

**John R. Ashcroft**

**Secretary of State  
Administrative Rules Division**

**RULE TRANSMITTAL**

Administrative Rules Stamp

**RECEIVED**

JUN 04 2018

SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-40.020

**COPY**

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, 9<sup>th</sup> 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

JUN 04 2018

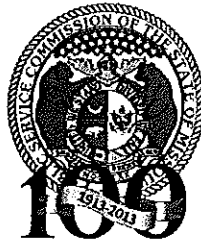
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JOINT COMMITTEE ON

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 240-40.020 Incident, Annual, and Safety-Related Condition

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.

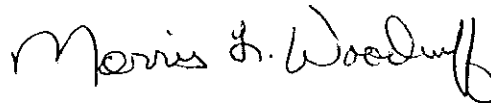
The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 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, 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 black ink, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "M" and "W".

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,

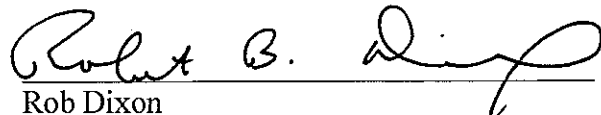
A handwritten signature in black ink, appearing to read "Justin D. Smith".

Justin D. Smith  
Deputy Counsel

**AFFIDAVIT  
PUBLIC COST**

STATE OF MISSOURI )  
                                  )  
COUNTY OF COLE     )

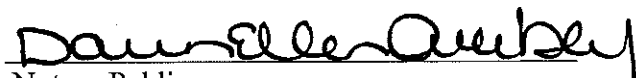
I, Rob Dixon, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 4 CSR 240-40.020, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
Rob Dixon  
Director  
Department of Economic Development

Subscribed and sworn to before me this 15<sup>th</sup> 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 #15456865

  
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 240-40.020 Incident, Annual, and Safety-Related Condition Reporting Requirements.** The Commission is amending sections (2), (3), (7), (11), (12) and (13).

*PURPOSE: This amendment proposes to amend the rule to address the 2016 amendment of 49 CFR part 191, to correct errors and inadvertent omissions from previous amendments, and to remove unnecessary verbiage.*

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

(B) Commission means the Public Service Commission. Designated commission personnel means the Pipeline Safety Program Manager at the address contained in subsection (5)(E) for *[required]* correspondence and means the list of staff personnel supplied to operators for *[required]* telephonic notices;

(C) Confirmed discovery means when it can be reasonably determined, based on information available to the operator at the time a reportable event has occurred, even if only based on a preliminary evaluation;

*[(C)]* (D) Federal incident means any of the following events:

1. An event that involves a release of gas from a pipeline 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) or more, including loss to the operator and others, or both, but excluding the cost of gas lost; or

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

2. An event that is significant, in the judgment of the operator, even though it did not meet the criteria of paragraph *[(2)(C)1.]* (2)(D)1.;

*[(D)]* (E) Gas means natural gas, flammable gas, manufactured gas or gas which is toxic or corrosive;

*[(E)]* (F) LNG facility means a pipeline facility that is used for liquefying natural gas or synthetic gas or transferring, storing, or vaporizing liquefied natural gas;

(G) LNG plant means an LNG facility or system of LNG facilities functioning as a unit;

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~~[(F)]~~ **(H)** Master meter system means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, for instance, by rents;

~~[(G)]~~ **(I)** Municipality means a city, village, or town;

~~[(H)]~~ **(J)** Operator means a person who engages in the transportation of gas;

~~[(I)]~~ **(K)** Person means any individual, firm, joint venture, partnership, corporation, association, county, state, municipality, political subdivision, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative of them;

~~[(J)]~~ **(L)** Pipeline or pipeline system means all parts of those physical facilities through which gas moves in transportation including, but not limited to, pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies;

~~[(K)]~~ **(M)** PHMSA means the Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation; ~~[and]~~

~~[(L)]~~ **(N)** Transportation of gas means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce~~[/]; and~~

**(O) Underground natural gas storage facility means a facility that stores natural gas in an underground facility incident to natural gas transportation, including -**

