

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Pipeline Safety
Rulemaking**

Case No. GS-19-217

PUBLIC SERVICE COMMISSION STAFF TESTIMONY

September 19, 2019

My name is Jerry Lein. I am a Public Utility Analyst in the Public Utilities Division of the Public Service Commission. I have been asked to read the following testimony of Patrick Fahn for this proceeding. He is the Director of the Public Utilities Division of the Public Service Commission.

The purpose of this testimony is to describe the proposed administrative rule changes pertaining to pipeline safety. Under North Dakota Administrative Code chapter 69-09-03, the Commission adopts by reference the most recent amendments to pipeline safety regulations adopted by the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA).

This proposed rule change adopts, by reference, amendments to safety regulations that have been adopted by PHMSA since December 31, 2017, current to July 31, 2019, for gas pipeline safety, liquefied natural gas facility safety and hazardous liquids pipeline safety.

A description of PHMSA rule amendments since December 31, 2017, current to July 31, 2019 is attached.

This concludes my testimony.

<http://www.phmsa.dot.gov/pipeline/regs/rulemaking>

PHMSA latest rulemakings effective date after December 31, 2017

Summary as of 7/31/2019

Part affected	Amendment No.	Federal Register	Description	Effective date after December 31, 2017
190	20	83 FR 60744	Revisions to Civil Penalty Amounts	11/27/2018
192	124	83 FR 58694	Plastic Pipe Rule	1/22/2019
199	28	84 FR 16770	Conforming Amendments and Technical Corrections to Department Rules Implementing the Transportation Industry Drug Testing Program	4/23/19
40	32	82 FR 52229	Addition of Certain Schedule II Drugs to the Department of Transportation's Drug-Testing Panel and Certain Minor Amendments	1/1/18
40	33	84 FR 16770	Conforming Amendments and Technical Corrections to Department Rules Implementing the Transportation Industry Drug Testing Program	4/23/19

Part 190, Amendment #20, 83 FR 60744: REVISIONS TO CIVIL PENALTY AMOUNTS

In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, this final rule provides the 2018 inflation adjustment to civil penalty amounts that may be imposed for violations of certain DOT regulations.

Maximum civil not to exceed \$213,268 for each violation of a provision of 49 U.S.C. 60101 for each day the violation continues, with a maximum civil penalty not to exceed \$2,132,679 for any related series of violations.

Part 192, Amendment #124, 83 FR 58694: PLASTIC PIPE RULE

An amendment of the Federal Pipeline Safety Regulations that govern the use of plastic piping systems in the transportation of natural and other gas. These amendments enhance pipeline safety, adopt innovative technologies and best practices, and respond to petitions from stakeholders. The changes include increasing the design factor of polyethylene pipe; increasing the maximum pressure and diameter for Polyamide-11 pipe and components; allowing the use of Polyamide-12 pipe and components; new standards for risers, more stringent standards for plastic fittings and joints; stronger mechanical fitting requirements; the incorporation by reference of certain new or updated consensus standards for pipe, fittings, and other components; the qualification of procedures and personnel for joining plastic pipe; the installation of plastic pipe; and a number of general provisions.

Part 199, Amendment #28, 84 FR 16770: Conforming Amendments and Technical Corrections to Department Rules Implementing the Transportation Industry Drug Testing Program

This final rule makes minor technical corrections to the OST, FAA, FTA, and PHMSA regulations governing drug testing for safety-sensitive employees to ensure consistency with the recent amendments made to the Department of Transportation's regulation, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," which added requirements to test for oxycodone, oxymorphone, hydrocodone, and hydromorphone to DOT-regulated drug testing programs. The changes

to the Department's regulation make it necessary to refer to these substances, as well as the previously covered drugs morphine, 6- acetylmorphine, and codeine, by the more inclusive term "opioids," rather than "opiates." This rule amends the term in the FAA, FTA, and PHMSA regulations to ensure that all DOT drug testing rules are consistent with one another and with the Mandatory Guidelines for Federal Workplace Drug Testing Programs. In addition, this rule makes a conforming amendment to include the term "opioids" in the wording of the Department's annual information collection requirement and clarifications to section 40.26 and Appendix H regarding the requirement for employers to follow the Department's instructions for the annual information collection.

Part 40, Amendment #32, 82 FR 52229: Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Addition of Certain Schedule II Drugs to the Department of Transportation's Drug-Testing Panel and Certain Minor Amendments

The Department of Transportation is amending its drug-testing program regulation to add hydrocodone, hydromorphone, oxycodone, and oxycodone to its drug-testing panel; add methylenedioxyamphetamine as an initial test analyte; and remove methylenedioxyethylamphetamine as a confirmatory test analyte. The revision of the drug-testing panel harmonizes DOT regulations with the revised HHS Mandatory Guidelines established by the U.S. Department of Health and Human Services for Federal drug-testing programs for urine testing. This final rule clarifies certain existing drug-testing program provisions and definitions, makes technical amendments, and removes the requirement for employers and Consortium/Third Party Administrators to submit blind specimens.

Part 40, Amendment #33, 84 FR 16770: Conforming Amendments and Technical Corrections to Department Rules Implementing the Transportation Industry Drug Testing Program

This final rule makes minor technical corrections to the OST, FAA, FTA, and PHMSA regulations governing drug testing for safety-sensitive employees to ensure consistency with the recent amendments made to the Department of Transportation's regulation, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," which added requirements to test for oxycodone, oxycodone, hydrocodone, and hydromorphone to DOT-regulated drug testing programs. The changes to the Department's regulation make it necessary to refer to these substances, as well as the previously covered drugs morphine, 6- acetylmorphine, and codeine, by the more inclusive term "opioids," rather than "opiates." This rule amends the term in the FAA, FTA, and PHMSA regulations to ensure that all DOT drug testing rules are consistent with one another and with the Mandatory Guidelines for Federal Workplace Drug Testing Programs. In addition, this rule makes a conforming amendment to include the term "opioids" in the wording of the Department's annual information collection requirement and clarifications to section 40.26 and Appendix H regarding the requirement for employers to follow the Department's instructions for the annual information collection.