

**Staff Rulemaking Workshop Whitepaper**  
**Gas Safety Standards Proposed Rule Amendments**  
**File No. GW-2022-0237**  
**June 3, 2022**

**I. What are the affected rules (rule numbers and titles)?**

Staff proposes the Commission move forward with amending the following rules to incorporate certain federal gas safety rule amendments, make clarifications and editorial changes, and address stakeholder comments:

20 CSR 4240-40.020 Incident, Annual, and Safety-Related Condition Reporting Requirements – proposing to amend sections (1), (2), (4), (5), (6), (7), (9), (10), (12) and (14).

20 CSR 4240-40.030 Safety Standards – Transportation of Gas by Pipeline – proposing to amend sections (1), (2), (3), (4), (5), (6), (9), (10), (12), (13), (17) and Appendix B and E.

**II. Background:**

**a. Discuss and describe topic/mechanism/theory/context of current rule.**

The current rules require certain safety-related reporting; and contain certain safety standards for the transportation of gas by pipeline.

**b. How does the statute/rule work?**

The Commission’s Safety Engineering Department is granted authority to implement the state pipeline safety program by annual certification from the United States Department of Transportation (“DOT”).

**c. What does the underlying statute require, if applicable?**

Federal law requires that each state take measures to adopt each applicable federal pipeline safety standard within a prescribed period of time. 49 U.S. Code Section 60105 requires, among other things, that the state authority adopt each applicable federal pipeline safety standard by the date of its annual certification, or in the event a standard was established within 120 days before the date of the certification, be taking steps to adopt that standard. Goals are set for state programs by the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) and enforcement of those goals is by reductions in federal grant-in-aid funding and the potential loss of federal certifications if those goals are not met.

**III. What is the problem/issue the rulemaking addresses?**

The proposed amendments are based on relevant federal pipeline rules that the Commission’s Safety Engineering Department has identified as being newly relevant to Missouri and additionally addresses comments from stakeholders.

**IV. Summary of stakeholder comments.**

Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”), Spire Missouri Inc. (“Spire Missouri”), Summit Natural Gas of Missouri, Inc. (“Summit”), City Utilities of Springfield, Missouri (“City Utilities”) and the Missouri Association of Natural Gas Operators (“MANGO”) filed comments in this case.

**General Comments:**

Ameren Missouri, Spire Missouri, Summit and MANGO generally supported incorporation of the federal amendments. Ameren Missouri noted a typographical error in Attachment A to Staff’s Motion.

No comments were provided with respect to the cost impact, if any, of Staff’s proposed gas safety rule amendments.

*Staff Response:* Staff has incorporated Ameren Missouri’s error correction in its draft amendments.

**Comments Regarding 20 CSR 4240-40.020(4)(A)1.C.**

Ameren Missouri, Spire Missouri, Summit, City Utilities and MANGO proposed an additional amendment to subparagraph 20 CSR 4240-40.020(4)(A)1.C. All commenters proposed revising the estimated property damage amount for which a gas release becomes a reportable incident in Missouri from ten thousand dollars (\$10,000) to thirty thousand dollars (\$30,000). Commenters stated that the amendment should correspond to the recent increase in the threshold for estimated property damage under the definition of “Federal incident”, which was increased from \$50,000 to \$122,000 to reflect inflation.

Ameren Missouri and Summit both referred to labor costs that rise with inflation.

Spire Missouri additionally commented that that Commission rule 20 CSR 4240-40-4A(1)(C) (*sic*) should be adjusted as the reporting threshold has been to reflect the inflation rate between 1984 and present.

Ameren Missouri and MANGO commented that the cost of gas lost should be excluded from the reporting threshold due to spot price fluctuations in natural gas costs. Both commenters recommended adding an additional threshold of an unintentional estimated gas loss of three (3) million cubic feet or more in lieu of including the cost of gas lost in the property damage cost.

*Staff Response:* Staff agrees in principle with commenters’ proposal to adjust the \$10,000 reporting threshold for inflation, but does not agree that \$30,000 accurately reflects the inflated cost. Staff assumes that commenters incorrectly used 1984 (as referenced in Spire Missouri’s comments) as a starting date since the federal reporting limit in 49 CFR 192.3 of \$50,000 was effective beginning in 1984. However, Staff notes that while the federal reporting threshold of \$50,000 had not (until the recent federal amendment referenced by commenters) increased since 1984, the Missouri reporting threshold was increased from \$5,000 to \$10,000 effective November 30, 1998. Staff therefore believes that to appropriately adjust the \$10,000 reporting threshold for inflation, the base starting year would be 1998 as opposed to 1984. The Pipeline and Hazardous Materials Safety Administration (PHMSA) used the Consumer Price Index – Urban (CPI-U) to adjust the reporting threshold in 49 CFR 192.3 for inflation, and rounded the result to the nearest hundred dollars.

Staff’s proposal is to use the CPI-U index to adjust for inflation between November 1998 and March 2022, rounding to the nearest hundred dollars as follows:

$$\text{Estimated damage cost present} = \text{Estimated damage cost in 1998} \times \frac{(\text{CPI} - U, \text{March 2022})}{(\text{CPI} - U, \text{November 1998})}$$

$$\text{Estimated damage cost present} = \$10,000 \times \frac{(287.504)}{(164.0)}$$

$$\text{Estimated damage cost present} = \$17,531.$$

Rounding to the nearest hundred dollars, this amount is \$17,500. Staff is proposing to amend the estimated property damage amount in 20 CSR 4240-40.020(4)(A)1.C. from \$10,000 to \$17,500.

