

82-11-2. Enforcement procedures. Regulations adopted by the commission ~~under the~~
~~authority of~~ pursuant to the gas pipeline safety act K.S.A. 66-1,150 and 66-1,151, and
amendments thereto, shall be ~~enforced~~ investigated by the gas pipeline safety section of the
commission. As necessary to ensure compliance with this article of the commission's
regulations, commission staff may bring before the commission a show cause proceeding or any
other proceeding or action for consideration by the commission. (Authorized by and
implementing K.S.A. 66-106 and 66-1,150 and 66-1,151; effective, T-82-10-28-88, Oct. 28,
1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective
May 1, 1989; amended P- _____.)

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DIVISION OF THE BUDGET

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DEPT. OF ADMINISTRATION

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82-11-3. Transportation of natural and other gas by pipeline; annual reports and incident reports. The federal ~~rules and~~ regulations titled “transportation of natural and other gas by pipeline; annual reports, incident reports, and safety-related condition reports,” 49 C.F.R. Part 191, as in effect on October 1, ~~2006~~ 2018, ~~with the exception of portions that include jurisdiction beyond the state of Kansas, including off-shore pipelines, the outer continental shelf, and states other than Kansas, are hereby adopted by reference with the following exceptions, deletions, additions, and modifications except for the following changes:~~

(a) The following provisions shall be excluded from adoption:

(1) All portions that include jurisdiction beyond the state of Kansas, including off-shore pipelines, the outer continental shelf, and states other than Kansas;

(2) 49 C.F.R. 191.7;

(3) 49 C.F.R. 191.21; and

(4) all sections labeled “reserved.”

(b) The following revisions shall be made to 49 C.F.R. 191.3: ~~sentence shall be deleted from 49 C.F.R. 191.3:~~

(1) The following sentence shall be deleted: “Administrator means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.”

(2) The definition of “LNG facility” shall be deleted and replaced by the following: “means a pipeline facility that is used for liquefying natural gas or synthetic gas or transferring, storing, or vaporizing liquefied natural gas.”

(3) The definition of “Underground natural gas storage facility” shall be deleted and replaced by the following: “means an underground natural gas storage facility as defined in 49

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DIVISION OF THE BUDGET

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DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

C.F.R. 192.3 as adopted by K.A.R. 82-11-4.”

~~(b)(c)~~ The following revisions shall be made to 49 C.F.R. 191.5:

(1) 49 C.F.R. 191.5(b) shall be deleted and replaced by the following: “(b) Each notice required by paragraph (a) of this section shall be made by telephone to the gas pipeline safety section of the commission and to the U.S. department of transportation. Both notices shall include the following information:

“(1) The names of the operator and the person making the report and their telephone numbers;

“(2) the location of the incident;

“(3) the time of the incident;

“(4) the number of fatalities and personal injuries, if any; and

“(5) all other significant facts known by the operator that are relevant to the cause of the incident or extent of the damages.”

(2) The following text shall be added to 49 C.F.R. 191.5: “(d) Each operator shall notify the gas pipeline safety section of the commission within one hour following confirmed discovery of any incident, as defined in 49 C.F.R. Part 191 as adopted by this regulation, within the operator’s certified areas or operating areas. If an incident occurs outside the commission’s working hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, or any other day on which the commission office is not open, the operator shall contact a designated employee of the gas pipeline safety section of the commission. Each operator shall have a copy of the list of designated employees provided by the Commission.”

~~(e) 49 C.F.R. 191.7 shall be deleted.~~

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JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

(d) 49 C.F.R. 191.9(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraph (c) of this section, each operator of a distribution pipeline system shall submit U.S. department of transportation form PHMSA RSPA F 7100.1 to the gas pipeline safety section of the commission as soon as practicable but not more than 30 calendar days after detection of an incident required to be reported under 49 C.F.R. 191.5 as adopted by this regulation.”

(e) 49 C.F.R. 191.9(b) is shall be deleted and replaced by the following: “(b) If additional relevant information is required after the report is submitted under paragraph (a), each operator shall submit to the commission a written report providing the additional information pertaining to the incident within 15 calendar days of the commission’s request.”

(f) 49 C.F.R. 191.11(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraph (b) of this section, each operator of a distribution pipeline system shall submit an annual report in duplicate for that system to the commission on U.S. department of transportation form PHMSA F 7100.1-1. This report shall be submitted to the gas pipeline safety section of the commission not later than March 1 of each year, for the preceding calendar year.” An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form PHMSA F 7100.1-1 to the U.S. department of transportation.”

(g) 49 C.F.R. 191.12 shall be deleted and replaced by the following: “As required by 49 C.F.R. 192.1009, as adopted by K.A.R. 82-11-4, each mechanical fitting failure shall be submitted on a Mechanical Fitting Failure Report Form PHMSA F-7100.1-2. An operator shall submit a mechanical fitting failure report for each mechanical fitting failure that occurs within a

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JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

calendar year not later than March 1 of the following year. Alternatively, an operator may elect to submit its reports throughout the year. An operator shall report this information to the commission and the Pipeline and Hazardous Materials Safety Administration by the March 1 reporting date. An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form PHMSA F-7100.1-2 to the U.S. department of transportation.”

~~(g)~~(h) 49 C.F.R. 191.15(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraph (c) of this section, each operator of a transmission or a gathering pipeline system shall submit U.S. department of transportation form PHMSA F 7100.2 to the commission as soon as practicable but not more than 30 calendar days after detection of an incident required to be reported under 49 C.F.R. 191.5 as adopted by this regulation.”

~~(h)~~(i) 49 C.F.R. 191.15~~(b)~~ (d) shall be deleted and replaced by the following: “~~(b)~~ (d) If additional relevant information is required by the commission after the report is submitted under paragraph (a), (b) or (c), each operator shall submit to the commission a written report providing the additional information pertaining to the incident within 15 calendar days of the commission’s request.”

~~(i)~~(j) 49 C.F.R. 191.17(a), (b), and (c) shall be deleted and replaced by the following: “~~(a) Except as provided in paragraph (b) of this section,~~ Each operator of a transmission or gathering pipeline system shall submit an annual report in duplicate for that system to the commission on U.S. department of transportation form PHMSA F ~~7100.2-1~~ 7100.2.1. This report shall be submitted to the gas pipeline safety section of the commission not later than March 1 of each year, for the preceding calendar year.” An operator may satisfy this filing

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JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form PHMSA F 7100.2.1 to the U.S. department of transportation.

“(b) Each operator of a liquefied natural gas facility shall submit an annual report in duplicate for that system to the commission on U.S. department of transportation form PHMSA F 7100.3-1. This report shall be submitted to the gas pipeline safety section of the commission not later than March 1 of each year, for the preceding calendar year. An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form F 7100.3-1 to the U.S. department of transportation.

“(c) Each operator of an underground natural gas storage facility shall submit an annual report in duplicate for that system to the commission on U.S. department of transportation form PHMSA F 7100.4-1. This report shall be submitted to the gas pipeline safety section of the commission not later than March 1 of each year, for the preceding calendar year. An operator may satisfy this filing requirement by informing the gas pipeline safety section of the commission in writing of the date of submission of form PHMSA F 7100.4-1 to the U.S. department of transportation.”

