

Schedule RES-D-6

MoPSC Affiliate Transaction &

Uniform System of Accounts

Rules



**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE**
Division 4240—Public Service
Commission
Chapter 40—Gas Utilities and
Gas Safety Standards

20 CSR 4240-40.015 Affiliate Transactions

PURPOSE: This rule is intended to prevent regulated utilities from subsidizing their non-regulated operations. In order to accomplish this objective, the rule sets forth financial standards, evidentiary standards and record keeping requirements applicable to any Missouri Public Service Commission (commission) regulated gas corporation whenever such corporation participates in transactions with any affiliated entity (except with regard to HVAC services as defined in section 386.754, RSMo Supp. 1998, by the General Assembly of Missouri). The rule and its effective enforcement will provide the public the assurance that their rates are not adversely impacted by the utilities' nonregulated activities.

(1) Definitions.

(A) Affiliated entity means any person, including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision including a public utility district, city, town, county, or a combination of political subdivisions, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated gas corporation.

(B) Affiliate transaction means any transaction for the provision, purchase or sale of any information, asset, product or service, or portion of any product or service, between a regulated gas corporation and an affiliated entity, and shall include all transactions carried out between any unregulated business operation of a regulated gas corporation and the regulated business operations of a gas corporation. An affiliate transaction for the purposes of this rule excludes heating, ventilating and air conditioning (HVAC) services as defined in section 386.754, RSMo by the General Assembly of Missouri.

(C) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one or more

other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated gas corporation from rebutting the presumption that its ownership interest in an entity confers control.

(D) Corporate support means joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and development activities.

(E) Derivatives means a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., "derived from") the value of one or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed-upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives involve the trading of rights or obligations based on the underlying product, but do not directly transfer property. They are used to hedge risk or to exchange a floating rate of return for fixed rate of return.

(F) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation.

(G) Information means any data obtained by a regulated gas corporation that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(H) Preferential service means information or treatment or actions by the regulated gas corporation which places the affiliated entity at an unfair advantage over its competitors.

(I) Regulated gas corporation means every gas corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(J) Unfair advantage means an advantage that cannot be obtained by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(K) Variance means an exemption granted by the commission from any applicable standard required pursuant to this rule.

(2) Standards.

(A) A regulated gas corporation shall not provide a financial advantage to an affiliated entity. For the purposes of this rule, a regulated gas corporation shall be deemed to provide a financial advantage to an affiliated entity if—

1. It compensates an affiliated entity for goods or services above the lesser of—

A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation to provide the goods or services for itself; or

2. It transfers information, assets, goods or services of any kind to an affiliated entity below the greater of—

A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation.

(B) Except as necessary to provide corporate support functions, the regulated gas corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliated entity over another party at any time.

(C) Specific customer information shall be made available to affiliated or unaffiliated entities only upon consent of the customer or as otherwise provided by law or commission rules or orders. General or aggregated customer information shall be made available to affiliated or unaffiliated entities upon similar terms and conditions. The regulated gas corporation may set reasonable charges for costs incurred in producing customer information. Customer information includes information provided to the regulated utility by affiliated or unaffiliated entities.

(D) The regulated gas corporation shall not participate in any affiliated transactions which are not in compliance with this rule, except as otherwise provided in section (10) of this rule.

(E) If a customer requests information from the regulated gas corporation about goods or services provided by an affiliated entity, the regulated gas corporation may provide information about its affiliate but must inform the customer that regulated services are not tied to the use of an affiliate provider and that other service providers may be available. The regulated gas corporation may provide reference to other service providers or to commercial listings, but is not required to do



so. The regulated gas corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines and procedures it will follow to be in compliance with the rule.

(F) Marketing materials, information or advertisements by an affiliate entity that share an exact or similar name, logo or trademark of the regulated utility shall clearly display or announce that the affiliate entity is not regulated by the Missouri Public Service Commission.

(3) Evidentiary Standards for Affiliated Transactions.

(A) When a regulated gas corporation purchases information, assets, goods or services from an affiliated entity, the regulated gas corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.

(B) In transactions that involve either the purchase or receipt of information, assets, goods or services by a regulated gas corporation from an affiliated entity, the regulated gas corporation shall document both the fair market price of such information, assets, goods and services and the fully distributed cost to the regulated gas corporation to produce the information, assets, goods or services for itself.

(C) In transactions that involve the provision of information, assets, goods or services to affiliated entities, the regulated gas corporation must demonstrate that it—

1. Considered all costs incurred to complete the transaction;
2. Calculated the costs at times relevant to the transaction;
3. Allocated all joint and common costs appropriately; and
4. Adequately determined the fair market price of the information, assets, goods or services.

(D) In transactions involving the purchase of goods or services by the regulated gas corporation from an affiliated entity, the regulated gas corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use benchmarking practices that can constitute compliance with the market value requirements of this section if approved by the commission.

(4) Record Keeping Requirements.

(A) A regulated gas corporation shall maintain books, accounts and records separate from those of its affiliates.

(B) Each regulated gas corporation shall maintain the following information in a mutually agreed-to electronic format (i.e., agreement between the staff, Office of the Public Counsel and the regulated gas corporation) regarding affiliate transactions on a calendar year basis and shall provide such information to the commission staff and the Office of the Public Counsel on, or before, March 15 of the succeeding year:

1. A full and complete list of all affiliated entities as defined by this rule;
2. A full and complete list of all goods and services provided to or received from affiliated entities;
3. A full and complete list of all contracts entered with affiliated entities;
4. A full and complete list of all affiliate transactions undertaken with affiliated entities without a written contract together with a brief explanation of why there was no contract;
5. The amount of all affiliate transactions, by affiliated entity and account charged; and
6. The basis used (e.g., fair market price, FDC, etc.) to record each type of affiliate transaction.

