

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Proposed Amendment)
of the Commission’s Rules Relating to) **File No. GX-2022-0340**
Natural Gas Safety)

STAFF COMMENTS

COMES NOW the Staff of the Missouri Public Service Commission and states as follows:

1. Staff supports the proposed amendments to 20 CSR 4240-40.020 and 40.030, published in the Missouri Register dated September 1, 2022, with some revisions as detailed in the attached Staff Comment. The proposed amendments include adoption of amendments to the corresponding federal pipeline safety standards, address stakeholder comments regarding increasing the estimated property damage reporting thresholds for Missouri Incidents to adjust for inflation, and make clarifications and editorial changes to the Missouri gas safety rules.

2. Federal law requires that the state take measures to adopt each applicable federal pipeline safety standard within a prescribed period of time.¹ 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 certification² if those goals are not met.

¹ 49 U.S. Code § 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.

² The Commission’s Safety Engineering Department Staff is granted authority to implement the state pipeline safety program by annual certification from the United States Department of Transportation (DOT).

WHEREFORE, Staff respectfully submits these comments for the Commission's consideration and supports the proposed amendments to 20 CSR 4240-40.020 and 40.030.

Respectfully submitted,

/s/ Jamie S. Myers

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 30th day of September, 2022, to all counsel of record.

/s/ Jamie S. Myers

File No. GX-2022-0340

Comments of the Staff of the Missouri Public Service Commission

Staff supports the proposed amendments to 20 CSR 4240-40.020 and 20 CSR 4240-40.030 published in the Missouri Register dated September 1, 2022. The proposed amendments to the Chapter 40 rules include the following:

- 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), and
- 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.

Staff is additionally proposing revisions to certain specific proposed amendments discussed below to 1. address comments received on the proposed revisions, and 2. update to reflect new form revision dates.

Staff notes that the revisions do not change Staff’s stated public and private costs as published in the September 1, 2022 Missouri Register:

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

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

1. Addressing Comments on Proposed Revisions

The Joint Committee on Administrative Rules (JCAR) reviewed the proposed rule amendments published in the September 1, 2022 Missouri Register and provided feedback to the PSC. JCAR pointed out that as worded, Staff’s proposed amendment to the federal incident definition in 20 CSR 4240-40.020(2)(D) did not include the inflation adjusted reporting threshold. JCAR additionally stated that the reporting threshold could only be found by using the formula included in Appendix A to 49 CFR part 191 or by looking at PHMSA’s website, neither of which are incorporated by reference in the proposed rule amendment.

Staff recommends addressing this issue by removing reference to future adjustments for inflation as shown in tracked changes below. Staff reviewed the most recent inflation adjustment on PHMSA’s website and found that effective July 1, 2022, PHMSA updated the property damage threshold to \$129,300. Staff recommends that the updated property damage threshold be included in this revision, as shown in tracked changes below. Going forward, Staff plans to update the property damage reporting threshold in future rulemakings to incorporate adjustments for inflation, as determined by PHMSA and posted on PHMSA’s website.

The revisions to 20 CSR 4240-40.020(2)(D) as published in the September 1, 2022 proposed rule amendments are as follows:

(2) Definitions. (191.3) As used in this rule and in the PHMSA Forms referenced in this rule—

(D) Federal incident means any of the following events:

1. An event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility (UNGSF), liquefied natural gas (LNG), liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one (1) or more of the following consequences:

A. A death or personal injury necessitating inpatient hospitalization; or

B. Estimated property damage of *[fifty thousand dollars (\$50,000)]***one hundred twenty-two-nine thousand three hundred dollars (\$1292,3000)** or more, including loss to the operator and others, or both, but excluding the cost of gas lost. ~~For adjustments for inflation observed in calendar year 2021 onwards, changes to the reporting threshold will be posted on PHMSA's website. These changes will be determined in accordance with appendix A to 49 CFR part 191;~~ or

C. Unintentional estimated gas loss of three (3) million cubic feet or more;

2. An event that results in an emergency shutdown of an LNG facility or an UNGSF. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident; or

3. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraph (2)(D)1. or (2)(D)2.