**(1) A depleted hydrocarbon reservoir;**

**(2) An aquifer reservoir; or**

**(3) A solution-mined salt cavern reservoir, including associated material and equipment used for injection, withdrawal, monitoring, or observation wells, and wellhead equipment, piping, rights-of-way, property, buildings, compressor units, separators, metering equipment, and regulator equipment.**

**(3) Immediate Notice of Federal Incidents. (191.5)**

**(A) At the earliest practicable moment following discovery, but no later than one (1) hour after confirmed discovery, each operator shall give notice, in accordance with subsection (3)(B), of each federal incident as defined in section (2) (191.3).**

**(C) Within forty-eight (48) hours after the confirmed discovery of an incident, to the extent practicable, an operator must revise or confirm its initial telephonic notice**



required in subsection (3)(B) with an estimate of the amount of gas released, an estimate of the number of fatalities and injuries, and all other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages. If there are no changes or revisions to the initial report, the operator must confirm the estimates in its initial report.

(7) Distribution System—Annual Report and Mechanical Fitting Failure Reports.

(A) Annual Report. (191.11)

1. Except as provided in paragraph (7)(A)3., each operator of a distribution pipeline system must submit an annual report for that system on U.S. Department of Transportation Form PHMSA F 7100.1-1. 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).
2. The annual report form (revised *[May 2015]* **January 2017**) is incorporated by reference and is published by U.S. Department of Transportation Office of Pipeline Safety, PHP-10, 1200 New Jersey Avenue SE, Washington DC 20590-0001. The form is available at [www.phmsa.dot.gov/pipeline/library/forms](http://www.phmsa.dot.gov/pipeline/library/forms) or upon request from the pipeline safety program manager at the address given in subsection (5)(E). The form does not include any amendments or additions to the *[May 2015]* **January 2017** version.
3. The annual report requirement in this subsection does not apply to a master meter system or to a petroleum gas system which serves fewer than one hundred (100) customers from a single source.

(11) National Registry of Pipeline and LNG Operators (191.22)

(A) OPID Request.

1. Effective January 1, 2012, each operator of a gas pipeline, *[or]* gas pipeline facility, **underground natural gas storage facility, LNG plant or LNG facility** must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has primary responsibility. To obtain an OPID, an operator must complete an OPID Assignment Request (U.S. Department of Transportation Form PHMSA F 1000.1) through the National Registry of Pipeline and LNG Operators at <http://portal.phmsa.dot.gov/pipeline> unless an alternative reporting method is authorized in accordance with subsection (5)(D). A copy of each submission to PHMSA must also be submitted concurrently to designated commission personnel—see addresses in subsection (5)(E).
2. The OPID Assignment Request form (May 2015) is incorporated by reference and is



published by U.S. Department of Transportation Office of Pipeline Safety, PHP-10, 1200 New Jersey Avenue SE, Washington DC 20590-0001. The form is available at [www.phmsa.dot.gov/pipeline/library/forms](http://www.phmsa.dot.gov/pipeline/library/forms) or upon request from the pipeline safety program manager at the address given in subsection (5)(E). The form does not include any amendments or additions to the May 2015 version.

(C) Changes. Each operator of a gas pipeline, *[or]* gas pipeline facility, **underground natural gas storage facility, LNG plant or LNG facility** must notify PHMSA electronically through the National Registry of Pipeline and LNG Operators at <http://portal.phmsa.dot.gov/pipeline> of certain events. A copy of each online notification must also be submitted concurrently to designated commission personnel—see addresses in subsection (5)(E).

1. An operator must notify PHMSA of any of the following events not later than sixty (60) days before the event occurs:

A. Construction or any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs ten (10) million dollars or more. If sixty- (60-) day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable; *[or]*

B. Construction of ten (10) or more miles of a new **or replacement** pipeline~~[/]~~;

C. Construction of a new **LNG plant or LNG facility**;

D. Construction of a new **underground natural gas storage facility** or the abandonment, drilling or well workover (including replacement of wellhead, tubing, or a new casing) of an injection, withdrawal, monitoring, or observation well for an **underground natural gas storage facility**;

E. Reversal of product flow direction when the reversal is expected to last more than 30 days. This notification is not required for pipeline systems already designed for bi-directional flow; or

F. A pipeline converted for service under 4 CSR 240-40.030(1)(H) (192.14), or a change in commodity as reported on the annual report as required by section (10) (191.17).