(C) In addition each regulated gas corporation shall maintain the following information regarding affiliate transactions on a calendar year basis:

1. Records identifying the basis used (e.g., fair market price, FDC, etc.) to record all affiliate transactions; and
2. Books of accounts and supporting records in sufficient detail to permit verification of compliance with this rule.

(5) Records of Affiliated Entities.

(A) Each regulated gas corporation shall ensure that its parent and any other affiliated entities maintain books and records that include, at a minimum, the following information regarding affiliate transactions:

1. Documentation of the costs associated with affiliate transactions that are incurred by the parent or affiliated entity and charged to the regulated gas corporation;
2. Documentation of the methods used to allocate and/or share costs between affiliated entities, including other jurisdictions and/or corporate divisions;
3. Description of costs that are not subject to allocation to affiliate transactions and documentation supporting the nonassignment of these costs to affiliate transactions;
4. Descriptions of the types of services that corporate divisions and/or other centralized functions provided to any affiliated entity or division accessing the regulated gas corporation's contracted services or facilities;

5. Names and job descriptions of the employees from the regulated gas corporation that transferred to a nonregulated affiliated entity;

6. Evaluations of the effect on the reliability of services provided by the regulated gas corporation resulting from the access to regulated contracts and/or facilities by affiliated entities;

7. Policies regarding the availability of customer information and the access to services available to nonregulated affiliated entities desiring use of the regulated gas corporation's contracts and facilities; and

8. Descriptions of, and supporting documentation related to, any use of derivatives that may be related to the regulated gas corporation's operation even though obtained by the parent or affiliated entity.

(6) Access to Records of Affiliated Entities.

(A) To the extent permitted by applicable law, and pursuant to established commission discovery procedures, a regulated gas corporation shall make available the books and records of its parent and any other affiliated entities when required in the application of this rule.

(B) The commission shall have the authority to—

1. Review, inspect and audit books, accounts and other records kept by a regulated gas corporation or affiliated entity for the sole purpose of ensuring compliance with this rule and make findings available to the commission; and
2. Investigate the operations of a regulated gas corporation or affiliated entity and their relationship to each other for the sole purpose of ensuring compliance with this rule.

(C) That this rule does not modify existing legal standards regarding which party has the burden of proof in commission proceedings.

(7) Record Retention.

(A) Records required under this rule shall be maintained by each regulated gas corporation for a period of not less than six (6) years.

(8) Enforcement.

(A) When enforcing these standards, or any order of the commission regarding these standards, the commission may apply any remedy available to the commission.

(9) The regulated gas corporation shall train and advise its personnel as to the requirements and provisions of this rule as appropriate to ensure compliance.

(10) Variances.



(A) A variance from the standards in this rule may be obtained by compliance with paragraphs (10)(A)1. or (10)(A)2. The granting of a variance to one regulated gas corporation does not constitute a waiver respecting or otherwise affect the required compliance of any other regulated gas corporation to comply with the standards. The scope of a variance will be determined based on the facts and circumstances found in support of the application—

1. The regulated gas corporation shall request a variance upon written application in accordance with commission procedures set out in 4 CSR 240-2.060(11); or

2. A regulated gas corporation may engage in an affiliate transaction not in compliance with the standards set out in subsection (2)(A) of this rule, when to its best knowledge and belief, compliance with the standards would not be in the best interests of its regulated customers and it complies with the procedures required by subparagraphs (10)(A)2.A. and (10)(A)2.B. of this rule—

A. All reports and record retention requirements for each affiliate transaction must be complied with; and

B. Notice of the noncomplying affiliate transaction shall be filed with the secretary of the commission and the Office of the Public Counsel within ten (10) days of the occurrence of the noncomplying affiliate transaction. The notice shall provide a detailed explanation of why the affiliate transaction should be exempted from the requirements of subsection (2)(A), and shall provide a detailed explanation of how the affiliate transaction was in the best interests of the regulated customers. Within thirty (30) days of the notice of the noncomplying affiliate transaction, any party shall have the right to request a hearing regarding the noncomplying affiliate transaction. The commission may grant or deny the request for hearing at that time. If the commission denies a request for hearing, the denial shall not in any way prejudice a party's ability to challenge the affiliate transaction at the time of the annual CAM filing. At the time of the filing of the regulated gas corporation's annual CAM filing the regulated gas corporation shall provide to the secretary of the commission a listing of all noncomplying affiliate transactions which occurred between the period of the last filing and the current filing. Any affiliate transaction submitted pursuant to this section shall remain interim, subject to disallowance, pending final commission determination on whether the noncomplying affiliate transaction resulted in the best interests of the regulated customers.

(11) Nothing contained in this rule and no action by the commission under this rule shall be construed to approve or exempt any activity or arrangement that would violate the antitrust laws of the state of Missouri or of the United States or to limit the rights of any person or entity under those laws.