~~(j) — 49 C.F.R. 191.19 shall be deleted and replaced by the following: “Report Forms. The prescribed report forms are available without charge upon request from the gas pipeline safety section, Topeka, Kansas. Reproduced copies of the forms may be used if they are of the same size and kind of paper.~~

~~(k) 49 C.F.R. 191.21 shall be deleted.~~

(k) 49 C.F.R. 191.22(a) shall be deleted and replaced with the following: “(a) OPID request. Effective January 1, 2012, each operator of a gas pipeline, gas pipeline facility,

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JUN 24 2021

APPROVED

JUN 25 2021

APPROVED

AUG 04 2021

underground natural gas storage facility, LNG plant or LNG facility must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has a primary responsibility.”

(l) ~~The term “Associate Administrator, OPS,” as used in 49 C.F.R. 191.25, means commission.~~ 49 C.F.R. 191.25(a) shall be deleted and replaced with the following: “(a) Each report of a safety-related condition under 49 C.F.R. 191.23, as adopted by K.A.R. 82-11-3, must be filed (received by the gas pipeline safety section of the commission) five business days after the day a representative of the operator first determines that the condition exists, but not later than 10 business days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to: kccpipelinesafety@kcc.ks.gov.” (Authorized by and implementing K.S.A. 66-1,150; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended April 16, 1990; amended March 12, 1999; amended July 7, 2003; amended Jan. 25, 2008; amended P- _____.)

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JUN 14 2021

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APPROVED
AUG 04 2021

82-11-4. Transportation of natural and other gas by pipeline; minimum safety standards.

The federal ~~rules and~~ regulations titled “transportation of natural and other gas by pipeline: minimum federal safety standards,” 49 C.F.R. Part 192, including appendices B, C, D, and E, as in effect on October 1, 2013 2018, ~~with the exception of portions that include jurisdiction beyond the state of Kansas, including off-shore pipelines, the outer continental shelf, and states other than Kansas,~~ are hereby adopted by reference with the following ~~exceptions, deletions, additions, and modifications~~ changes:

- (a) The following provisions shall be excluded from adoption:
 - (1) 49 C.F.R. 192.7(a);
 - (2) 49 C.F.R. 192.57;
 - (3) 49 C.F.R. 192.61;
 - (4) 49 C.F.R. 192.117 through 192.119;
 - (5) 49 C.F.R. 192.455(b);
 - (6) 49 C.F.R. 192.491(b);
 - (7) 49 C.F.R. 192.607;
 - (8) appendix A;
 - (9) portions that include jurisdictions beyond the state of Kansas;
 - (10) portions that apply to off-shore pipelines;
 - (11) portions that apply to the outer continental shelf;
 - (12) portions that apply to states other than Kansas; and
 - (13) all sections labeled “reserved.”
- (b) The following provisions shall be modified:

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JUN 24 2021

APPROVED

JUN 25 2021

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AUG 04 2021

~~(1)(a) All instances of~~ The following definitions in 49 C.F.R. 192.3 shall be modified:

(A) The word “administrator” shall be deleted and replaced with “commission.”

(B) The word “municipality” shall mean a city, county, or any other political subdivision of the state of Kansas.

(C) The word “state” shall mean the state of Kansas.

~~(b) — 49 C.F.R. 192.7(b) shall be deleted and replaced by the following: “(b) Any incorporated document shall be available for inspection at the gas pipeline safety section's Topeka, Kansas office. All incorporated materials are also available for inspection in the Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, S.E., Washington, D.C., 20590-0001 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or access the following website:~~
~~http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. In addition, the incorporated materials are available from the respective organizations listed in paragraph (c)(1) of this section.”~~

~~(c) The following changes shall be made to 49 C.F.R. 192.7(c):~~

~~(1) — Following the first full paragraph, “All forwards, tables of contents, and indexes are excluded from adoption” shall be added.~~

~~(2) — Appendix X.1.4, “appeals of HSB actions,” shall be excluded from the adoption of the plastics pipe institute, inc’s “policies and procedures for developing hydrostatic design basis (HDB), hydrostatic design stresses (HDS), pressure design basis (PDB), strength design~~

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DIVISION OF THE BUDGET

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DEPT. OF ADMINISTRATION

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AUG 04 2021

ATTORNEY GENERAL

basis (SDB), and minimum required strength (MRS) ratings for thermoplastic piping materials or pipe,” dated May 2008.

(2) In 49 C.F.R. 192.12(f), “PHMSA” shall be deleted and replaced by “gas pipeline safety section of the commission.”

(3) In 49 C.F.R. 192.14(c), “PHMSA” shall be deleted and replaced by “gas pipeline safety section of the commission.”

(4) In 49 C.F.R. 192.112(h), the phrase “each PHMSA pipeline safety regional office” shall be deleted and replaced by “gas pipeline safety section of the commission.”

(5)(d) 49 C.F.R. 192.181(a) shall be deleted and replaced by the following: “(a) Each high-pressure distribution system shall have valves spaced to reduce the time to shut down a section of main in an emergency. Each operator shall specify in its operation and maintenance manual the criteria as to how valve locations are determined using, as a minimum, the considerations of operating pressure, the size of the mains, and the local physical conditions. The emergency manual shall include instructions on where operating personnel can find maps and other means of locating emergency valves during an emergency. Each area of residential development constructed after May 1, 1989, shall be provided with at least one valve to isolate it from other areas.”

(6)(e) 49 C.F.R. 192.199(e) shall be deleted and replaced by the following: “(e) Have discharge stacks, vents, or outlet ports designed to prevent accumulation of water, ice, or snow, located where gas can be discharged into the atmosphere without undue hazard. At town border stations and district regulator settings, the gas shall be discharged upward at a minimum height of six feet from the ground or past the overhang of any adjacent building, whichever is greater.”

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JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

~~(7)(f)~~ 49 C.F.R. 192.199(h) shall be deleted and replaced by the following: “(h) Except for a valve that will isolate the system under protection from its source of pressure, shall be designed to prevent unauthorized access to or operation of any stop valve that will make the pressure-relief valve or pressure-limiting device inoperative including:

“(1) valves that would bypass the pressure regulator or relief devices; and

“(2) shut-off valves in regulator control lines that, if operated, would cause the regulator to be inoperative.”

~~(8)(g)~~ The following shall be added to 49 C.F.R. 192.199: “(i) At town border stations and district regulator settings, this section shall require pressure-relief or pressure-limiting devices regardless of installation date.”

~~(9)(h)~~ 49 C.F.R. 192.307 shall be deleted and replaced by the following: “Inspection of materials. Each length of pipe and each other component shall be visually inspected at the site of installation to ensure that it has not sustained any visually determinable damage that could impair its serviceability. Except for short sections of pipe with external coating applied after installation, each coated length of pipe shall be checked for defects in the coating using an instrument that is calibrated according to manufacturer's specifications prior to lowering the pipe into the ditch.”

