

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

In the Matter of the Proposed Amendments)	
of the Commission's Rules 20 CSR 4240-)	<u>File No. GX-2025-0249</u>
40.020, 20 CSR 4240-40.030 and 20 CSR)	
4240-40.080 Relating to Gas Safety)	

STAFF COMMENTS

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

1. Staff supports the proposed amendments to 20 CSR 4240-40.020, 20 CSR 4240-40.030, and 20 CSR 4240-40.080, published in the Missouri Register dated March 19, 2025, with some revisions as detailed in the attached Staff Comment. The proposed amendments include adoption of amendments to the corresponding federal pipeline safety standards, and make clarifications and editorial/technical 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, 20 CSR 4240-40.030, and 20 CSR 4240-40.080.

Respectfully submitted,

/s/ J. Scott Stacey

J. Scott Stacey
Deputy Counsel
Missouri Bar No. 59027
P.O. Box 360
Jefferson City, MO 65102
573-522-6279
573-751-9285 (Fax)
scott.stacey@psc.mo.gov

**ATTORNEY FOR STAFF OF THE
PUBLIC SERVICE COMMISSION**

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to counsel of record this 2nd day of June, 2025.

/s/ J. Scott Stacey

File No. GX-2025-0249

Comments of the Staff of the Missouri Public Service Commission

Missouri Public Service Commission Staff (“Staff”) supports the proposed amendments to 20 CSR 4240-40.020, 20 CSR 4240-40.030, and 20 CSR 4240-40.080 published in the *Missouri Register* dated May 1, 2025. 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), (3), (4), (5), (6), (7), (8), (9), (10), (11), and (12).
- 20 CSR 4240-40.030 Safety Standards—Transportation of Gas by Pipeline – proposing to amend sections (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and Appendix B.
- 20 CSR 4240-40.080 Drug and Alcohol Testing – proposing to amend section (1).

Staff is proposing revisions to update the proposed amendments to incorporate by reference and make a part of the rules the updated versions of the *Code of Federal Regulations* (CFR) that include subsequent amendments that were also being incorporated by reference in the proposed amendments. These proposed amendments are discussed and presented in numbered sections 1-3 below in track changes format.

Additionally, Staff has responded to public comments pertaining to Commission leak rules filed in Case No. GX-2025-0249 as numbered item 4 below.

Staff notes that the revisions do not change Staff’s stated public and private costs as published in the May 1, 2025 *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. Revisions to 20 CSR 4240-40.030(1)(D)

Staff’s proposed amendments to 20 CSR 4240-40.030(1)(D) incorporated by reference the federal regulation in 49 CFR 192.7 as set forth in the October 1, 2023 version of the *Code of Federal Regulations* (CFR) and one subsequent amendment to that federal regulation. The October 1, 2024 version of the *Code of Federal Regulations* (CFR) is now available and includes the changes made by the subsequent amendment.

Therefore, Staff is proposing revisions to the proposed amendments to 20 CSR 4240-40.030(1)(D) as published in the *Missouri Register* on May 1, 2025 as follows:

(D) Incorporation By Reference of the Federal Regulation at 49 CFR 192.7. (192.7)

1. As set forth in the Code of Federal Regulations (CFR) dated October 1, [2021]~~2024~~3, and ~~the subsequent amendment 192-[132]135 (published in Federal Register on [August 24, 2022]April 29, 2024, page [87]89 FR [52224]33264)~~, the federal regulation at 49 CFR 192.7 is incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR 192.7.

2. The Code of Federal Regulations and the Federal Register are published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, [2021]~~2024~~3, version of 49 CFR part 192 is available at [<https://www.govinfo.gov/#citation>] ~~<https://www.govinfo.gov/content/pkg/CFR-2024-title49-vol3/pdf/CFR-2024-title49-vol3-part192.pdf>~~ ~~<https://www.govinfo.gov/content/pkg/CFR-2023-title49-vol3/pdf/CFR-2023-title49-vol3-part192.pdf>~~. The Federal Register publication on page [87]89 FR [52224]33264 is available at [<https://www.govinfo.gov/content/pkg/FR-2022-08-24/pdf/2022-17031.pdf>] ~~<https://www.govinfo.gov/content/pkg/FR-2024-04-29/pdf/2024-08624.pdf>~~.