AUTHORITY: sections 386.250, RSMo Supp. 1998, and 393.140, RSMo 1994. This rule originally filed as 4 CSR 240-40.015. Original rule filed April 26, 1999, effective Feb. 29, 2000. Moved to 20 CSR 4240-40.015, effective Aug. 28, 2019.*

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

20 CSR 4240-40.016 Marketing Affiliate Transactions

PURPOSE: This rule sets forth standards of conduct, financial standards, evidentiary standards and record keeping requirements applicable to all Missouri Public Service Commission (commission) regulated gas corporations engaging in marketing affiliate transactions (except with regard to HVAC services as defined in section 386.754, RSMo Supp. 1998, by the General Assembly of Missouri).

(1) Definitions.

(A) Affiliated entity means any person, including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision including a public utility district, city, town, county, or a combination of political subdivisions, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated gas corporation. This term shall also include "marketing affiliate" (as hereinafter defined) and all unregulated business operations of a regulated gas corporation.

(B) Affiliate transaction means any transaction for the provision, purchase or sale of any information, asset, product or service, or portion of any product or service, between a regulated gas corporation and an affiliated entity, and shall include all transactions carried out between any unregulated business operation of a regulated gas corporation and the regulated business operations of a gas corporation. An affiliate transaction for the purposes of this rule excludes heating, ventilating and air conditioning (HVAC) services as defined in section 386.754, RSMo by the General Assembly of Missouri.

(C) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated gas corporation from rebutting the presumption that its ownership interest in an entity confers control.

(D) Corporate support means joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and development activities.

(E) Derivatives means a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., "derived from") the value of one (1) or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed-upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives involve the trading of rights or obligations based on the underlying product, but do not directly transfer property. They are used to hedge risk or to exchange a floating rate of return for a fixed rate of return.

(F) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation.

(G) Information means any data obtained by a regulated gas corporation that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in



either time or resources.

(H) Long-term means a transaction in excess of thirty-one (31) days.

(I) Marketing affiliate means an affiliated entity which engages in or arranges a commission-related sale of any natural gas service or portion of gas service, to a shipper.

(J) Opportunity sales means sales of unused contract entitlements necessarily held by a gas corporation to meet the daily and seasonal swings of its system customers and are intended to maximize utilization of assets that remain under regulation.

(K) Preferential service means information, treatment or actions by the regulated gas corporation which places the affiliated entity at an unfair advantage over its competitors.

(L) Regulated gas corporation means every gas corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(M) Shippers means all current and potential transportation customers on a regulated gas corporation's natural gas distribution system.

(N) Short-term means a transaction of thirty-one (31) days or less.

(O) Transportation means the receipt of gas at one point on a regulated gas corporation's system and the redelivery of an equivalent volume of gas to the retail customer of the gas at another point on the regulated gas corporation's system including, without limitation, scheduling, balancing, peaking, storage, and exchange to the extent such services are provided pursuant to the regulated gas corporation's tariff, and includes opportunity sales.

(P) Unfair advantage means an advantage that cannot be obtained by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(Q) Variance means an exemption granted by the commission from any applicable standard required pursuant to this rule.

(2) Nondiscrimination Standards.

(A) Nondiscrimination standards under this section apply in conjunction with all the standards under this rule and control when a similar standard overlaps.

(B) A regulated gas corporation shall apply all tariff provisions relating to transportation in the same manner to customers similarly situated whether they use affiliated or nonaffiliated marketers or brokers.

(C) A regulated gas corporation shall uniformly enforce its tariff provisions for all shippers.

(D) A regulated gas corporation shall not, through a tariff provision or otherwise, give its marketing affiliate and/or its customers any preference over a customer using a non-

affiliated marketer in matters relating to transportation or curtailment priority.

(E) A regulated gas corporation shall not give any customer using its marketing affiliate a preference, in the processing of a request for transportation services, over a customer using a nonaffiliated marketer, specifically including the manner and timing of such processing.

(F) A regulated gas corporation shall not disclose or cause to be disclosed to its marketing affiliate or any nonaffiliated marketer any information that it receives through its processing of requests for or provision of transportation.

(G) If a regulated gas corporation provides information related to transportation which is not readily available or generally known to other marketers to a customer using a marketing affiliate, it shall provide that information (electronic format, phone call, facsimile, etc.) contemporaneously to all nonaffiliated marketers transporting on its distribution system.

(H) A regulated gas corporation shall not condition or tie an offer or agreement to provide a transportation discount to a shipper to any service in which the marketing affiliate is involved. If the regulated gas corporation seeks to provide a discount for transportation to any shipper using a marketing affiliate, the regulated gas corporation shall, subject to an appropriate protective order—

1. File for approval of the transaction with the commission and provide a copy to the Office of the Public Counsel;

2. Disclose whether the marketing affiliate of the regulated gas corporation is the gas supplier or broker serving the shipper;

3. File quarterly public reports which provide the aggregate periodic and cumulative number of transportation discounts provided by the regulated gas corporation; and

4. Provide the aggregate number of such agreements which involve shippers for whom the regulated gas corporation's marketing affiliate is or was at the time of the granting of the discount the gas supplier or broker.

(I) A regulated gas corporation shall not make opportunity sales directly to a customer of its marketing affiliate or to its marketing affiliate unless such supplies and/or capacity are made available to other similarly situated customers using nonaffiliated marketers on an identical basis given the nature of the transactions.

(J) A regulated gas corporation shall not condition or tie agreements (including prearranged capacity release) for the release of interstate or intrastate pipeline capacity to any service in which the marketing affiliate is involved under terms not offered to nonaffiliated companies and their customers.

