

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

COPY

Administrative Rules Stamp

RECEIVED

DEC 12 2019

SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 20 CSR 4240-40.033

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data Entry Kayla Kliethermes Phone 573-751-4256 FAX 573-526-6010

Email address Kayla.Kliethermes@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Floor Gov. Office Bldg, JC, Mo
TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking ☐ Rule ☐ Amendment ☐ Rescission ☐ Termination

Effective Date for the Emergency _____

☐ Proposed Rulemaking ☐ Rule ☐ Amendment ☐ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☒ Order of Rulemaking ☐ Withdrawal ☐ Adopt ☒ Amendment ☐ Rescission

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

DEC 12 2019

RECEIVED

JCAR Stamp

JOINT COMMITTEE ON

DEC 12 2019

ADMINISTRATIVE RULES



WILLIAM P. KENNEY
Commissioner

VACANT
Commissioner

Missouri Public Service Commission

RYAN A. SILVEY
Chairman

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://psc.mo.gov>

SCOTT T. RUPP
Commissioner

MAIDA J. COLEMAN
Commissioner

December 12, 2019

John Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 20 CSR 4240-40.033 Liquefied Natural Gas

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.

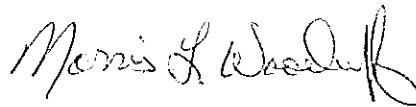
The Public Service Commission further certifies it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo, that the proposed amendment does not constitute a taking of real property under relevant state and federal law.

The Public Service Commission has determined and hereby also certifies that if the proposed amendment does affect small business pursuant to sections 536.300 to 536.310, RSMo, a small business impact statement has been filed as required by those sections. If no small business impact statement has been filed the proposed amendment either does not affect small business or the small business requirements do not apply pursuant to section 536.300.4, RSMo.

Statutory Authority: sections 386.250, 386.310, and 393.140, RSMo

If there are any questions regarding the content of this proposed amendment, please contact:

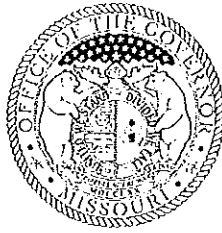
Morris Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
Morris.Woodruff@psc.mo.gov

A handwritten signature in black ink, appearing to read "Morris L. Woodruff". The signature is fluid and cursive, with the first name "Morris" and last name "Woodruff" clearly distinguishable.

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101



(573) 751-3222
WWW.GOVERNOR.MO.GOV

Michael L. Parson

GOVERNOR
STATE OF MISSOURI

November 05, 2019

Mr. Ryan Silvey
Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65102

Dear Ryan:

This office has received your proposed rulemaking for the following regulations:

- 20 CSR 4240-40.020 Incident, Annual, Safety-Related Condition Reporting Requirements
- 20 CSR 4240-40.030 Transportation of Gas by Pipeline
- 20 CSR 4240-40.033 Liquefied Natural Gas
- 20 CSR 4240-40.080 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 of these regulations, we approve the submission to the Joint Committee on Administrative Rules and the Secretary of State.

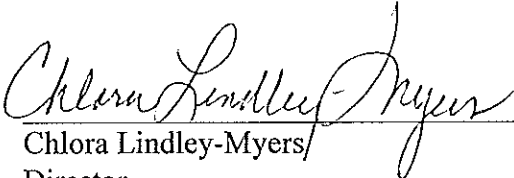
Sincerely,

Andrew T. Bailey
Deputy General Counsel

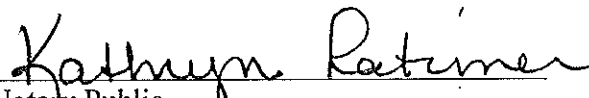
**AFFIDAVIT
PUBLIC COST**


STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Chlora Lindley-Myers, Director of the Department of Commerce and Insurance, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment to rule, 20 CSR 4240-40.033, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.