~~(10)(i)~~ The following subsection shall be added to 49 C.F.R. 192.317: “(d) Each existing aboveground pipeline shall be placed underground, with the following exceptions:

“(1) Regulator station piping;

“(2) bridge crossings;

“(3) aerial crossings or spans;

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

“(4) short segments of piping for valves intentionally brought above the ground, including risers, piping at compressor, processing or treating facilities, block gate settings, sectionalizing valves and district regulator sites;

“(5) distribution mains specifically designed to be above the ground and have the approval of the landowner to provide service to commercial customers from the aboveground main and associated service line or lines; or

“(6) pipelines in class 1 locations that were in natural gas service before May 1, 1989.”

(11)(i) The following shall be added to 49 C.F.R. 192.317: “(e) Each pipeline constructed after May 1, 1989, shall be placed underground ~~under ground~~, with the following exceptions:

“(1) Regulator station piping;

“(2) bridge crossings;

“(3) aerial crossings or spans;

“(4) short segments of piping for valves intentionally brought above ground, including risers, piping at compressor, processing or treating facilities, block gate settings, sectionalizing valves and district regulator sites; or

“(5) distribution mains specifically designed to be above ground and have the approval of the landowner to provide service to commercial customers from the aboveground main and associated service line or lines.”

(12)(k) 49 C.F.R. 192.453 shall be deleted and replaced by the following: “(a) The corrosion control procedures required by 49 C.F.R. 192.605(b)(2), including those for the design, installation, operation, and maintenance of cathodic protection systems, ~~must~~ shall be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods.

APPROVED

JUN 24 2021

APPROVED

JUN 25 2021

APPROVED

AUG 04 2021

DIVISION OF THE BUDGET

DEPT. OF ADMINISTRATION

ATTORNEY GENERAL

“(b) Any unprotected steel service or yard line found to have active corrosion shall be either provided with cathodic protection and monitored annually as required by ~~K.A.R. 82-11-4~~ ~~(e)~~ this regulation or replaced. In areas where there is no active corrosion, each operator shall, at intervals not exceeding three years, reevaluate these pipelines.

“(c) In lieu of conducting electrical surveys on unprotected steel service lines and yard lines, each operator may implement one of the following options:

“(1) Conduct annual leakage surveys at intervals not exceeding 15 months, but at least once each calendar year, on all unprotected steel service lines and yard lines and initiate a program to apply cathodic protection for all unprotected steel service lines and yard lines; or

“(2) conduct annual leakage surveys at intervals not exceeding 15 months, but at least once each calendar year, on all unprotected steel service lines and yard lines and initiate a preventative maintenance program for replacement of service and yard lines. The preventative maintenance program to be used in conjunction with the annual leak survey of unprotected steel service and yard lines shall include the following:

“(A) After the annual leakage survey of all unprotected steel service and yard lines is completed, the operator shall prepare a summary listing of the leak survey results.

“(B) The summary listing shall include the number of leaks found and the number of lines replaced in a defined area.

“(C) An operator's replacement program for all service or yard lines in the defined area shall be initiated no later than when the sum of the number of unprotected steel service or yard lines with existing or repaired corrosion leaks and the number of unprotected steel service or

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JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

yard lines already replaced due to corrosion equals 25% or more of the unprotected steel service or yard lines installed within that defined area.

“(D) The replacement program, once initiated for a defined area, shall be completed by an operator within 18 months.

“(E) Operators, at their option, may have separate preventative maintenance programs for service lines and yard lines but ~~must~~ shall consistently follow their selection.

“(d) For a city of the third class, or a city having a population of 2,000 or less, which is an operator of a natural gas distribution system, a replacement program for unprotected steel yard lines may comply with paragraph (c)(2)(D) of this section or include the following requirements in their replacement plan:

“(1) Perform leakage surveys at six-month intervals;

“(2) Notify all customers in the defined area with a written recommendation that all unprotected steel yard lines should be scheduled for replacement; and

“(3) Replace all unprotected steel yard lines in the defined area that exhibit active corrosion.”

(13)(4) 49 C.F.R. 192.455(a) shall be deleted and replaced by the following: “(a) Except as provided in paragraphs (c) and (f) of this section, each buried, submerged pipeline, or exposed pipeline, installed after July 31, 1971, shall be protected against external corrosion by various methods, including the following:

“(1) An external protective coating meeting the requirements of 49 C.F.R. 192.461; and

“(2) A cathodic protection system designed to protect the pipeline in accordance with this subpart, installed and placed in operation within one year after completion of construction.”

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

~~(m) 49 C.F.R. 192.455(b) shall be deleted.~~

~~(14)(n)~~ 49 C.F.R. 192.457(b) shall be deleted and replaced by the following: “(b) Except for cast iron or ductile iron pipelines, each of the following buried, exposed or submerged pipelines installed before August 1, 1971, shall be cathodically protected in accordance with this subpart in areas in which active corrosion is found:

“(1) Bare or ineffectively coated transmission lines;

“(2) bare or coated pipes at compressor, regulator, and measuring stations; and

“(3) bare or coated distribution lines.”

~~(15)(o)~~ 49 C.F.R. 192.465(a) shall be deleted and replaced by the following: “Each pipeline that is under cathodic protection shall be tested at least once each calendar year, but in intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of 49 C.F.R. 192.463. If tests at those intervals are impractical for separately protected short sections of mains or transmission lines not in excess of 100 feet, or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least one-third of the separately protected short sections, distributed over the entire system, shall be surveyed each calendar year, with a different one-third checked each subsequent year, so that the entire system is tested in each three-year period.”

~~(16)(p)~~ 49 C.F.R. 192.465(d) shall be deleted and replaced by the following: “(d) Each operator shall begin corrective measures within 30 days, or more promptly if necessary as determined by the operator, on any deficiencies indicated by the monitoring.”

~~(17)(q)~~ 49 C.F.R. 192.465(e) shall be deleted and replaced by the following: “(e) After the initial evaluation required by this regulation ~~49 C.F.R. 192.455 (a) and K.A.R. 82-11-4(n)~~,

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

each operator shall, at least every three calendar years at intervals not exceeding 39 months, reevaluate its unprotected pipelines and cathodically protect them in accordance with this subpart in areas in which active corrosion is found. The operator shall determine the areas of active corrosion by electrical survey, where practical.”

~~(18)(f)~~ The following shall be added to 49 C.F.R. 192.465: “(f) ~~It shall be considered practical to conduct~~ Electrical surveys shall be conducted in all areas, except the following:

“(1) Where the pipe lies under wall-to-wall pavement;

“(2) where the pipe is in a common trench with other utilities;

“(3) in areas with stray current; or

“(4) in areas where the pipeline is under pavement, regardless of depth, and more than two feet away from an unpaved area.

“(g) Where an electrical survey is ~~impractical~~ excepted as listed in paragraph (f) of this section, the operator shall conduct leakage surveys using leak detection equipment in accordance with ~~K.A.R. 82-11-4(ff)~~ this regulation and evaluate for areas of active corrosion. The evaluation for active corrosion shall include review and analysis of leak repair records, corrosion monitoring records, exposed pipe inspection records, and the analysis of the pipeline environment.

“(h) For unprotected steel transmission lines and mains, a repair/replacement program shall be established based upon the number of leaks in a defined area.”