(K) A regulated gas corporation shall maintain its books of account and records completely separate and apart from those of the marketing affiliate.

(L) A regulated gas corporation is prohibited from giving any customer using its marketing affiliate preference with respect to any tariff provisions that provide discretionary waivers.

(M) A regulated gas corporation shall maintain records when it is made aware of any marketing complaint against an affiliated entity—

1. The records should contain a log detailing the date the complaint was received by the regulated gas corporation, the name of the complainant, a brief description of the complaint and, as applicable, how it has been resolved. If the complaint has not been recorded by the regulated gas corporation within thirty (30) days, an explanation for the delay must be recorded.

(N) A regulated gas corporation will not communicate to any customer, supplier or third parties that any advantage may accrue to such customer, supplier or third party in the use of the regulated gas corporation's services as a result of that customer, supplier or third party dealing with its marketing affiliate and shall refrain from giving any appearance that it speaks on behalf of its affiliated entity.

(O) If a customer requests information about a marketing affiliate, the regulated gas corporation may provide the requested information but shall also provide a list of all marketers operating on its system.

(3) Standards.

(A) A regulated gas corporation shall not provide a financial advantage to an affiliated entity. For the purposes of this rule, a regulated gas corporation shall be deemed to provide a financial advantage to an affiliated entity if—

1. It compensates an affiliated entity for information, assets, goods or services above the lesser of—

A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation to provide the information, assets, goods or services for itself; or

2. It transfers information, assets, goods or services of any kind to an affiliated entity below the greater of—



A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation.

(B) Except as necessary to provide corporate support functions, the regulated gas corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliated entity over another party at any time.

(C) Specific customer information shall be made available to affiliated or unaffiliated entities only upon consent of the customer or as otherwise provided by law or commission rules or orders. General or aggregated customer information shall be made available to affiliated or unaffiliated entities upon similar terms and conditions. The regulated gas corporation may set reasonable charges for costs incurred in producing customer information. Customer information includes information provided to the regulated utility by affiliated or unaffiliated entities.

(D) The regulated gas corporation shall not participate in any affiliated transactions which are not in compliance with this rule, except as otherwise provided in section (11) of this rule.

(E) If a customer requests information from the regulated gas corporation about goods or services provided by an affiliated entity, the regulated gas corporation may provide information about the affiliate but must inform the customer that regulated services are not tied to the use of an affiliate provider and that other service providers may be available. Except with respect to affiliated and nonaffiliated gas marketers which are addressed in section (2) of this rule, the regulated gas corporation may provide reference to other service providers or to commercial listings, but is not required to do so. The regulated gas corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines and procedures it will follow to be in compliance with the rule.

(F) Marketing materials, information or advertisements by an affiliate entity that share an exact or similar name, logo or trademark of the regulated utility shall clearly display or announce that the affiliate entity is not regulated by the Missouri Public Service Commission.

(4) Evidentiary Standards for Affiliate Transactions.

(A) When a regulated gas corporation purchases information, assets, goods or services from an affiliated entity, the regulated gas corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.

(B) In transactions that involve either the purchase or receipt of information, assets, goods or services by a regulated gas corporation from an affiliated entity, the regulated gas corporation shall document both the fair market price of such information, assets, goods and services and the fully distributed cost to the regulated gas corporation to produce the information, assets, goods or services for itself.

(C) In transactions that involve the provision of information, assets, goods or services to affiliated entities, the regulated gas corporation must demonstrate that it—

1. Considered all costs incurred to complete the transaction;

2. Calculated the costs at times relevant to the transaction;

3. Allocated all joint and common costs appropriately; and

4. Adequately determined the fair market price of the information, assets, goods or services.

(D) In transactions involving the purchase of information, assets, goods or services by the regulated gas corporation from an affiliated entity, the regulated gas corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use bench marking practices that can constitute compliance with the market value requirements of this section if approved by the commission.

(5) Record Keeping Requirements.

(A) A regulated gas corporation shall maintain books, accounts and records separate from those of its affiliates.

(B) Each regulated gas corporation shall maintain the following information in a mutually agreed-to electronic format (i.e., agreement between the staff, Office of the Public Counsel and the regulated gas corporation) regarding affiliate transactions on a calendar year basis and shall provide such information to the commission staff and the Office of the Public Counsel on, or before, March 15 of the succeeding year:

1. A full and complete list of all affiliated entities as defined by this rule;

2. A full and complete list of all goods and services provided to or received from affiliated entities;

3. A full and complete list of all contracts entered with affiliated entities;

4. A full and complete list of all affiliate transactions undertaken with affiliated entities without a written contract together with a brief explanation of why there was no contract;

5. The amount of all affiliate transac-

tions, by affiliated entity and account charged; and

6. The basis used (e.g., market value, book value, etc.) to record each type of affiliate transaction.

(C) In addition each regulated gas corporation shall maintain the following information regarding affiliate transactions on a calendar year basis:

1. Records identifying the basis used (e.g., fair market price, fully distributed cost, etc.) to record all affiliate transactions; and

2. Books of accounts and supporting records in sufficient detail to permit verification of compliance with this rule.

(6) Records of Affiliated Entities.