3. The regulation at 49 CFR 192.7 provides a listing of the documents that are incorporated by reference partly or wholly in 49 CFR part 192, which is the federal counterpart and foundation for this rule. All incorporated materials are available for inspection from several sources, including the following sources:

A. The Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. For more information, contact 202-366-4046 or go to the PHMSA website at www.phmsa.dot.gov/pipeline/regs;

B. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to the NARA website at www.archives.gov/federal-register/cfr/ibr-locations.html or call 202-741-6030 or 866-272-6272; and

C. Copies of standards incorporated by reference can also be purchased or are otherwise made available from the respective standards-developing organizations listed in 49 CFR 192.7.

4. Federal amendment 192-94 (published in Federal Register on June 14, 2004, page 69 FR 32886) moved the listing of incorporated documents to 49 CFR 192.7 from 49 CFR part 192–Appendix A, which is now “Reserved.” This listing of documents was in Appendix A to this rule prior to the 2008 amendment of this rule. As of the 2008 amendment, Appendix A to this rule is also “Reserved” and included herein.

2. Revisions to 20 CSR 4240-40.030(16)

Staff’s proposed amendments to 20 CSR 4240-40.030(16) incorporated by reference the federal regulations in 49 CFR part 192, subpart O, and in 49 CFR part 192, appendices E and F, as set forth in the October 1, 2023 version of the *Code of Federal Regulations* (CFR) and two

subsequent amendments to those federal regulations. The October 1, 2024 version of the *Code of Federal Regulations* (CFR) is now available and includes the changes made by one of the subsequent amendments.

Therefore, Staff is proposing revisions to the proposed amendments to 20 CSR 4240-40.030(16) as published in the *Missouri Register* on May 1, 2025 as follows:

(16) Pipeline Integrity Management for Transmission Lines.

(A) As set forth in the *Code of Federal Regulations* (CFR) dated October 1, [2021]2024~~43~~, and the subsequent amendments ~~192-[130]135 (published in Federal Register on April 8, 2022) April 29, 2024, page [87]89 FR [20940]33264).~~and 192-[132]138 (published in *Federal Register* on [August 24, 2022]January 15, 2025, page [87]90 FR [52224]3713), [and 192-133 (published in the *Federal Register* on April 24, 2023, page 88 FR 24708),] the federal regulations in 49 CFR part 192, subpart O, and in 49 CFR part 192, appendices E and F, are incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to subpart O and appendices E and F to 49 CFR part 192.

(B) The *Code of Federal Regulations* and the *Federal Register* are published by the Office of the Federal Register, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. The October 1, [2021]2024~~43~~, version of 49 CFR part 192 is available at [https://www.govinfo.gov/#citation] <https://www.govinfo.gov/content/pkg/CFR-2024-title49-vol3/pdf/CFR-2024-title49-vol3-part192.pdf> ~~https://www.govinfo.gov/content/pkg/CFR-2023-title49-vol3/pdf/CFR-2023-title49-vol3-part192.pdf~~. The ~~Federal Register~~ publication on page [87]89 FR [20940]33264 is available at [https://www.govinfo.gov/content/pkg/FR-2022-04-08/pdf/2022-07133.pdf] ~~https://www.govinfo.gov/content/pkg/FR-2024-04-29/pdf/2024-08624.pdf~~. The *Federal Register* publication on page [87]90 FR [52224]3713 is available at [https://www.govinfo.gov/content/pkg/FR-2022-08-24/pdf/2022-17031.pdf] <https://www.govinfo.gov/content/pkg/FR-2025-01-15/pdf/2025-00073.pdf>. [The *Federal Register* publication on page 88 FR 24708 is available at <https://www.govinfo.gov/content/pkg/FR-2023-04-24/pdf/2023-08548.pdf>.]

3. Revisions to 20 CSR 4240-40.080(1)

Staff's proposed amendments to 20 CSR 4240-40.080(1) incorporated by reference 49 CFR parts 40 and 199 as set forth in the October 1, 2023 version of the *Code of Federal Regulations* (CFR) and two subsequent amendments to those federal regulations. The October 1, 2024 version of the *Code of Federal Regulations* (CFR) is now available and includes the changes made by one of the subsequent amendments.