~~(19)(s)~~ 49 C.F.R. 192.491(a) shall be deleted and replaced by the following: “(a) For as long as the pipeline remains in service, each operator shall maintain records and maps to show the locations of all cathodically protected piping, cathodic protection facilities other than

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

unrecorded galvanic anodes installed before August 1, 1971, and neighboring structures bonded to the cathodic protection system.”

~~(t) — 49 C.F.R. 192.491(b) shall be deleted.~~

~~(20)(u)~~ 49 C.F.R. 192.509(b) shall be deleted and replaced by the following: “(b) Each steel main that is to be operated at less than 1 ~~p.s.i.g.~~ p.s.i. gage shall be tested to at least 10 ~~p.s.i.g.~~ p.s.i. gage and each main to be operated at or above 1 ~~p.s.i.g.~~ p.s.i. gage shall be tested to at least 100 ~~p.s.i.g.~~ p.s.i. gage.”

~~(21)(v)~~ The following shall be added to 49 C.F.R. 192.517(a): “(8) Test date. (9) Description of facilities being tested.”

~~(22)(w)~~ 49 C.F.R. 192.517(b) shall be deleted and replaced by the following: “(b) For any pipeline installed after May 1, 1989, each operator shall make, and retain for the useful life of the pipeline, a record of each test performed under §§ 192.509 as modified by ~~K.A.R. 82-11-4(u)~~ this regulation, 192.511 and 192.513.”

~~(23)(x)~~ 49 C.F.R. 192.553(a)(1) shall be deleted and replaced by the following: “(1) At the end of each incremental increase, the pressure shall be held constant while the entire segment of pipeline that is affected is checked for leaks. This leak survey by flame ionization shall be conducted within eight hours after the stabilization of each incremental pressure increase provided in the uprating procedure. If the operator elects to not conduct the leak survey within the specified time frame because of nightfall or other circumstance, the pressure increment in the line shall be reduced that day with repetition of that particular increment during the next day that the uprating procedure is continued.”

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

~~(24)(y)~~ 49 C.F.R. 192.603(b) shall be deleted and replaced by the following: “(b) Each operator shall establish a written operating and maintenance plan meeting the requirements of this part and keep records necessary to administer the plan. This plan and future revisions shall be submitted to the gas pipeline safety section of the commission.”

~~(25)~~ 49 C.F.R. 192.603(c) shall be deleted and replaced by the following: “(c) The PHMSA designee or the commission, with respect to pipeline facilities governed by an operator’s plans and procedures may, after notice and opportunity for hearing as provided in 49 C.F.R. 190.206 for actions brought by the PHMSA designee or K.A.R. 82-11-6, K.A.R. 82-1-230, and K.A.R. 82-1-232(b) for actions brought by the commission, require an operator to amend its plans and procedures as necessary to provide a reasonable level of safety.”

~~(26)(z)~~ The following shall be added to 49 C.F.R. 192.603:

“(d) Each operator shall have regulator and relief valve test, maintenance and capacity calculation records in its possession whether the town border station is owned by the operator or by a wholesale supplier, if the supplier's relief valve capacity is utilized to provide protection for the operator's system.

“(e) Each operator shall be responsible for ensuring that all work completed by its consultants and contractors complies with this part.”

~~(27)(aa)~~ The following shall be added to 49 C.F.R. 192.605(b):

“(13) Classifying underground leaks according to this regulation ~~K.A.R. 82-11-4(dd).~~

“(14) Performing leakage surveys of underground pipelines.

“(15) Identifying conditions which will require patrols of a distribution system at intervals shorter than the maximum intervals listed in ~~K.A.R. 82-11-4(ee)~~ this regulation.”

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

(28) In 49 C.F.R. 192.616(h), “PHMSA” shall be deleted and replaced by “gas pipeline safety section of the commission.”

(29)(bb) 49 C.F.R. 192.617 shall be deleted and replaced by the following: “Investigation of failures. (a) Each operator shall establish procedures for analyzing accidents and failures, including:

“(1) The maintenance of records that contain information for each pipeline failure, including the type of pipe and the reason for failure.

“(2) The selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of recurrence.

“(b) Each operator shall investigate each accident and failure.”

(30) The following changes shall be made to 49 C.F.R. 192.620:

(A) The first sentence of 49 C.F.R. 192.620(a), (b), (c), (d), and (e) shall be deleted.

(B) All references to “PHMSA” shall be deleted and replaced by “gas pipeline safety section of the commission.”

(C) Each instance of the phrase “each PHMSA pipeline safety regional office” shall be deleted and replaced by “gas pipeline safety section of the commission.”

(31)(ee) 49 C.F.R. 192.625(f) shall be deleted and replaced by the following:

“(f) Each operator shall ensure the proper concentration of odorant and shall maintain records of these samplings for at least two years in accordance with this section. Proper concentration of odorant shall be ensured by conducting periodic sampling of combustible gases as follows:

APPROVED

JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

“(1) Conduct monthly odorometer sampling of combustible gases at selected points in the system; and

“(2) Conduct sniff tests during each service call where access to a source of gas in the ambient air is readily available.

“(g) Operators of master meter systems may comply with this requirement by the following:

“(1) Receiving written verification from their gas source that the gas has the proper concentration of odorant; and

“(2) Conducting periodic sniff tests at the extremities of the system to confirm that the gas contains odorant.”

(32)(dd) 49 C.F.R. 192.703 shall be deleted and replaced by the following: “General. (a) No person shall operate a segment of pipeline unless it is maintained in accordance with this subpart.

“(b) Odorometers and leak detection equipment shall be calibrated according to manufacturer’s specifications. Leak detection equipment shall be tested monthly with a calibration gas of known hydrocarbon concentration, except that if equipment is not used, then testing with calibration gas shall be performed prior to the next use.

“(c) Each segment of pipeline that becomes unsafe shall be replaced, repaired or removed from service within five days of the operator being notified of the existence of the unsafe condition. Minimum requirements for response to each class of leak are as follows:

“(1) A class 1 leak requires immediate repair or continuous action until the conditions are no longer hazardous.

APPROVED
JUN 14 2021

APPROVED
JUN 15 2021

APPROVED
AUG 04 2021

“(2) A class 2 leak shall be repaired within six months after detection. ~~Under adverse soil conditions~~ When the ground is frozen, a class 2 leak shall be monitored weekly to ensure that the leak will not represent a probable hazard and that it reasonably can be expected to remain nonhazardous.

“(3) A class 3 leak shall be rechecked at least every six months and repaired or replaced within 30 months.

“(d) Each operator shall inspect and classify all reports of gas leaks within two hours of notification.

“(e) Each underground leak shall be classified using the operator’s underground leak classification procedure as follows:

“(1) A class 1 leak means a leak that represents an existing or probable hazard to persons or property, and requires immediate repair or continuous action until the conditions are no longer hazardous. This class of leak may include the following conditions:

“(A) Any leak which, in the judgment of operating personnel at the scene, is regarded as an immediate hazard;

“(B) any leak in which escaping gas has ignited;

“(C) any indication that gas has migrated into or under a building, or into a tunnel;

“(D) any percentage reading gas in air at the outside wall of a building, or where gas would likely migrate to an outside wall of a building;

“(E) any reading of 4% gas in air, or greater, in a confined space;

“(F) any reading of 4% gas in air, or greater, in a small substructure from which gas would likely migrate to the outside wall of a building; or

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

“(G) any leak that can be seen, heard, or felt, and which is in a location that may endanger the general public or property.