(A) Each regulated gas corporation shall ensure that its parent and any other affiliated entities maintain books and records that include, at a minimum, the following information regarding affiliate transactions:

1. Documentation of the costs associated with affiliate transactions that are incurred by the parent or affiliate and charged to the regulated gas corporation;

2. Documentation of the methods used to allocate and/or share costs between affiliated entities, including other jurisdictions and/or corporate divisions;

3. Description of costs that are not subject to allocation to affiliate transactions and documentation supporting the nonassignment of these costs to affiliate transactions;

4. Descriptions of the types of services that corporate divisions and/or other centralized functions provided to any affiliated entity or division accessing the regulated gas corporation's contracted services or facilities;

5. Names and job descriptions of the employees from the regulated gas corporation that transferred to a nonregulated affiliated entity;

6. Evaluations of the effect on the reliability of services provided by the regulated gas corporation resulting from the access to regulated contracts and/or facilities by affiliated entities;

7. Policies regarding the availability of customer information and the access to services available to nonregulated affiliated entities desiring use of the regulated gas corporation's contracts and facilities; and

8. Descriptions of, and supporting documentation related to, any use of derivatives that may be related to the regulated gas corporation's operation even though obtained by the parent or affiliated entity.

(7) Access to Records of Affiliated Entities.

(A) To the extent permitted by applicable law, and pursuant to established commission



discovery procedures, a regulated gas corporation shall make available the books and records of its parent and any other affiliated entities when required in the application of this rule.

(B) The commission shall have the authority to—

1. Review, inspect and audit books, accounts and other records kept by a regulated gas corporation or affiliated entity for the sole purpose of ensuring compliance with this rule and make findings available to the commission; and

2. Investigate the operations of a regulated gas corporation or affiliated entity and their relationship to each other for the sole purpose of ensuring compliance with this rule.

(C) This rule does not modify existing legal standards regarding which party has the burden of proof in commission proceedings.

(8) Record Retention.

(A) Records required under this rule shall be maintained by each regulated gas corporation for a period of not less than six (6) years.

(9) Enforcement.

(A) When enforcing these standards, or any order of the commission regarding these standards, the commission may apply any remedy available to the commission.

(10) The regulated gas corporation shall train and advise its personnel as to the requirements and provisions of this rule as appropriate to ensure compliance.

(11) Variances.

(A) A variance from the standards in this rule may be obtained by compliance with paragraphs (11)(A)1. or (11)(A)2. The granting of a variance to one regulated gas corporation does not constitute a waiver respecting or otherwise affect the required compliance of any other regulated gas corporation to comply with the standards. The scope of a variance will be determined based on the facts and circumstances found in support of the application—

1. The regulated gas corporation shall request a variance upon written application in accordance with commission procedures set out in 4 CSR 240-2.060(11); or

2. A regulated gas corporation may engage in an affiliate transaction not in compliance with the standards set out in subsection (2)(A) of this rule, when to its best knowledge and belief, compliance with the standards would not be in the best interests of its regulated customers and it complies with the procedures required by subparagraphs

(11)(A)2.A. and (11)(A)2.B. of this rule—

A. All reports and record retention requirements for each affiliate transaction must be complied with; and

B. Notice of the noncomplying affiliate transaction shall be filed with the secretary of the commission and the Office of the Public Counsel within ten (10) days of the occurrence of the noncomplying affiliate transaction. The notice shall provide a detailed explanation of why the affiliate transaction should be exempted from the requirements of subsection (2)(A), and shall provide a detailed explanation of how the affiliate transaction was in the best interests of the regulated customers. Within thirty (30) days of the notice of the noncomplying affiliate transaction, any party shall have the right to request a hearing regarding the noncomplying affiliate transaction. The commission may grant or deny the request for hearing at that time. If the commission denies a request for hearing, the denial shall not in any way prejudice a party's ability to challenge the affiliate transaction at the time of the annual CAM filing. At the time of the filing of the regulated gas corporation's annual CAM filing the regulated gas corporation shall provide to the secretary of the commission a listing of all noncomplying affiliate transactions which occurred between the period of the last filing and the current filing. Any affiliate transaction submitted pursuant to this section shall remain interim, subject to disallowance, pending final commission determination on whether the noncomplying affiliate transaction resulted in the best interests of the regulated customers.

(12) Nothing contained in this rule and no action by the commission under this rule shall be construed to approve or exempt any activity or arrangement that would violate the antitrust laws of the state of Missouri or of the United States or to limit the rights of any person or entity under those laws.

AUTHORITY: sections 386.250, RSMo Supp. 1998 and 393.140, RSMo 1994. This rule originally filed as 4 CSR 240-40.016. Original rule filed April 26, 1999, effective Feb. 29, 2000. Moved to 20 CSR 4240-40.016, effective Aug. 28, 2019.*

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

20 CSR 4240-40.017 HVAC Services Affiliate Transactions

PURPOSE: This rule prescribes the requirements for HVAC services affiliated entities and regulated gas corporations when such gas corporations participate in affiliated transactions with an HVAC affiliated entity as set forth in sections 386.754, 386.756, 386.760, 386.762 and 386.764, RSMo by the General Assembly of the State of Missouri.

(1) Definitions.

(A) Affiliated entity means any entity not regulated by the Public Service Commission which is owned, controlled by or under common control with a utility and is engaged in HVAC services.

(B) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of more than ten percent (10%) of voting securities or partnership interest of an entity confers control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated gas corporation from rebutting the presumption that its ownership interest in an entity confers control.

(C) Fully distributed cost means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. Fully distributed cost requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g. general and administrative) must also be included in the fully distributed cost calculation through a general allocation.

