

**OFFICIAL FILE**  
**ILLINOIS COMMERCE COMMISSION**

14-0641

**Public Utilities Bureau**  
**Safety and Reliability Division**

**Staff Report**

**September 30, 2014**

**ORIGINAL**

**Subject:** 83 Ill. Adm. Code Part 590 Incorporation of 49 Code of Federal Regulation ("CFR") amendments and plan submission requirements by natural gas operators and liquefied natural gas facility operators to the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration.

**Purpose:** Revision of Part 590 to incorporate amendments to 49 CFR Parts 191.60, 193.2017, and 199.101 as of October 1, 2014 and add Section 590.30 to require submission of plans, procedures and programs.

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**Summary**

The Illinois Commerce Commission ("Commission") Gas Pipeline Safety Program ("PSP") operates under authority delegated by the U. S. Department of Transportation ("DOT") Pipeline and Hazardous Materials Safety Administration ("PHMSA") to the Commission. The Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A. §§ 60101 *et seq.* ("Federal Act") granted jurisdiction over all natural gas safety in the U.S. to the Secretary of Transportation ("Secretary") in 1968. The Federal Act also provides that any state that regulates the safety standards and practices with a law comparable to the Federal Act in scope and intent could annually submit a certification to the Secretary that the state authority complies with subsections (b) and (c) of 49 U.S.C.S. § 60105 to carry out the safety enforcement in that state.

To comply with the certification agreement between the Commission and PHMSA, the PSP is required, among other things, to conduct inspections that include: review of gas pipeline operator's plans and procedures required by the CFR, review of operator records, observation of construction and maintenance activities, review of CFR required reports to be submitted to PHMSA by the pipeline operators and initiate enforcement actions when probable violations of the CFR have been identified, in accordance with 49 U.S.C.A. § 60105.

Section 590.10 currently states:

- a) The Illinois Commerce Commission adopts the standards contained in 49 CFR 191.1, 91.3, 191.5, 191.7, 191.9, 191.11, 191.13, 191.15, 191.17, 191.23,

191.25, 192, 193 and 199 as of January 1, 2013, as its minimum safety standards for the transportation of gas and for gas pipeline facilities.

b) No later amendment or editions are incorporated by this Part.

PHMSA has amended 49 CFR Parts 192, 193 and 199 requirements since January 1, 2013. The amendments have not been incorporate by Part 590.

Part 590 does not incorporate revisions to Sections 192.603 General Provisions, 193.2017 Plans and Procedures and 191.101 Anti-drug Plan.

Section 192.603 requires each pipeline operator to operate a natural gas pipeline in accordance to 49 CFR Part 192 and provides a State Agency authority to require an operator to amend its plans and procedures after notice and opportunity for hearing. Paragraph (c) of 192.603 has been amended to designate the Associate Administrator of Pipeline Safety or certified State Agency authority to require operators of natural gas pipelines to amend plans and procedures after notice and opportunity for hearing and cite 49 CFR Part 190.206 as the appropriate section for request of hearing for Federal Agencies. This amendment has no effect on intrastate pipeline operators within Illinois. The amendment to Part 590 simply adopts current language of the CFR.

Section 193.2017 requires each operator of a Liquefied Natural Gas (“LNG”) plant to maintain plans and procedures required by 49 CFR Part 193. Paragraph (b) of CFR Part 193.2017 has been amended to designate the Associate Administrator of Pipeline Safety or the certified State Agency authority to require operators of LNG facilities to amend plans and procedures after notice and opportunity for hearing and cite 49 CFR Part 190.206 as the appropriate section for request of hearing for Federal Agencies. This amendment has no effect on intrastate pipeline operators within Illinois. The amendment to Part 590 simply adopts current language of the CFR.

Section 199.101 requires each operator of a natural gas pipeline to maintain and follow anti-drug and alcohol plans that conform to the requirements of 49 CFR Part 199. Paragraph (b) of CFR Part 199.101 has been amended to designate the Associate Administrator of Pipeline Safety or the certified State Agency authority to require operators of pipeline to amend plans and procedure after notice and opportunity for hearing and cite 49 CFR Part 190.206 as the appropriate section for request of hearing for Federal Agencies. This amendment has no effect on intrastate pipeline operators within Illinois. The amendment to Part 590 simply adopts current language of the CFR.

In order to meet the Certification requirements, the PSP must ensure that pipeline operators modify plans and procedures to meet the minimum safety standards of the

CFR. Historically, operators of pipeline facilities have submitted plans and procedures by shipping hard copies or compact disks containing plans and procedures as well as modifications. The PSP is proposing amending Code Part 590 to add Section 590.30 Submission of plans, procedures and programs to require operators to submit electronic copies of current plans, procedures and programs required by the CFR, as well as any future amendments to the plans, procedures and programs.

The electronic submission by the operators will help ensure that the most current version of the operator's plans, procedures and programs are on file with the Commission. Electronic submission will reduce storage space and manual updating of paper versions submittals. Electronic submission will also allow the inspection staff remote access to the plans, procedures and programs, streamlining the inspection process.

### **Recommendations**

- 1) Title 83 Part 590.10 should be modified as follows:

#### **Section 590.10 Standards**

- a) The Illinois Commerce Commission adopts the standards contained in 49 CFR 191.1, 91.3, 191.5, 191.7, 191.9, 191.11, 191.12, 191.13, 191.15, 191.17, 191.22, 191.23, 191.25, 192, 193 and 199 as of ~~January 1, 2013~~ October 1, 2014 as its minimum safety standards for the transportation of gas and for gas pipeline facilities.
- b) No later amendment or editions are incorporated by this Part.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

- 2) Title 83 Part 590 should be amended to include as follows:

#### **Section 590.30 – Submission of Plans, Procedures and Programs**

- a) Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall file with the Commission any Plans, Procedures and Programs required by or necessary to implement requirements of Section 590.10 (a).
- b) Each person identified in paragraph (a) of this section shall request an External User Account with the Commission.

- c) Each person identified in paragraph (a) of this section shall file with the Commission electronic copies of the Plans, Procedures and Programs defined in paragraph (a) of this section.
- d) Each person identified in paragraph (a) of this section shall file any revisions to the Plans, Procedures and Programs defined in paragraph (a) of this section.

#### **Section 590.40 – External User Accounts**

- a) Each person seeking to file electronic documents in the manner prescribed by Section 590.30 of this Part must have an active external user account.
- b) The application for an external user account is available on the Commission's Web site or can be obtained by calling or e-mailing the Chief Clerk's office.
- c) The external user account application requires the following information:
  - 1) First name and last name;
  - 2) Primary mailing address and phone number;
  - 3) Preferred user name;
  - 4) Password;
  - 5) Challenge question and answer; and
  - 6) Notarized signature.
- d) Applications must be hand-delivered or mailed to the Chief Clerk's office.
- e) The user is responsible for keeping confidential the user I.D. and password. A user I.D. must be at least four characters in length and must be unique. Passwords must be at least five characters in length. Periodically passwords will expire and users will be given advance notice and requested to enter a new password. The challenge question and answer will enable the Commission's information technology staff to recover a password for a user who has forgotten his or her password.
- f) Because of the unique user I.D. and password, an electronic document can be traced to a specific individual as if it were signed. This shall serve as an electronic signature on such filings.

(Source: Added at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Staff recommends that a rulemaking proceeding be initiated to accomplish amendments to Part 590.



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