2. Update to Address New Form Revision Dates

As an update to the proposed amendments published in the September 1, 2022 Missouri Register, Staff recommends updating three of the U.S.DOT - PHMSA forms that are incorporated by reference in 20 CSR 4240-40.020 to reflect that those forms now have a revision date of March 2022. Staff also recommends that the form designation for one of the new PHMSA forms be updated from PHMSA F 7100.2-2 to PHMSA F 7100.2.2. The changes to the proposed amendments to 20 CSR 4240-40.020 as published in the *Missouri Register* on September 1, 2022 are shown below:

The additional revisions to proposed amendments are as follows:

(5) Report Submission Requirements. (191.7)

(B) Missouri *[I]*incident *[R]*reports

1. This subsection applies to events that meet the criteria in subsection (4)(A) but are not a federal incident reported under subsection (5)(A). Within thirty (30) days of a telephone notification made

under subsection (4)(A), each gas operator must submit the applicable U.S. Department of Transportation Form PHMSA F 7100.1, PHMSA F 7100.2, or PHMSA F 7100.3 to designated commission personnel. Additional information required in subsections (6)(B) and (9)(B) for federal incidents is also required for these events.

2. The incident report forms for gas distribution systems (PHMSA F 7100.1, revised *[April 2019]* **May 2021**), gas transmission and gathering pipeline systems (PHMSA F 7100.2, revised *[April 2019]* ~~January 2020~~**March 2022**), and LNG facilities (PHMSA F 7100.3, revised April 2019) are incorporated by reference in subsection (5)(G).

(G) Forms *[I]*incorporated by *[R]*reference.

1. The following forms are incorporated by reference and made part of this rule.

A. U.S. Department of Transportation Form PHMSA F 1000.1, revised January 2020. The PHMSA F 1000.1 form is the Operator Identification (OPID) Assignment Request form and does not include any amendments or additions to the January 2020 version.

B. U.S. Department of Transportation Form PHMSA F 1000.2, revised ~~January 2020~~**March 2022**. The PHMSA F 1000.2 form is the National Registry Notification form for reporting changes including operator name change, change in entity operating, shared safety program change, change in ownership for gas facilities, construction or rehabilitation of gas facilities, change in ownership for LNG, and construction for LNG. The PHMSA F 1000.2 form does not include any amendments or additions to the ~~January 2020~~**March 2022** version.

C. U.S. Department of Transportation Form PHMSA F 7100.1, revised *[April 2019]* **May 2021**. The PHMSA F 7100.1 form is the incident report form for gas distribution systems and does not include any amendments or additions to the *[April 2019]* **May 2021** version.

D. U.S. Department of Transportation Form PHMSA F 7100.1-1, revised *[October 2018]* **May 2021**. The PHMSA F 7100.1-1 form is the annual report form for gas distribution systems and does not include any amendments or additions to the *[October 2018]* **May 2021** version.

E. *[U.S. Department of Transportation Form PHMSA F 7100.1-2, revised October 2014. The PHMSA F 7100.1-2 form is the report form for mechanical fitting failures and does not include any amendments or additions to the October 2014 version]* **Reserved.**

F. U.S. Department of Transportation Form PHMSA F 7100.2, revised *[April 2019]* ~~January 2020~~**March 2022**. The PHMSA F 7100.2 form is the incident report form for gas transmission and gathering pipeline systems and does not include any amendments or additions to the *[April 2019]* ~~January 2020~~**March 2022** version.

G. U.S. Department of Transportation Form PHMSA F 7100.2-1, revised ~~October [2014]~~ **March 2022**. The PHMSA F 7100.2-1 form is the annual report form for gas transmission

and gathering pipeline systems and does not include any amendments or additions to the ~~October 2014~~ **March 2022** version.

H. U.S. Department of Transportation Form PHMSA F 7100.3, revised April 2019. The PHMSA F 7100.3 form is the incident report form for LNG facilities and does not include any amendments or additions to the April 2019 version.