“(2) A class 2 leak means a leak that is nonhazardous at the time of detection, but justifies scheduled repair based on probable future hazard. This class of leak may include the following conditions:

“(A) any reading of 2% gas in air, or greater, under a sidewalk in a wall-to-wall paved area that does not qualify as a class 1 leak;

“(B) any reading of 5% gas in air, or greater, under a street in a wall-to-wall paved area that has significant gas migration and does not qualify as a class 1 leak;

“(C) any reading less than 4% gas in air in a small substructure from which gas would likely migrate creating a probable future hazard;

“(D) any reading between 1% gas in air and 4% gas in air in a confined space;

“(E) any reading on a pipeline operating at 30% SMYS, or greater, in a class 3 or 4 location, which does not qualify as a class 1 leak;

“(F) any reading of 4% gas in air, or greater, in a gas-associated substructure; or

“(G) any leak which, in the judgment of operating personnel at the scene, is of significant magnitude to justify scheduled repair.

“(3) A class 3 leak means a leak that is nonhazardous at the time of detection and can reasonably be expected to remain nonhazardous. This class of leak may include the following conditions:

“(A) any reading of less than 4% gas in air in a small gas-associated substructure;

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

“(B) any reading under a street in areas without wall-to-wall paving where it is unlikely the gas could migrate to the outside wall of a building; or

“(C) any reading of less than 1% gas in air in a confined space.”

~~(33)(ee)~~ 49 C.F.R. 192.721 shall be deleted and replaced by the following three paragraphs: “(a) The frequency with which pipeline facilities are patrolled shall be determined by the severity of the conditions which could cause failure or leakage, and the consequent hazards to public safety.

“(b) Intervals between patrols shall not be longer than those prescribed in the following table:

Maximum Intervals Between Patrols		
Location of Line	Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage	Mains at all other locations
Inside Business Districts	4 ½ months, but at least four times each calendar year	7 ½ months, but at least twice each calendar year
Outside Business Districts	7 ½ months, but at least twice each calendar year	18 months, but at least once each calendar year

“(c) Service lines and yard lines shall be patrolled at least once every three calendar years at intervals not exceeding 42 months.”

~~(34)(ff)~~ 49 C.F.R. 192.723 shall be deleted and replaced by the following:

APPROVED

JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

“Distribution systems: leak surveys and procedures.

“(a) Each operator of a distribution system shall conduct periodic leakage surveys using leak detection equipment in accordance with this section. The leak detection equipment used for this survey shall utilize a continuously sampling technology.

“(b) The type and scope of the leakage control program shall be determined by the nature of the operations and the local conditions. A leakage survey using leak detection equipment shall be conducted on all distribution mains and shall meet the following minimum requirements:

“(1) In business districts, a leakage survey shall include tests of the atmosphere in gas, electric, telephone, sewer and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks. This survey shall be conducted at intervals on the distribution mains within the business district as frequently as necessary as determined by the operator with the maximum interval between surveys not exceeding 15 months, but at least once each calendar year.

“(2) A leakage survey with leak detection equipment shall be conducted on the distribution mains outside the business areas. The survey shall be made as frequently as necessary, but it shall meet the following minimum requirements:

“i. Cathodically unprotected steel mains and ductile iron mains located in class 2, 3, and 4 areas shall be surveyed at least once each calendar year at intervals not exceeding 15 months.

“ii. Cathodically unprotected steel mains and ductile iron mains located in class 1 areas, cathodically protected bare steel mains, cast iron mains, and mains constructed of PVC plastic shall be surveyed at least once every three calendar years at intervals not exceeding 39 months.

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

“iii. Cathodically protected externally coated steel mains and mains constructed of polyethylene plastic shall be surveyed at least once every five calendar years at intervals not exceeding 63 months.

“(c) Except for the service lines and yard lines described in paragraph (d) of this section, a leakage survey using leak detection equipment shall be conducted for all service lines and yard lines as follows:

“(1) In business districts, this survey shall be conducted as frequently as necessary, as determined by the operator, with the maximum interval between surveys not exceeding 15 months, but at least once each calendar year.

“(2) Outside business districts, the survey shall be made as frequently as necessary, as determined by the operator, but it shall meet the following minimum requirements:

“i. Cathodically unprotected steel service or yard lines and service or yard lines constructed of PVC plastic, cast iron, or copper shall be surveyed at least once each calendar year at intervals not exceeding 15 months.

“ii. Cathodically protected bare steel service or yard lines shall be surveyed at least once every three years at intervals not exceeding 39 months.

“iii. Cathodically protected externally coated steel service or yard lines and service or yard lines constructed of polyethylene plastic shall be surveyed at least once every five calendar years at intervals not exceeding 63 months.

“(d) For yard lines more than 300 feet in length and operating at a pressure less than 10 ~~p.s.i.g.~~ p.s.i. gage, only the portion within 300 feet of a habitable dwelling ~~must~~ shall be leak surveyed in accordance with these regulations.

APPROVED

APPROVED

APPROVED

JUN 15 2021

AUG 04 2021

JUN 14 2021

DEPT. OF ADMINISTRATION

ATTORNEY GENERAL

DIVISION OF THE BUDGET

“(e) Each operator’s operations and maintenance manual shall state that company-designated employees are to be trained in and conduct vegetation leak surveys where vegetation is suitable to such analysis.

“(f) Each leakage survey record shall be kept for at least six years.”

~~(35)(gg)~~ The following shall be added to 49 C.F.R. 192.755: “(c) Each operator with cast iron piping shall institute all of the following for the purposes of evaluation and replacement of cast iron pipelines:

“(1) Each time a leak in the body of a cast iron pipe is discovered, collect a coupon from the joint of pipe that is leaking within five feet of the leak site.

“(2) Conduct laboratory analysis on all coupons to determine the percentage of graphitization. Using the following equation:

$$\text{Percent of Graphitization} = \frac{(\text{Maximum Depth of Graphitization})}{(\text{Wall Thickness})} \times 100$$

“(3) Replace at least one city block (approximately 500 feet) within 120 days of the operator’s discovery of a leak in cast iron pipe due to external corrosion or each time the laboratory analysis of a coupon shows graphitization equal to or greater than the following:

Diameter	Percent Graphitization
2.0 inch	25%
3.0 inch and 4.0 inch	60%
6.0 inch and 8.0 inch	75%
10.0 inch or greater	90%

APPROVED
JUN 14 2021

APPROVED
JUN 15 2021

APPROVED
AUG 04 2021

“(4) Submit coupons for analysis within 30 days of collection. Retain all sampling records for the life of the facility, but not less than five years.

“(5) For each operator with cast iron piping that is 3 inches or less in nominal diameter, have a replacement program that will remove all cast iron piping with nominal diameter of 3 inches and smaller from natural gas service by January 1, 2013.”