(D) HVAC services means the warranty, sale, lease, rental, installation, construction, modernization, retrofit, maintenance or repair of heating, ventilating and air conditioning (HVAC) equipment.

(E) Regulated gas corporation means a gas corporation as defined in section 386.020,



RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(F) Utility contractor means a person, including an individual, corporation, firm, incorporated or unincorporated association or other business or legal entity, that contracts, whether in writing or not in writing, with a regulated gas corporation to engage in or assist any entity in engaging in HVAC services, but does not include employees of a regulated gas corporation.

(2) A regulated gas corporation may not engage in HVAC services, except by an affiliated entity, or as provided in sections (8) and (9) of this rule.

(3) No affiliated entity or utility contractor may use any vehicles, service tools, instruments, employees, or any other regulated gas corporation assets, the cost of which are recoverable in the regulated rates for regulated gas corporation service, to engage in HVAC services unless the regulated gas corporation is compensated for the use of such assets at the fully distributed cost to the regulated gas corporation.

(A) The determination of a regulated gas corporation's cost in this section is defined in subsection (1)(D) of this rule.

(4) A regulated gas corporation may not use or allow any affiliated entity or utility contractor to use the name of such regulated gas corporation to engage in HVAC services unless the regulated gas corporation, affiliated entity or utility contractor discloses, in plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the commission.

(5) A regulated gas corporation may not engage in or assist any affiliated entity or utility contractor in engaging in HVAC services in a manner which subsidizes the activities of such regulated gas corporation, affiliated entity or utility contractor to the extent of changing the rates or charges for the regulated gas corporation's services above or below the rates or charges that would be in effect if the regulated gas corporation were not engaged in or assisting any affiliated entity or utility contractor in engaging in such activities.

(6) Any affiliated entities or utility contractors engaged in HVAC services shall maintain accounts, books and records separate and distinct from the regulated gas corporation.

(7) The provisions of this rule shall apply to any affiliated entity or utility contractor engaged in HVAC services that is owned, controlled or under common control with the regulated gas corporation providing regulated services in the state of Missouri or any other state.

(8) A regulated gas corporation engaging in HVAC services in the state of Missouri five (5) years prior to August 28, 1998, may continue providing, to existing as well as new customers, the same type of services as those provided by the regulated gas corporation five (5) years prior to August 28, 1998.

(A) To qualify for this exemption, the regulated gas corporation shall file a pleading before the commission for approval.

1. The commission may establish a case to determine if the regulated gas corporation qualifies for an exemption under this rule.

(9) The provisions of this section shall not be construed to prohibit a regulated gas corporation from providing emergency service, providing any service required by law or providing a program pursuant to an existing tariff, rule or order of the commission.

AUTHORITY: sections 386.760.1, RSMo Supp. 1998 and 393.140, RSMo 1994. This rule originally filed as 4 CSR 240-40.017. Original rule filed Dec. 17, 1998, effective Aug. 30, 1999. Moved to 20 CSR 4240-40.017, effective Aug. 28, 2019.*

**Original authority: 386.710.1, RSMo 1998 and 393.140, RSMo 1939, amended 1949, 1967.*

20 CSR 4240-40.018 Natural Gas Price Volatility Mitigation

PURPOSE: This rule represents a statement of commission policy that natural gas local distribution companies should undertake diversified natural gas purchasing activities as part of a prudent effort to mitigate upward natural gas price volatility and secure adequate natural gas supplies for their customers.

(1) Natural Gas Supply Planning Efforts to Ensure Price Stability.

(A) As part of a prudent planning effort to secure adequate natural gas supplies for their customers, natural gas utilities should structure their portfolios of contracts with various supply and pricing provisions in an effort to mitigate upward natural gas price spikes, and provide a level of stability of delivered natural gas prices.

(B) In making this planning effort, natural

gas utilities should consider the use of a broad array of pricing structures, mechanisms, and instruments, including, but not limited to, those items described in (2)(A) through (2)(H), to balance market price risks, benefits, and price stability. Each of these mechanisms may be desirable in certain circumstances, but each has unique risks and costs that require evaluation by the natural gas utility in each circumstance. Financial gains or losses associated with price volatility mitigation efforts are flowed through the Purchased Gas Adjustment (PGA) mechanism, subject to the applicable provisions of the natural gas utility's tariff and applicable prudence review procedures.

(C) Part of a natural gas utility's balanced portfolio may be higher than spot market price at times, and this is recognized as a possible result of prudent efforts to dampen upward volatility.

(2) Pricing Structures, Mechanisms and Instruments:

- (A) Natural Gas Storage;
- (B) Fixed Price Contracts;
- (C) Call Options;
- (D) Collars;
- (E) Outsourcing/Agency Agreements;
- (F) Futures Contracts; and
- (G) Financial Swaps and Options from Over the Counter Markets; and
- (H) Other tools utilized in the market for cost-effective management of price and/or usage volatility.