2. An operator must notify PHMSA of any of the following events not later than sixty (60) days after the event occurs:

A. A change in the primary entity responsible (i.e., with an assigned OPID) for managing or administering a safety program required by this rule covering pipeline facilities operated under multiple OPIDs;

B. A change in the name of the operator;

C. A change in the entity (e.g., company, municipality) responsible for an existing pipeline, pipeline segment, *[or]* pipeline facility, **underground natural gas storage facility, or LNG facility; *[or]***

D. The acquisition or divestiture of fifty (50) or more miles of a pipeline or pipeline system subject to 4 CSR 240-40.030~~[.]~~;

**E. The acquisition or divestiture of an existing LNG plant or LNG facility subject to 49 CFR Part 193; or**

**F. The acquisition or divestiture of an existing underground natural gas storage facility subject to 49 CFR part 192.**

(12) Reporting Safety-Related Conditions. (191.23)

(A) Except as provided in subsection (12)(B), each operator must report in accordance with section (13) (191.25) the existence of any of the following safety-related conditions involving facilities in service:

1. In the case of *[the]* a pipeline (**other than an LNG facility**) that operates at a hoop stress of twenty percent (20%) or more of its specified minimum yield strength, general corrosion that has reduced the wall thickness to less than that required for the maximum allowable operating pressure and localized corrosion pitting to a degree where leakage might result;

2. Unintended movement or abnormal loading by environmental causes, for instance, an earthquake, landslide or flood, that impairs the serviceability of a pipeline;

3. Any material defect or physical damage that impairs the serviceability of a pipeline that operates at a hoop stress of twenty percent (20%) or more of its specified minimum yield strength;

4. Any malfunction or operating error that causes the pressure of a pipeline to rise above its maximum allowable operating pressure plus the buildup allowed for operation of pressure limiting or control devices;

5. A leak in a pipeline that constitutes an emergency; and

6. Any safety-related condition that could lead to an imminent hazard and causes (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a twenty percent (20%) or more reduction in operating pressure or shutdown of operation of a pipeline.

(13) Filing Safety-Related Condition Reports. (191.25)

(A) Each report of a safety-related condition under subsection (12)(A) must be filed (received by the Office of Pipeline Safety at PHMSA and designated commission personnel) within five (5) working days (not including Saturday, Sunday, or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than ten (10) working days after the day a representative of the operator discovers the possibility of a condition. Separate conditions may be described in a single report if they are closely related. See the report submission requirements in subsection (5)(C). Reports may be transmitted by electronic mail to *[InformationResourceManager@dot.gov]* **InformationResourcesManager@dot.gov** and *PipelineSafetyProgramManager@psc.mo.gov*. To file a report by telefacsimile (fax), dial (202) 366-7128 for the Office of Pipeline Safety and (573) 522-1946 for designated commission personnel.

*AUTHORITY: sections 386.250, 386.310, and 393.140, RSMo 2016. \* Original rule filed Feb. 5, 1970, effective Feb. 26, 1970. Amended: Filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Feb. 8, 1985, effective Aug. 11, 1985. Rescinded and readopted: Filed May 17, 1989, effective Dec. 15, 1989. Amended: Filed Oct. 7, 1994, effective May 28, 1995. Amended: Filed April 9, 1998, effective Nov. 30, 1998. Amended: Filed Dec. 14, 2000, effective May 30, 2001. 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.*

*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 240-40.020 Incident, Annual, and Safety-Related Condition Reporting Requirements.

**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 would amend the rule to address the 2016 amendment of 49 CFR part 191, to correct errors and inadvertent omissions from previous amendments, and to remove unnecessary verbiage.

**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 X

**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.*