Staff does not agree with commenters that in lieu of including the cost of gas lost in the \$10,000 (proposed to be adjusted to \$17,500 for inflation), the rule should be amended by adding a requirement to report an unintentional gas loss of three million cubic feet or more. Staff notes that an unintentional gas loss of three million cubic feet or more is already required to be reported as a federal incident in 20 CSR 4240-40.020(3) per the definition of “Federal incident” in 20 CSR 4240-40.020(2). Staff recognizes that volatility in the market price for natural gas could potentially affect whether or not an incident meets the reporting threshold as the rule is currently written. However, Staff also recognizes that a higher cost of gas lost is often associated with larger gas volumes released and unintentional gas releases that require a longer time to remedy before the flow of gas is stopped. These are incident consequences that Staff believes should continue to be reported under 20 CSR 4240-40.020(3). Staff is proposing to continue to include the cost of gas lost in the reporting threshold for this current rulemaking while it evaluates alternative reporting criteria to address incident consequences. Staff anticipates proposing alternative criteria in a future rulemaking workshop to solicit stakeholder feedback.

## **V. Summary of proposed rule changes (final draft proposed rule ready to move to the formal rulemaking process).**

20 CSR 4240-40.020 Incident, Annual, and Safety-Related Condition Reporting Requirements – proposing to amend sections (1), (2), (4), (5), (6), (7), (9), (10), (12) and (14).

The proposed amendment adopts the federal pipeline reporting requirements of 49 CFR 191 for facilities not previously included in Missouri reporting requirements of 20 CSR 4240-40.020 as described in the *Staff Motion to Establish Working Case* (“Staff’s Motion”) filed in this case. In addition to the proposed amendments to adopt the proposed reporting requirements of 49 CFR 191 that were described in Staff’s Motion, Staff proposed amendments to adopt the corrections published in the *Federal Register* on May 4, 2022, page 86 FR 26296.

In addition, Staff proposes to amend:

- 20 CSR 4240-40.020(1)(A) to add wording to match with the onshore portion of 49 CFR 191.1(a).
- 20 CSR 4240-40.020(5)(B), (5)(G), (6)(A), (7)(A), (9)(A), (9)(C), (10)(A), and (10)(B), Staff proposes to update the PHMSA forms to the current revisions at the PHMSA website.

- 20 CSR 4240-40.020(4)(A)1.C. to address stakeholder comments. The proposed amendment increases the estimated property damage reporting threshold for Missouri Incidents from \$10,000 to \$17,500 to adjust for inflation.

20 CSR 4240-40.030 Safety Standards – Transportation of Gas by Pipeline – proposing to amend sections (1), (2), (3), (4), (5), (6), (9), (10), (12), (13), (17) and Appendix B and E.

The proposed amendment adopts changes in the minimum federal safety standards of 49 CFR 192 as described in Staff’s Motion. In addition to the proposed amendments to adopt the proposed federal safety standards of 49 CFR 192 that were described in Staff’s Motion, Staff proposed amendments to adopt the corrections published in the *Federal Register* on May 4, 2022, page 86 FR 26296.

In addition, Staff proposes to amend:

- 20 CSR 4240-40.030(1)(H), to delete the word “steel”. This will make the conversion to service criteria in (1)(H)A. – D. also applicable to plastic pipelines.
- 20 CSR 4240-40.030(2)(B)4., to limit this paragraph to pipe, and allow for fitting materials other than steel or polyethylene that meet the requirements of paragraph (4)(F)3., which requires plastic fittings to meet a listed specification. Listed specifications are in Appendix B to 20 CSR 4240-40.030.
- 20 CSR 4240-40.030(12)(I)3.A., to coordinate timing of operator submissions of excavator updates to the Missouri One Call System (MOCS) with the MOCS participation renewal period. (The requirement to update once each calendar year with intervals not exceeding 15 months will still be in effect).
- 20 CSR 4240-40.030(13)(BB)2.C., to change the reference from (4)(DD)2. to (4)(DD), making the rule consistent with federal rule 192.740, which references 192.197 (Missouri (4)(DD)).

## **VI. Summary of rationale for proposed rule language**

The proposed amendments purport to incorporate the recent changes to Federal amendments 49 CFR parts 40, 191, 192, and 199 and to make clarifications and editorial changes. Additionally the proposal addresses stakeholder comments regarding increasing the estimated property damage reporting threshold for inflation.

## **VII. Discussion of other states actions on issue**

Federal law requires that each state take measures to adopt each applicable federal pipeline safety standard within a prescribed period of time. Goals are set for state programs by PHMSA.

## **VIII. Who will be affected by this rule?**

Gas utilities are already required to adhere to federal amendments. The proposed amendments ensure the Commission’s Rules match the federal requirements, and therefore, no additional fiscal impact beyond what has already been experienced by the promulgation of the Federal Rules is expected for public entities, affected industry, small businesses or any other stakeholders or entities.