I. U.S. Department of Transportation Form PHMSA F 7100.3-1, revised *[August 2017]* **October 2014**. The PHMSA F 7100.3-1 form is the annual report form for LNG facilities and does not include any amendments or additions to the *[August 2017]* **October 2014** version.

J. U.S. Department of Transportation Form PHMSA 7100.4-1, approved August 2017. The PHMSA F 7100.4-1 form is the annual report form for underground natural gas storage facilities and does not include any amendments or additions to the August 2017 version.

K. U.S. Department of Transportation Form PHMSA ~~7100.2-27100.2.2~~, approved March 2022. The PHMSA F ~~7100.2-27100.2.2~~ form is the incident report form for reporting-regulated gathering pipeline systems and does not include any amendments or additions to the March 2022 version.

L. U.S. Department of Transportation Form PHMSA 7100.2-3, approved March 2022. The PHMSA F 7100.2-3 form is the annual report form for reporting-regulated gathering pipeline systems and does not include any amendments or additions to the March 2022 version.

2. The forms listed in paragraph (5)(D)1. are published by the U.S. Department of Transportation Office of Pipeline Safety, PHP-10, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. The forms are available at www.phmsa.dot.gov/forms/pipeline-forms or upon request from the pipeline safety program manager at the address given in subsection (5)(E).

(9) Transmission Systems; Gathering Systems; Liquefied Natural Gas Facilities; and Underground Natural Gas Storage Facilities—Federal Incident Report. (191.15)

(A) Transmission or *[G]*gathering.

1. Each operator of a transmission or a **regulated onshore** gathering pipeline system must submit U.S. Department of Transportation Form PHMSA F 7100.2 as soon as practicable but not more than thirty (30) days after detection of an incident required to be reported under section (3). (191.5)[.] See the report submission requirements in subsection (5)(A). The incident report form (revised *[April 2019]* ~~January 2020~~ **March 2022**) is incorporated by reference in subsection (5)(G).

2. Each operator of a reporting-regulated gathering pipeline system must submit U.S. Department of Transportation Form PHMSA F ~~7100.2-27100.2.2~~ as soon as practicable but not more than thirty (30) days after detection of an incident required to be reported under

section (3) (191.5) that occurs after May 16, 2022. See the report submission requirements in subsection (5)(A). The incident report form (revised March 2022) is incorporated by reference in subsection (5)(G).

(C) Underground natural gas storage facility. Each operator of an UNGSF must submit U.S. Department of Transportation Form PHMSA F 7100.2 as soon as practicable but not more than thirty (30) days after detection of an incident required to be reported under section (3). (191.5)/.] **See the report submission requirements in subsection (5)(A).** The incident report form (revised [April 2019] ~~January 2020~~March 2022) is incorporated by reference in subsection (5)(G).

(10) Transmission Systems; Gathering Systems; Liquefied Natural Gas Facilities; and Underground Natural Gas Storage Facilities— Annual Report. (191.17)

(A) Transmission or [G]gathering.

1. Each operator of a transmission or a **regulated onshore** gathering pipeline system must submit an annual report for that system on U.S. Department of Transportation Form PHMSA F 7100.2-1. This report must be submitted each year, not later than March 15, for the preceding calendar year. See the report submission requirements in subsection (5)(A). The annual report form (revised ~~October 2014~~/~~2021~~March 2022) is incorporated by reference in subsection (5)(G).

2. Type R gathering. Beginning with an initial annual report submitted in March 2023 for the 2022 calendar year, each operator of a reporting-regulated gas gathering pipeline system must submit an annual report for that system on U.S. Department of Transportation Form PHMSA F 7100.2–3. This report must be submitted each year, not later than March 15, for the preceding calendar year. See the report submission requirements in subsection (5)(A). The annual report form (revised March 2022) is incorporated by reference in subsection (5)(G).

(B) LNG. Each operator of a liquefied natural gas facility must submit an annual report for that system on U.S. Department of Transportation Form PHMSA F 7100.3-1 This report must be submitted each year, not later than March 15, for the preceding calendar year. See the report submission requirements in subsection (5)(A). The annual report form (revised [August 2017] **October 2014**) is incorporated by reference in subsection (5)(G).