

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

Rule Number 4 CSR 240-40.080

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-8518 FAX 573-526-6010

Email address nancy.dippell@psc.mo.gov

Data Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address Christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Fl., Gov. Ofc. Bldg., JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost Order of Rulemaking

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

JUN 04 2018

ADMINISTRATIVE RULES



Commissioners

DANIEL Y. HALL
Chairman

WILLIAM P. KENNEY

SCOTT T. RUPP

MAIDA J. COLEMAN

RYAN A. SILVEY

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://psc.mo.gov>

SHELLEY BRUEGGEMANN
General Counsel

MORRIS WOODRUFF
Secretary

LOYD WILSON
Director of Administration

NATELLE DIETRICH
Staff Director

June 4, 2018

John Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-40.080 Drug and Alcohol Testing

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission.

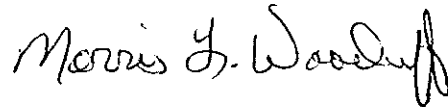
The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo, that the proposed amendment does not constitute a taking of real property under relevant state and federal law, and that the proposed amendment conforms to the requirements of 1.310, RSMo, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory Authority: section 386.250, 386.310, and 393.140, RSMo.

If there are any questions regarding the content of this proposed amendment, please contact:

Morris Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
Morris.Woodruff@psc.mo.gov

A handwritten signature in cursive script, reading "Morris L. Woodruff". The signature is written in dark ink and is positioned above the printed name and title.

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures



GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

ERIC R. GREITENS
GOVERNOR

P.O. Box 720
(573) 751-3222

April 26, 2018

Daniel Hall
Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65102

Dear Chairman Hall:

This office has received your Order of Rulemaking of the regulations listed below. We understand these amendments have been proposed to cut red tape in Missouri.

- 4 CSR 240-40.020 – Incident, Annual, and Safety-Related Condition
- 4 CSR 240-40.030 – Safety Standards – Transportation of Gas by Pipeline
- 4 CSR 240-40.080 – Drug and Alcohol Testing

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review, we approve the submission of these rule amendments to JCAR and the Secretary of State.

Sincerely,

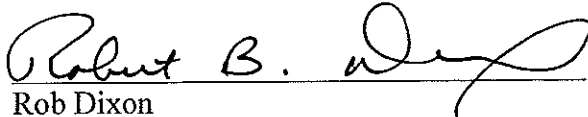
A handwritten signature in black ink, appearing to read "Justin D. Smith".

Justin D. Smith
Deputy Counsel

**AFFIDAVIT
PUBLIC COST**

**STATE OF MISSOURI)
)
COUNTY OF COLE)**

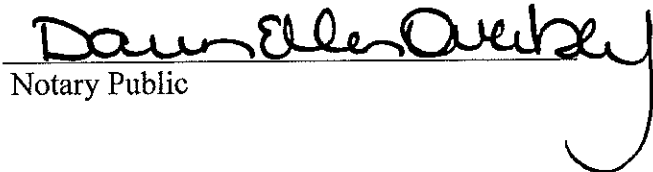
I, Rob Dixon, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 4 CSR 240-40.080, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.


Rob Dixon
Director
Department of Economic Development

Subscribed and sworn to before me this 15th day of May, 2018 I am
commissioned as a notary public within the County of Moniteau State of
Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY
My Commission Expires
December 13, 2019
Moniteau County
Commission #15458865


Notary Public

Title 4 – DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 40 – Gas Utilities and Gas Safety Standards

PROPOSED AMENDMENT

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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4 CSR 240-40.080 Drug and Alcohol Testing. The Commission is amending sections (1) and (4).

PURPOSE: This amendment modifies the rule to address any amendments of 49 CFR parts 40 and 199 promulgated between October 2015 and September 2017.

(1) As set forth in the *Code of Federal Regulations* (CFR) dated October 1, [2015] **2017**, 49 CFR parts 40 and 199 are incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR parts 40 and 199. The *Code of Federal Regulations* is published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, [2015] **2017** version of 49 CFR parts 40 and 199 is available at www.gpo.gov/fdsys/search/showcitation.action.

(4) For purposes of this rule, the following substitutions should be made for certain references in the federal pipeline safety regulations adopted by reference in section (2) of this rule:

(D) The references to the applicability exemptions for operators of master meter systems as defined in section “191.3 of this chapter” in 49 CFR 199.2 should refer to [“4 CSR 240-40.020(2)(F)”] “**4 CSR 240-40.020(2)(G)**” instead.

AUTHORITY: sections 386.250, 386.310, and 393.140, RSMo 2016. Original rule filed Nov. 29, 1989, effective April 2, 1990. Rescinded and readopted: Filed Jan. 9, 1996, effective Aug. 30, 1996. Rescinded and readopted: Filed April 9, 1998, effective Nov. 30, 1998. Amended: Filed Oct. 15, 2007, effective April 30, 2008. Amended: Filed Nov. 29, 2012, effective May 30, 2013. Amended: Filed Nov. 14, 2016, effective June 30, 2017. Amended Filed Date.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 386.310, RSMo 1939, amended 1979, 1989, 1996; and 393.140, RSMo 1939, amended 1949, 1967.*

JOINT COMMITTEE ON

JUN 04 2018

ADMINISTRATIVE RULES

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendments with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, P.O. Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. GX-2018-0279. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for August 20, 2018 at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: April 5, 2018

Rule Number: 4 CSR 240-40.080 Drug and Alcohol Testing

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Jamie Myers

Phone Number: 573-526-6036 **Email:** jamie.myers@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

This proposed amendment modifies the rule to address any amendments of 49 CFR parts 40 and 199 promulgated between October 2015 and September 2017.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The Commission opened a workshop and invited any interested parties to file comments regarding the proposed amendments.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

It is anticipated the proposed rule will result in a net benefit to the Commission and other affected agencies because it updates the Commission's rules in order to align them with federal requirements and maintain federal funding for the Commission. No additional fees will be imposed.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Gas utilities are already required to adhere to federal requirements. This proposed amendment simply ensures that the Commission's rules match those federal requirements; no adverse impact is expected.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

None identified.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Utilities regulated by the Commission, business owners that are ratepayers of those utilities.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes ☐ No ☒

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.