Chlora Lindley-Myers
Director
Department of Commerce and Insurance

Subscribed and sworn to before me this 4th day of December, 2019 I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on March 4, 2020


Notary Public



KATHRYN LATIMER
My Commission Expires
March 4, 2020
Cole County
Commission #12418395

COPY

RECEIVED

DEC 12 2019

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

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

[4 CSR 240]20 CSR 4240-40.033 Safety Standards—Liquefied Natural Gas Facilities. The Commission is amending the Purpose and sections (1) and (3) of this rule.

PURPOSE: This rule prescribes safety standards for liquefied natural gas (LNG) facilities used in the transportation of gas by pipeline that is subject to the pipeline safety standards in **[4 CSR 240]20 CSR 4240-40.030**. This rule adopts the federal regulations on this subject matter that apply to operators of liquefied natural gas facilities used in the transportation of gas by pipeline that is subject to the federal pipeline safety laws and pipeline safety standards.

***PURPOSE:** This amendment proposes to amend the rule to adopt the most recent publication of 49 CFR part 193 and update references to CSR.*

(1) As set forth in the Code of Federal Regulations (CFR) dated October 1, 2017/8, 49 CFR part 193 is incorporated by reference and made a part of this rule. This rule does not incorporate any subsequent amendments to 49 CFR part 193. 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, 2017/8 version of 49 CFR part 193 is available at www.gpo.gov/fdsys/search/showcitation.action.

(3) 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:

(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]20 CSR 4240-40.020** 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]20 CSR 4240-40.020(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]20 CSR 4240-40.030** 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]20 CSR 4240-40.030(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]20 CSR 4240-40.030(9)(H)** instead.

JOINT COMMITTEE ON

DEC 12 2019

ADMINISTRATIVE RULES

*AUTHORITY: sections 386.250, 386.310, and 393.140, RSMo 2016. * Emergency rule filed Dec. 19, 2018, effective Dec. 29, 2018, expired June 26, 2019. Original rule filed Dec. 20, 2018, effective July 30, 2019. 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 in excess of \$500.00 in total.

PRIVATE COST: This proposed rule will not cost private entities in excess of \$500.00 in total.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed amendment with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received no later than February 14, 2020, and should include a reference to Commission Case No. GX-2020-0112. 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 10:00 a.m., February 24, 2020, 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 TOO Hotline 1-800-829-7541.

Small Business Regulator Fairness Board Small Business Impact Statement

Date: October 21, 2019

Rule Number: 20 CSR 4240-40.033 Liquefied Natural Gas

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Jamie Myers and Kathleen McNelis

Phone Number: 573-526-6036 **Email:** jamie.myers@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich and Kevin Thompson

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 modifies the rule to address amendments of 49 CFR part 192 promulgated between October 2017 and October 2018 and makes administrative changes.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The Commission will schedule a comment period and rulemaking hearing and will accept comments from all stakeholders.

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.

Rule Proposal Summary

Please submit the completed form and attachments to Justin Smith and Kristen Sanocki by hand delivery or mail to the Governor's Office (Capitol Room 216) or by fax (1-1495). In accordance with Executive Order 17-03, the Governor's Office must approve each rule twice during the rulemaking process: (1) before the proposed rule is filed with the Secretary of State for notice and comment; and (2) before the rule is adopted by the state agency and the order of rulemaking is filed with JCAR and the Secretary of State. Accordingly, this form also should be submitted twice. Upon approval, the Governor's Office will send an approval letter to the identified contact person. This letter should be included in the rulemaking packet submitted to the Secretary of State and/or JCAR.

Date: October 21, 2019

Department: Public Service Commission

Rule number: 20 CSR 4240-40.033

Type of rule (new, amendment, rescission, emergency): Amendment

Stage of process (proposed or final): Proposed

Contact person name and title: Morris Woodruff, Secretary/Chief Regulatory Law Judge

Contact phone number: 573-751-2849

1. Describe the proposed rule (if an emergency rule, include Section 536.025, RSMo justifications).

This proposed amendment modifies the rule to address any amendments of 49 CFR part 193 promulgated between October 2017 and October 2018 and changes references to other rules from 4 CSR 240 to 20 CSR 4240.