(36)(hh) 49 C.F.R. 192.801(b)(3) shall be deleted and replaced by the following: “(3) Is performed as a requirement of K.A.R. 82-11-4 this regulation; and.”

(37) 49 C.F.R. 192.805(i) shall be deleted and replaced by the following: “(i) Notify the commission if the operator significantly modifies the program after the commission has verified that it complies with this regulation. Notifications to the commission may be submitted by electronic mail to kccpipelinesafety@kcc.ks.gov or by mail to ATTN: Gas Pipeline Safety Section, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.”

(38) 49 C.F.R. 192.909(b) shall be deleted and replaced with the following: “Notification. An operator must notify the gas pipeline safety section of the commission in accordance with 49 C.F.R. 192.949 as adopted by this regulation, of any change to the program that may substantially affect the program’s implementation or may significantly modify the program or schedule for carrying out the program elements. Notifications to the commission may be submitted by electronic mail to kccpipelinesafety@kcc.ks.gov or by mail to ATTN: Gas Pipeline Safety Section, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.”

(39) 49 C.F.R. 192.911(m)(1) and (n)(1) shall be deleted and replaced with the following: “The gas pipeline safety section of the commission.”

APPROVED

JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

(40) In 49 C.F.R. 192.913(b)(1)(vii), “OPS” shall be replaced with “gas pipeline safety section of the commission.”

(41) 49 C.F.R. 192.921(a)(4) shall be deleted and replaced with the following: “Other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the gas pipeline safety section of the commission 180 days before conducting the assessment, in accordance with 49 C.F.R. 192.949 as adopted by this regulation. Notifications to the commission may be submitted by electronic mail to kccpipelinesafety@kcc.ks.gov or by mail to ATTN: Gas Pipeline Safety Section, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.”

(42) In 49 C.F.R. 192.933, all references to “PHMSA” shall be replaced with “gas pipeline safety section of the commission.”

(43) 49 C.F.R. 192.937(c)(4) shall be deleted and replaced with the following: “Other technology that an operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the gas pipeline safety section of the commission 180 days before conducting the assessment, in accordance with 49 C.F.R. 192.949 as adopted by this regulation. Notifications to the commission may be submitted by electronic mail to kccpipelinesafety@kcc.ks.gov or by mail to ATTN: Gas Pipeline Safety Section, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.”

(44) In 49 C.F.R. 192.943(a), “OPS” shall be replaced with “gas pipeline safety section of the commission.”

(45) 49 C.F.R. 192.947(i) shall be deleted and replaced with the following:
“Verification that an operator has provided any documentation or notification required by this

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

subpart to be provided to the gas pipeline safety section of the commission. Verifications to the commission may be submitted by electronic mail to kccpipelinesafety@kcc.ks.gov or by mail to ATTN: Gas Pipeline Safety Section, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.

(46) 49 C.F.R. 192.949 shall be deleted and replaced with the following:

“Notifications to the commission may be submitted by electronic mail to kccpipelinesafety@kcc.ks.gov or by mail to ATTN: Gas Pipeline Safety Section, Kansas Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, Kansas 66604.”

(47) 49 C.F.R. 192.1013(b) shall be deleted and replaced with the following: “An operator must submit its proposal to the gas pipeline safety section of the commission. The commission may accept the proposal with or without conditions and limitations, on a showing that the operator’s proposal, which includes the adjusted interval, will provide an equal or greater overall level of safety.” (Authorized by and implementing K.S.A. 2014 ~~Supp.~~ 66-106 and 66-1,150; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended April 16, 1990; amended March 12, 1999; amended July 7, 2003; amended Jan. 25, 2008; amended June 26, 2009; amended Aug. 5, 2011; amended Jan. 9, 2015; amended P-_____.)

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

82-11-6. Procedures to ~~insure~~ ensure compliance with minimum safety standards.

The following procedures may be utilized by the commission to ~~insure~~ ensure compliance with the minimum safety standards of this article: of the commission's regulations:

(a) Annual audit-inspection. Inspectors from the gas pipeline safety section of the commission may visit each operator annually, or as needed, to inspect the operator's operation and maintenance records; and to perform field surveys and tests as required by ~~the regulations of this article~~ of the commission's regulations. Audit-inspection guides evaluation forms shall be used to record information and test results obtained in each field inspection. The inspector shall record the observations, findings, and test results on an audit-inspection evaluation form. The inspector shall provide a copy of the audit-inspection evaluation form to the operator following the audit-inspection if the operator so requests. If the results of the audit-inspection indicate that the operator does not meet the requirements of this article of the commission's regulations, the gas pipeline safety section of the commission may issue a notice of probable violation as described in subsection (b).

(b) ~~Return of evaluation form.~~ ~~Each completed evaluation form in subsection (a) shall be signed by the operator and returned to the gas pipeline safety section within 30 calendar days of the date that the evaluation letter and evaluation form were received by the operator.~~ ~~Each evaluation form shall detail the actions taken by the operator, or shall set forth a proposed plan, to bring the operator's system into compliance with the safety standards of this article.~~ Issuance of notice of probable violation. If after an annual audit-inspection or any other audit, inspection, or review conducted by commission staff, the commission staff believes that an operator has violated any regulations adopted pursuant to K.S.A. 66-1,150 and amendments

APPROVED

JUL 31 2020

DIVISION OF THE BUDGET

APPROVED

AUG 04 2020

DEPT. OF ADMINISTRATION

APPROVED

MAY 27 2021

ATTORNEY GENERAL

thereto, the minimum safety standards adopted by this article of the commission's regulations, or any regulation or commission order, commission staff may serve a notice of probable violation against the operator. Service of a notice of probable violation may be conducted by standard U.S. mail, certified mail, hand delivery, or, if the operator consents to electronic service, electronic mail.

(c) Notice. Each notice of probable violation issued pursuant to subsection (b) shall include the following:

(1) A statement of each provision of statute, regulation, or commission order that the operator is alleged to have violated;

(2) a statement of the evidence upon which the allegations are made; and

(3) the recommended civil penalty or remedial action.

(d) Response to notice of probable violation. Within 30 days of receipt of a notice of probable violation, the operator shall respond by U.S. mail or electronic mail. Hard-copy responses shall be sent by U.S. mail to the commission's Topeka headquarters, gas pipeline safety section. Responses by electronic mail shall be electronically mailed to the address listed on the notice of probable violation. An operator's response to a notice of probable violation shall be made in at least one of the following ways:

(1) Submit written explanations, a statement of general denial, or other materials contesting the allegations. The written explanations, statements of general denial, or other materials contesting the allegations shall be verified by a signed statement from an authorized representative of the operator. An operator may verify the written explanations, statements of general denial, or other materials contesting the allegations with an electronic signature;

APPROVED

JUL 01 2020

DIVISION OF THE BUDGET

APPROVED

JUL 02 2020

DEPT. OF ADMINISTRATION

APPROVED

MAY 27 2021

ATTORNEY GENERAL

(2) submit a signed acknowledgment of commission staff's findings of violations or instances of noncompliance. An operator may verify its acknowledgment of commission staff's findings of violations or instances of noncompliance with an electronic signature from an authorized representative of the operator; or

(3) submit a signed proposal for the completion of any remedial action that addresses the commission staff's findings of violations or noncompliance. An operator may verify its proposal of remedial action with an electronic signature from an authorized representative of the operator.

