49 C.F.R. Part 199 (October 1, 2021 2018) are adopted and incorporated by reference as part of these rules and may be accessed at [new hyperlink] http://www.flrules.org/Gateway/reference.asp?No=Ref 10791. 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, 7-10-19,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Graves

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 10, 2023.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 48, Number 162, August 19, 2022.

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-**

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**DATE:** October 6, 2022

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

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

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

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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 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 2021 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  
**Rule 25-12.005 F.A.C., Codes and Standards Adopted**

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 rule is being amended to reflect the adoption and incorporation by reference, the current 49 Code of Federal Regulations (CFR) parts 191, 192, and 199 as it pertains to the regulation of natural gas. Adoption of the current federal codes is required under the 60105 certification agreement between the Pipeline Hazardous Materials Safety Administration (PHMSA) and the Florida Public Service Commission. PHMSA guidelines requires that the State periodically adopt changes in the federal rules. Benefits of these proposed revisions would be that gas utilities will have clear and consistent reporting requirements that reflect the most current federal and state gas safety regulations and ratepayers will benefit from operators of natural gas pipeline facilities operating their systems in accordance with the most current safety standards.

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 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 58 natural gas operators and their customers, and staff of the Florida Public Service Commission's Bureau of Safety.

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 Form

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

To: **OFARR Director**

Submitted By: **Name, Title:** Jonathan Rubottom, Attorney

**Agency, Board:** Florida Public Service Commission

**Phone Number:** (850) 413-6191

Rulemaking Notification for:

**Rule Number(s):** Rule 25-12.005. F.A.C.

**Rule Summary:** Rule 25-12.005, F.A.C., Codes and Standards Adopted, incorporates and implements the minimum federal safety standards and reporting requirements for pipeling facilities and transportation of natural gas as prescribed by the Pipeline and Hazardous Materials Safety Administration regulations and contained in 49 Code of Federal Regulations (C.F.R.) Parts 191, 192, and 199.

**Summary of proposed changes:** Rule 25-12.005, F.A.C., is amended to incorporate by reference the updated, October 1, 2021, version of the federal standards (49 C.F.R. Parts 191, 192, and 199) that apply to natrual gas pipeline operators under the Commission's jurisdiction.

- The FAR notice will include more than one rule.
- The FAR notice will include new rules.
- The FAR notice will include amendments to existing rules.

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 and [Directive](#) published on November 11, 2019. 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.

### 1. Proposed Rulemaking Activity:

- Notice of Development of Rulemaking – Attach the proposed Notice. If no rule 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.

# Rulemaking Notification Form

- 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.

2. Is this rulemaking included in the agency's Annual Regulatory Plan?  Yes  No

3a. Do any of the amendments or new rules:

Increase Fees? Yes  No  N/A

If yes, list each rule that will increase fees

Increase Regulation?  
(i.e., Additional Licensure,  
Continuing Education  
Requirements, etc.) Yes  No  N/A

If yes, list each rule that will increase regulation

3b. For each new rule, the following information is required:

Rule Number:

Rule Title:

Statute Authorizing Rulemaking:

Statutory language authorizing rulemaking authority:

Statute Mandating Rulemaking:

Statutory language requiring rulemaking:

New rule is due to a Legislative  
change occurring within the past  
24 months: Yes  No

Provide chapter law and effective date

List each new rule separately. Use Addendum A to list additional new rules if there will be more than one new rule in the FAR notice.

4. Has the agency received any public comment about this rulemaking since the last rulemaking notification?

## Rulemaking Notification Form

Yes  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 comment from JAPC since the last rulemaking notification?**

Yes  No

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

**For Notice of Proposed Rules Only**

**6. Describe the public need for the proposed rule(s)/amendment(s) and an explanation of how the proposed rule will address that need.**

The rule is necessary to implement the Chapter 368, Florida Statutes, concerning the implementation of safety standards and reporting requirements for pipeline facilities and transportation of natural gas. The proposed amendments incorporate by reference the updated, October 1, 2021, minimum federal safety standards and requirements prescribed by the Pipeline and Hazardous Materials Safety Administration (PHMSA) as required by the Commission's annual certification agreement with PHMSA.

**7. Has the agency received, been made aware of, or contemplated/reviewed any lower cost regulatory alternatives (LCRA)?**

Yes  No

If yes, describe in detail what action the agency took in response to the LCRA. If no, please explain.

The Commission has not received an LCRA.

## Rulemaking Notification Form

**8. Summarize qualitative and quantitative *benefits* of the proposed rule(s)/amendment(s). Benefits may include but are not limited to: productivity, efficiency, employment and accessibility, enhancement of health and safety, and protection of the environment.**

See attached SERC.

**9. Summarize qualitative and quantitative *costs* of the proposed rule(s)/amendment(s). Costs may include but are not limited to: cost to government in administering the regulation, costs to businesses and professionals in complying with the regulation, adverse effects on the economy, private markets, health, safety and the environment.**

See attached SERC.

**10. Does the proposed rule(s) include a sunset provision (not to exceed five years)?**

Yes  No

If no, please detail why and attach any supplemental documentation.

The proposed rule implements important gas safety statutes in Chapter 368, Florida Statutes, deemed by the Legislature to be in the public interest and thus does not require a sunset provision.

## Rulemaking Notification Form

*This form should be used in conjunction with the Rulemaking Notification Form to list additional new rules that will be part of the same FAR notice. Use as many addendums as necessary to list all new rules.*

### [3b from Rulemaking Notification Form]

**For each new rule, the following information is required:**

**Rule Number:**

**Rule Title:**

**Statute Authorizing Rulemaking:**

**Statutory language authorizing rulemaking authority:**

**Statute Mandating Rulemaking:**

**Statutory language requiring rulemaking:**

**New rule is due to a Legislative change occurring within the past 24 months: Yes  No**

**Provide chapter law and effective date**

*List each new rule separately.*