AUTHORITY: sections 386.250, RSMo 2000 and 393.130, RSMo Supp. 2003. This rule originally filed as 4 CSR 240-40.018. Original rule filed May 1, 2003, effective Dec. 30, 2003. Moved to 20 CSR 4240-40.018, effective Aug. 28, 2019.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.130, RSMo 1939, amended 1967, 1969, 2002.*

20 CSR 4240-40.020 Incident, Annual, and Safety-Related Condition Reporting Requirements

PURPOSE: This rule prescribes requirements and procedures for reporting certain gas-related incidents and safety-related conditions and for filing annual reports. It applies to gas systems subject to the safety jurisdiction of the Public Service Commission.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule



(B) The reference to “state procedures” in section 193.2017 should refer to “commission procedures” instead;

(C) The reference in 49 CFR 193.2011 to “Part 191 of this subchapter” for reporting of incidents, safety-related conditions, and annual pipeline summary data for LNG plants or facilities should refer to 4 CSR 240-40.020 instead;

(D) The reference in 49 CFR 193.2605 to “Part 191.23 of this subchapter” for reporting requirements for safety related conditions should refer to 4 CSR 240-40.020(12) instead;

(E) The reference in 49 CFR 193.2001 to “Part 192 of this chapter” for applicability of the standards should refer to 4 CSR 240-40.030 instead;

(F) The reference in 49 CFR 193.2629 to “section 192.461 of this chapter” for protective coatings should refer to 4 CSR 240-40.030(9)(G)” instead; and

(G) The references in 49 CFR 193.2629 and 193.2635 to “section 192.463 of this chapter” for cathodic protection should refer to 4 CSR 240-40.030(9)(H) instead.

(4) The federal pipeline safety regulations for liquefied natural gas (49 CFR part 193) adopted in section (2) of this rule contain subparts on general, siting requirements, design, construction, equipment, operations, maintenance, personnel qualifications and training, fire protection, and security.

(A) The general subpart contains sections on: scope, applicability, definitions, Department of Transportation (DOT) rules of regulatory construction reporting, documents incorporated by reference, plans and procedures, and mobile and temporary liquefied natural gas facilities.

(B) The siting requirements subpart contains sections on: scope, thermal radiation protection, flammable vapor-gas dispersion protection, and wind forces.

(C) The design subpart contains sections on: scope, material records, structural requirements for impoundment systems, dikes, covered systems, water removal and impoundment capacity, and requirements pertaining to nonmetallic membrane liners in storage tanks.

(D) The construction subpart contains sections on: scope, construction acceptance, corrosion control, and nondestructive tests for welds.

(E) The equipment subpart contains sections on: scope, control center, and sources of power.

(F) The operations subpart contains sections on: scope, operating procedures, cooldown, monitoring operations, emergency procedures, personnel safety, transfer procedures, investigations of failures, purging,

communication systems, and operating records.

(G) The maintenance subpart contains sections on: scope, general, maintenance procedures, foreign material, support systems, fire protection, auxiliary power sources, isolating and purging, repairs, control systems, testing transfer hoses, inspecting storage tanks, corrosion protection, atmospheric corrosion control, external corrosion control, internal corrosion control, interference currents, monitoring corrosion control, remedial measures, and maintenance records.

(H) The personnel qualifications and training subpart contains sections on: scope, design and fabrication, construction, installation, inspection and testing, operations and maintenance, security, personnel health, operations and maintenance training, security training, fire protection training, and records training.

(I) The fire protection subpart contains a section on fire protection.

(J) The security subpart contains sections on: scope, security procedures, protective enclosures, protective enclosure construction, security communications, security lighting, security monitoring, alternative power sources, and warning signs.

AUTHORITY: sections 386.250, 386.310, and 393.140, RSMo 2016. This rule originally filed as 4 CSR 240-40.033. Emergency rule filed Dec. 19, 2018, effective Dec. 29, 2018, expired June 26, 2019. Original rule filed Dec. 20, 2018, effective July 30, 2019. Moved to 20 CSR 4240-40.033, effective Aug. 28, 2019.*

**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.*

20 CSR 4240-40.040 Uniform System of Accounts—Gas Corporations

PURPOSE: This rule directs gas companies within the commission’s jurisdiction to use the uniform system of accounts prescribed by the Federal Energy Regulatory Commission for major natural gas companies, as modified herein. Requirements regarding the submission of depreciation studies, databases and property unit catalogs are found at 4 CSR 240-3.235 and 4 CSR 240-3.275.

(1) Beginning January 1, 1994, every gas company subject to the commission’s jurisdiction shall keep all accounts in conformity with the Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, as

prescribed by the Federal Energy Regulatory Commission (FERC) and published at 18 CFR part 201 (1992) and 2 FERC Stat. & Regs. paragraph 20,001 and following (1992), except as otherwise provided in this rule. This uniform system of accounts provides instruction for recording financial information about gas corporations. It contains definitions; general instructions; gas plant instructions; operating expense instructions; accounts that comprise the balance sheet, gas plant, income, operating revenues, and operation and maintenance expenses.

(2) When implementing 4 CSR 240-40.040(1), each gas company subject to the commission’s jurisdiction shall—

(A) Keep its accounts in the manner and detail specified for natural gas companies classified as “major” at Part 201 General Instructions 1.A. and paragraph 20,011.1.A.; and

(B) Assemble by July 1, 1996 and maintain after that, a property unit catalog which contains for each designated property unit, in addition to the provisions of Part 201 General Instructions 6. and paragraph 20,016—

1. A description of each unit;
2. An item list; and
3. Accounting instructions, including instructions for distinguishing between operations expense, maintenance expense and capitalized plant improvements.