2. What is the statutory authority for the proposed rule?

Sections 386.250, 386.310, and 393.140, RSMo.

3. Why should the proposed rule become a Missouri regulation?

The proposed amendment updates Missouri's gas pipeline safety rules to reference the most recent version of the federal regulation and changes references to other rules from 4 CSR 240 to 20 CSR 4240.

4. Why is the proposed rule needed now? Why has it not been promulgated before?

The proposed amendment adopts recent versions of federal amendments and changes references to other rules from 4 CSR 240 to 20 CSR 4240.

5. Is the proposed rule needed as a result of, or in response to, any specific legislation or litigation?

No.

6. Is the proposed rule based on any federal, state, or local regulations or ordinances? If yes, what are any key differences?

Yes. The proposed amendment adopts the most recent version of the federal liquefied natural gas safety regulations for pipeline operators. The federal regulation is adopted by reference.

7. Is the proposed rule based on any standards, guidelines, or model rules of an agency of the United States or a nationally or state-recognized organization or association? If yes, what are any key differences?

No.

8. How is the proposed rule essential to the health, safety, or welfare of Missouri residents?

The proposed amendments are essential to the health, safety, and welfare of Missouri residents by ensuring that Missouri's liquefied natural gas safety requirements for pipeline operators are up-to-date by adoption of the federal amendments by reference.

9. Have the proposed rule's estimated costs been quantified? What are they?

Administrative changes only – no costs.

10. Have the proposed rule's estimated benefits been quantified? What are they?

No.

11. What process and schedule are in place to measure the effectiveness of the proposed rule?

The PSC Staff Safety Engineering Department will continue to monitor federal and state natural gas pipeline safety rules. The Department also conducts inspections of natural gas operators for compliance with regulations.

12. Do any less restrictive alternatives exist? Why are these alternatives less desirable than the proposed rule?

No. 49 U.S. Code Section 60105 [State pipeline safety program certifications] requires adoption of the federal pipeline safety standards.

13. What is the sound, reasonably available scientific, technical, economic, or other relevant information upon which the proposed rule is based?

This proposed amendment adopts the most recent version of the federal liquefied natural gas regulations and changes references to other rules from 4 CSR 240 to 20 CSR 4240.

14. Does the proposed rule unduly or adversely affect Missouri citizens or customers of the State, or the competitive environment in Missouri?

No. Missouri is adopting already effective federal requirements for pipeline safety.

15. List the stakeholders engaged to review the proposed rule and the name and title of each stakeholder representative. What was each stakeholder representative's feedback on the proposed rule? Were there any stakeholders that were not engaged to review the proposed rule, and if not, why not?

Stakeholders have not been engaged to review the proposed amendment. The Commission will provide an opportunity for filed comments and comments at a rulemaking hearing.

16. List the other state departments affected by the proposed rule and the name and title of each department representative engaged to review the proposed rule. What was each department representative's feedback?

N/A

17. (If proposed rule) Please identify each person or organization that you anticipate may oppose or be dissatisfied with the proposed rule. Why do you anticipate this opposition or dissatisfaction? What has been done to attempt to mitigate or eliminate this opposition or dissatisfaction?

No opposition or dissatisfaction is anticipated.

18. (If proposed rule) Has this proposal been considered at a public hearing or meeting? If so, what comments were received, if any?

Not at this time. The Commission will accept filed comments and comments at a rulemaking hearing when scheduled.

19. (If final rule) Provide the summary of comments received during the notice and comment period (can be the same as the summary included in the order of rulemaking). If a public hearing was held, please describe how many people attended and what comments were made.

N/A

20. By what date do you need a response from the Governor's Office, and why that date?

Attachments:

1. Proposed rule text (changes to existing regulations visible in bold or redline)
2. Public Entity and Private Entity Fiscal Note
3. Small Business Impact Statement
4. (If final rule) Order of Rulemaking