Therefore, Staff is proposing revisions to the proposed amendments to 20 CSR 4240-40.080(1) as published in the *Missouri Register* on May 1, 2025 as follows:

(1) As set forth in the *Code of Federal Regulations* (CFR) dated October 1, [2019]2024~~43~~ and the subsequent amendments published on June 21, 2024 (published in *Federal Register* on June 21, 2024, page 89 FR 51981) and November 5, 2024 (published in *Federal Register* on November 5, 2024, page 89 FR 87792), 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, [2019]2024~~43~~, versions of 49 CFR parts 40 and 199 [is]are available at [https://www.govinfo.gov/#citation]<https://www.govinfo.gov/content/pkg/CFR-2024-title49-vol1/pdf/CFR-2024-title49-vol1-part40.pdf> <https://www.govinfo.gov/content/pkg/CFR-2023-title49-vol1/pdf/CFR-2023-title49-vol1-part40.pdf> and <https://www.govinfo.gov/content/pkg/CFR-2024-title49-vol3/pdf/CFR-2024-title49-vol3-part199.pdf> <https://www.govinfo.gov/content/pkg/CFR-2023-title49-vol3/pdf/CFR-2023-title49-vol3-part199.pdf>, respectively. ~~The *Federal Register* publication on page 89 FR 51981 is available at https://www.govinfo.gov/content/pkg/FR-2024-06-21/pdf/2024-12749.pdf.~~ The *Federal Register* publication on page 89 FR 87792 is available at <https://www.govinfo.gov/content/pkg/FR-2024-11-05/pdf/2024-25403.pdf>.

4. Staff Response to Public Comments pertaining to Commission Leak Rules

The Commission received comments from Brett Johnson and Jeff Smith expressing concerns about natural gas pipeline leaks in general, and the adequacy of the Commission's currently effective rules to address these concerns. Brett Johnson's comment referred to specific methods and equipment for leak detection, and suggested modernizing the Commission's "Gas Leaks" rule at 20 CSR 4240-40.030(14) to incorporate additional standards for leak detection. Jeff Smith's comments pertained to health and cost aspects of methane leaks, and urged the Commission to require utilities to locate and eliminate all methane leaks, prioritizing advanced leak detection and repair.

Staff has been following the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA)'s progress towards promulgation of an advanced leak detection and repair rule, and agrees that some updates to the Commission's rule 20 CSR 4240-40.030(14) may be appropriate. However, because a proposed federal rule that addresses these requirements is currently under review, Staff believes that it is premature to revise the Commission's leak detection and repair requirements at this time.

As background, the *Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPES) Act of 2020* ("PIPES Act 2020) was signed on December 27, 2020. To address Section

113 of the PIPES ACT 2020, PHMSA published a Notice of Proposed Rulemaking on May 18, 2023 (*Federal Register* 2023-09918) for a new rule titled Pipeline Safety: Gas Pipeline Leak Detection and Repair (LDAR). PHMSA received and addressed stakeholder comments in the Regulations.gov docket PHMSA-2021-0039. PHMSA issued an announcement on January 17, 2025, that the final rule had been transmitted to the Federal Register¹. On January 20, 2025, the White House issued a *Regulatory Freeze Pending Review*, ordering that all executive departments and agencies immediately withdraw any rules that have not yet been published in the *Federal Register* for review.² Because the LDAR rule had not yet been published in the *Federal Register*, it was withdrawn for review.

The Commission's pipeline safety program operates under a certification and agreement with PHMSA. One of the requirements of the certification and agreement is Commission adoption of the federal pipeline safety standards.³ Staff's opinion based on its review of the text of PHMSA's proposed LDAR rule is that if promulgated as proposed by PHMSA, this rule will address some or all of the commenters' concerns. For example, the proposed rule requires leak grading and repair in 49 CFR 192.760, and sets new performance standards for leak detection practices and equipment in 49 CFR 192.763.

Because there is a proposed federal rule that will address some or all concerns expressed in these comments, and because the final requirements of this federal rule are currently unknown, Staff believes that it is premature to propose revisions to the Commission's leak detection and repair rule requirements in Section 14 of 20 CSR 4240-40.030 at this time. After PHMSA's LDAR rule is published as a final rule in the *Federal Register*, the Commission's Staff will begin taking steps to adopt the provisions of the federal rule as required by the Commission's certification and agreement with PHMSA. These steps will include opening a rulemaking case at the Commission, publication of proposed amendments to the Commission's rule in the Missouri Register, a formal public comment period and a public hearing.

¹ PHMSA Announcement: <https://www.phmsa.dot.gov/news/usdot-advances-rule-modernize-gas-pipeline-methane-emissions-detection-requirements-0>

² Presidential Actions: <https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/>

³ Adoption of applicable federal pipeline safety standards is required by 49 U.S.C. 60105(b)(2).