(3) Regarding plant acquired or placed in service after 1993, when implementing section (1), each gas corporation subject to the commission’s jurisdiction shall—

(A) Maintain plant records of the year of each unit’s retirement as part of the “continuing plant inventory records,” as the term is otherwise defined at Part 201 Definitions 8. and paragraph 20,001.8.;

(B) State the detailed gas plant accounts (301 to 399, inclusive) on the basis of original cost, estimated if not known, when implementing the provisions of Part 201 Gas Plant Instructions 1.C. and paragraph 20,041.1.C.;

(C) Record gas plant acquired as an operating unit or system at original cost, estimated if not known, except as otherwise provided by the text of the intangible plant accounts, when implementing the provisions of Part 201 Gas Plant Instructions 2.A. and paragraph 20,042.2.A.;

(D) Account for the cost of items not classified as units of property as it would account for the cost of individual items of equipment of small value or of short life, as provided in Part 201 Gas Plant Instructions 3.A.(3) and paragraph 20,043.3.A.(3);

(E) Include in equipment accounts any



hand or other portable tools which are specifically designated as units of property, when implementing the provisions of Part 201 Gas Plant Instructions 9.B. and paragraph 20,049.9.B.;

(F) Use the list of retirement units contained in its property unit catalog when implementing the provisions of Part 201 Gas Plant Instructions 10.A. and paragraph 20,050.10.A.;

(G) Estimate original cost with an appropriate average of the original cost of the units by vintage year, with due allowance for any difference in size and character, when it is impracticable to determine the original cost of each unit, when implementing the provisions of Part 201 Gas Plant Instructions 10.D. and paragraph 20,050.10.D.;

(H) Charge original cost less net salvage to account 108., when implementing the provisions of Part 201 Gas Plant Instructions 10.F. and paragraph 20,050.10.F.;

(I) Keep its work order system so as to show the nature of each addition to or retirement of gas plant by vintage year, in addition to the other requirements of Part 201 Gas Plant Instructions 11.B. and paragraph 20,051.11.B.;

(J) Maintain records which classify, for each plant account, the amounts of the annual additions and retirements so as to show the number and cost of the various record units or retirement units by vintage year, when implementing the provisions of Part 201 Gas Plant Instructions 11.C. and paragraph 20,051.11.C.;

(K) Maintain subsidiary records which separate account 108. according to primary plant accounts or subaccounts when implementing the provisions of Part 201 Balance Sheet Account 108.C. and paragraph 20,011.108.C.;

(L) Maintain subsidiary records which separate account 111. according to primary plant accounts or subaccounts when implementing the provisions of Part 201 Balance Sheet Accounts 111.C. and paragraph 20,114.111.C.; and

(M) Keep mortality records of property and property retirement as will reflect the average life of retiring property and will aid actuarial analysis of the probable service life of annual additions and aged retirements when implementing the provisions of Part 201 Income Accounts 403.B. and paragraph 20,422.403.B.

(4) In prescribing this system of accounts the commission does not commit itself to the approval or acceptance of any item set out in any account, for the purpose of fixing rates or in determining other matters before the com-

mission. This rule shall not be construed as waiving any recordkeeping requirement in effect prior to 1994.

(5) The commission may waive or grant a variance from the provisions of this rule, in whole or in part, for good cause shown, upon a utility's written application.

*AUTHORITY: sections 386.250 and 393.140, RSMo 2000. * This rule originally filed as 4 CSR 240-40.040. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Amended: Filed March 19, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 16, 2002, effective April 30, 2003. Moved to 20 CSR 4240-40.040, effective Aug. 28, 2019.*

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

20 CSR 4240-40.080 Drug and Alcohol Testing

PURPOSE: This rule adopts the federal regulations on this subject matter that apply to operators of gas systems. The rule requires operators of gas systems to test certain employees for the presence of prohibited drugs or alcohol and provide an employee assistance program. In addition, the rule provides a description of the technical procedures which must be utilized in conducting the drug and alcohol testing. The rule applies to operators of gas systems subject to the safety jurisdiction of the Public Service Commission.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) As set forth in the *Code of Federal Regulations* (CFR) dated October 1, 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, 2017 version of 49 CFR parts 40 and 199 is available at www.gpo.gov/fdsys/search/showcitation.action.

(2) The commission adopts the federal pipeline safety regulations for drug and alcohol testing, 49 CFR part 199, as rules of the commission.

(3) The commission adopts the federal procedures for transportation workplace drug and alcohol testing programs, 49 CFR part 40, as rules of the commission.

(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:

(A) The references to "state agency" in sections 199.3, 199.101, 199.107, 199.115, 199.117, 199.231, and 199.245 of 49 CFR part 199 should refer to "the commission" instead;

(B) The references to "accident" in sections 199.3, 199.100, 199.105, 199.200, 199.221, 199.225, 199.227, and 199.231 of 49 CFR part 199 should refer to a "federal incident reportable under 4 CSR 240-40.020" instead;

(C) The references to "part 192, 193, or 195 of this chapter" or "part 192, 193, or 195" in sections 199.1, 199.3, 199.100, and 199.200 of 49 CFR part 199 should refer to "4 CSR 240-40.030" instead (the commission regulations contained in 4 CSR 240-40.030 parallel 49 CFR part 192, but the commission does not have any rules pertaining to 49 CFR part 193 or 195); and

(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)(G)" instead.

(5) The federal pipeline safety regulations for drug and alcohol testing (49 CFR part 199) adopted in section (2) of this rule contain subparts on general, drug testing, and alcohol misuse prevention program.

(A) The general subpart contains sections on: scope, applicability, definitions, Department of Transportation (DOT) procedures, stand-down waivers, and preemption of state and local laws.

(B) The drug testing subpart contains sections on: purpose; anti-drug plan; use of persons who fail or refuse a drug test; drug tests