(e) (e) Follow-up inspection. If the inspection specified in subsection (a) reveals any instances of noncompliance or violations ~~non-compliance~~, the inspector shall return to the operator's premises within 90 calendar days of the date of the inspection ~~evaluation letter~~, or as soon as is practicable, to perform a follow-up inspection. The inspector shall ~~re-inspect~~ reinspect the operator's system and record any ~~instance~~ instances of noncompliance or violations ~~non-compliance~~. A follow-up ~~audit-inspection evaluation letter~~ form shall then be sent to the operator ~~detailing~~ specifying any further action required by the operator.

(f) Amendment. Commission staff may amend a notice of probable violation at any time before the commission issues a civil penalty assessment. If an amendment includes any new material allegations of fact or proposes an increased civil penalty assessment or additional remedial action, the operator shall have 30 days from service of the amended notice of probable violation to respond in accordance with subsection (d).

(d) (g) Meeting with commission staff. If the inspector determines ~~on~~ during the follow-up inspection that the violations or instances of ~~non-compliance~~ noncompliance have not been corrected, the operator may be requested to attend an informal meeting at the commission offices

APPROVED

JUL 01 2020

DIVISION OF THE BUDGET

APPROVED

JUL 02 2020

DEPT. OF ADMINISTRATION

APPROVED

MAY 27 2021

ATTORNEY GENERAL

or by telephone to discuss the operator's violations or instances of noncompliance non-compliance with the minimum safety standards of this article of the commission's regulations, regulations adopted pursuant to K.S.A. 66-1,150 and amendments thereto, or any applicable regulation or commission order.

(h) Default admissions. Unless good cause is shown or a consent agreement is executed by commission staff and the operator before the expiration of the 30-day time limit specified in subsection (d), the failure of an operator to timely respond to a notice of probable violation shall constitute an admission to all factual allegations made by commission staff and may be used against the operator in future proceedings.

(i) Consent agreement. Commission staff and an operator may agree to modify a proposed civil penalty assessment or remedial action by joint execution of a consent agreement. Modifications to a civil penalty assessment may include a reduction in the civil penalty assessment or nonmonetary remedial action in lieu of monetary penalties. The consent agreement shall become effective if the commission issues an order approving the consent agreement. Each consent agreement shall include the following:

- (1) An admission by the operator of all jurisdictional facts;
- (2) an express waiver of any further procedural steps and of the right to seek judicial review or otherwise challenge or contest the validity of the commission's order approving the consent agreement;
- (3) an acknowledgment that the notice of probable violation may be used to construe the terms of the order approving the consent agreement; and

APPROVED

JUL 10 2020

DIVISION OF THE BUDGET

APPROVED

JUL 10 2020

DEPT. OF ADMINISTRATION

APPROVED

MAY 27 2021

ATTORNEY GENERAL

(4) a statement of the actions required of the operator and the date by which the actions shall be completed.

(j) Issuance of order. No sooner than 30 days after service of a notice of probable violation upon an operator, an order against an operator may be issued by the commission. The order may impose a monetary civil penalty or require the operator to undertake remedial action or impose any other obligation or combination thereof for violating the minimum safety standards as adopted by this article of the commission's regulations, regulations adopted pursuant to K.S.A. 66-1,150 and amendments thereto, or any regulation or commission order identified in the notice of probable violation.

(k) Time to remit payment for penalty assessment. If an operator does not request a hearing and the commission issues a penalty order, the operator shall remit payment for any civil penalty assessment imposed by the commission within 20 days of service of a penalty order imposing the civil penalty assessment.

(l) Orders and hearings. Each order issued pursuant to this article of the commission's regulations shall comply with K.A.R. 82-1-232. Any operator may request a hearing on an order issued pursuant to this article of the commission's regulations by filing a request for hearing with the commission within 15 days of service of the order. Each hearing shall be conducted in accordance the commission's rules of practice and procedure. Except for orders approving a consent agreement, each order issued by the commission pursuant to this article of the commission's regulations shall include information detailing how an operator may request a hearing. Failure to request a hearing within 15 days from service of an order shall be deemed an admission of the alleged violations or instances of noncompliance in the order.

APPROVED

MAY 07 2020

DIVISION OF THE BUDGET

APPROVED

MAY 11 2020

DEPT. OF ADMINISTRATION

APPROVED

MAY 27 2021

ATTORNEY GENERAL

(m) Show cause hearings. A show cause hearing may be held by the commission regarding violations or instances of noncompliance of regulations adopted pursuant to K.S.A. 66-1,150, and amendments thereto, or any regulation or commission order. If the commission issues a show cause order before or during the course of an investigation, the gas pipeline safety section of the commission shall not be required to issue a notice of probable violation before the commission issues an order regarding any actual or potential violations or instances of noncompliance.

~~(e) Show cause hearing. A show cause hearing may be held by the commission when all other reasonable measures have failed to produce operator compliance, or when the non-compliance presents an imminent danger to persons or property.~~

~~(f) (n) Waiver of procedures. The requirements of this regulation may be waived by the commission and an interim order issued pursuant to K.A.R. 82-1-232 if any violations or instance instances of non-compliance noncompliance with the safety standards of this article of the commission's regulations presents present a probable danger to persons or property.~~

(Authorized by and implementing K.S.A. 66-106 and 66-1,150 and 55-106; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended P-_____.)

APPROVED

FEB 24 2021

DIVISION OF THE BUDGET

APPROVED

FEB 25 2021

DEPT. OF ADMINISTRATION

APPROVED

MAY 27 2021

ATTORNEY GENERAL

82-11-7. Reporting requirements. (a) ~~Annual report.~~ Each operator subject to the jurisdiction of the commission shall submit, in duplicate, an annual report for each calendar year. This report shall be submitted on forms as prescribed by K.A.R. 82-11-3.

(b) ~~Incident reports.~~

(1) ~~Each operator shall notify the gas pipeline safety section by telephone within two hours following discovery of any incident within their certified areas or operating areas. If an incident occurs outside the commission's working hours of 7:50 a.m. through 4:50 p.m., Monday through Friday, or on a holiday, the operator shall contact an employee of the gas pipeline safety section. A list of these employees and their telephone numbers shall be provided by the commission to each operator.~~

(2) ~~One copy of each written incident report shall be transmitted by the gas pipeline safety section within 10 business days of receipt to the information systems manager, materials transportation bureau, office of pipeline safety, pipeline and hazardous materials safety administration, U.S. department of transportation.~~

(c) Small gas operators.

(1) Each small gas operator shall notify the gas pipeline safety section when the small gas operator has contracted with a consultant to perform a survey or inspection in order to comply with the minimum safety standards. Each small gas operator shall forward electronic or written notice indicating the probable month of the inspection or survey at the time the consultant is authorized to conduct the survey or inspection. In addition, each small gas operator shall forward electronic or written notice to the gas pipeline safety section at least 10 business days before the survey or inspection is to be conducted by the consultant. The form for each type

APPROVED

MAY 07 2020

APPROVED

MAY 11 2020

APPROVED

NOV 06 2020

of notification shall be available from the gas pipeline safety section. Written notices shall be mailed to the commission's Topeka, Kansas office, attention: pipeline safety division. Electronic notices shall be electronically mailed to the address listed on the commission-provided form.

(2) Each small gas operator shall maintain complete records relating to the gas system for the life of the system for the purposes of ensuring compliance with the minimum safety standards. Each record shall be made available when an inspector conducts a field inspection.

(d) ~~(b)~~ Construction notices. Each operator shall submit to the gas pipeline safety section electronic notice or written notice, on commission-supplied forms, using a format substantially similar to the form posted on the commission's web site, at least 10 business days before the commencement of the construction project. Construction notices for each project not started by year-end or in progress at year-end shall be resubmitted to the commission for the subsequent year. Electronic notices shall be electronically mailed to the address listed on the form posted on the commission's web site. Written notices shall be mailed to the commission's Topeka, Kansas office, attention: pipeline safety division. (Authorized by and implementing K.S.A. 66-1,150; effective, T-82-10-28-88, Oct. 28, 1988; effective, T-82-2-25-89, Feb. 25, 1989; revoked, T-82-3-31-89, April 30, 1989; effective May 1, 1989; amended Jan 25, 2008; amended P-_____.)

APPROVED

MAY 07 2020

DIVISION OF THE BUDGET

APPROVED

MAY 07 2020

DIVISION OF THE BUDGET

APPROVED

MAY 11 2020

DEPT. OF ADMINISTRATION

APPROVED

NOV 06 2020

ATTORNEY GENERAL

82-11-10. Drug and alcohol testing. The federal regulations titled “drug and alcohol testing,” 49 C.F.R. Part 199 as in effect October 1, 2010 2018, excluding sections labeled “reserved,” are hereby adopted by reference only as they apply to operators of pipeline facilities that deal in the transportation of natural gas by pipeline, with the following modifications:

(a) All references to “DOT agency” shall be replaced with “federal or state agency.”

(b) 49 C.F.R. 199.1 shall be deleted and replaced by the following: “This regulation requires operators of pipeline facilities subject to K.A.R. 82-11-4 to test covered employees for the presence of prohibited drugs and alcohol.”

~~(c)~~(b) 49 C.F.R. 199.2 shall be deleted and replaced by the following:

“(a) This part applies to operators of intrastate natural gas pipelines within the state of Kansas.

“(b) This part does not apply to covered functions performed on:

“(1) Master meter systems, as defined in K.A.R. 82-11-3; or

“(2) pipeline systems that transport only petroleum gas or petroleum gas/air mixtures.”

~~(d)~~(e) 49 C.F.R. 199.3 shall be deleted and replaced by the following: “As used in this part:

“(a) ‘accident’ means an incident involving gas pipeline facilities or liquefied natural gas facilities reportable under K.A.R. 82-11-3;

“(b) ‘administrator’ means the Administrator, Pipeline and Hazardous Materials Safety Administration ~~or the state corporation commission of the state of Kansas;~~

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JUN 25 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

APPROVED

JUN 24 2021

DIVISION OF THE BUDGET

“(c) ‘covered employee, employee, or individual to be tested’ means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors;

“(d) ‘covered function’ means an operations, maintenance, or emergency response function regulated by K.A.R. 82-11-4 and K.A.R. 82-11-8 that is performed on a pipeline or on a liquefied natural gas facility;

“(e) ‘DOT Procedures’ means the Procedures for Transportation Workplace Drug and Alcohol Testing Programs published by the Office of the Secretary of Transportation in 49 C.F.R. Part 40 as in effect on October 1, 2018;

“(f) ‘fail a drug test’ means that the confirmation test results show positive evidence under DOT Procedures of a prohibited drug in the employee's system;

“(g) ‘operator’ means a person who owns or operates pipeline facilities subject to K.A.R. 82-11-1, ~~et seq.~~ through K.A.R. 82-11-11;

“(h) ‘pass a drug test’ means that initial ~~testimony~~ testing or confirmation testing under DOT Procedures does not show evidence of the presence of a prohibited drug in the person's system;

“(i) ‘performs a covered function’ includes actually performing, ready to perform, or immediately available to perform a covered function;

“(j) ‘positive rate for random drug testing’ means the number of verified positive results for random drug tests conducted under this part plus the number of refusals of random drug tests required by this part, divided by the total number of random drug tests results (i.e., positives, negatives, and refusals) under this part;

APPROVED

JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

“(k) ‘prohibited drug’ means any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. § 812 -- marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP);

“(l) ‘refuse to submit, refuse, or refuse to take’ means behavior consistent with DOT Procedures concerning refusal to take a drug test or refusal to take an alcohol test;

“(m) ‘state agency’ means the state corporation commission of the state of Kansas.”

(e) 49 C.F.R. 199.5 shall be deleted and replaced by the following: “The antidrug and antialcohol programs required by this part shall be conducted according to the requirements of this part and K.A.R. 82-4-3b. Terms and concepts used in this part shall have the same meaning as in K.A.R. 82-4-3b. Violations of K.A.R. 82-4-3b with respect to antidrug and antialcohol programs required by this part shall be violations of this part.”

(f)(d) 49 C.F.R. 199.7 shall be deleted and replaced by the following:

“(a) Each operator who seeks a waiver under 49 C.F.R. 40.21 from the stand-down restriction ~~must~~ shall submit an application for waiver in duplicate to the gas pipeline safety section of the state corporation commission of Kansas agency and the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001;

“(b) If the applicant is granted a waiver pursuant to 49 C.F.R. 40.21, a copy of the waiver shall be submitted to the gas pipeline safety section of the state agency. Each application must:

~~“(1) Identify 49 C.F.R. 40.21 as the rule from which the waiver is sought;~~

~~“(2) Explain why the waiver is requested and describe the employees to be covered by the waiver;~~

APPROVED

JUN 24 2021

DIVISION OF THE BUDGET

APPROVED

JUN 25 2021

DEPT. OF ADMINISTRATION

APPROVED

AUG 04 2021

ATTORNEY GENERAL

~~“(3) Contain the information required by 49 C.F.R. 40.21 and any other information or arguments available to support the waiver requested; and~~

~~“(4) Unless good cause is shown in the application, be submitted at least 60 days before the proposed effective date of the waiver.~~

~~“(e) No public hearing or other proceeding is held directly on an application before its disposition under this section. If the Associate Administrator determines that the application contains adequate justification, the Associate Administrator grants the waiver. If the Associate Administrator determines that the application does not justify granting the waiver, the Associate Administrator denies the application. The Associate Administrator notifies each applicant of the decision to grant or deny an application.”~~

“(c) Each operator who seeks a waiver under 49 C.F.R. 40.21 from the stand-down restriction shall provide the gas pipeline safety section of the commission a copy of the associate administrator’s decision regarding the waiver within 10 days from the date the operator receives the associate administrator’s decision.”

~~(g)(e)~~ 49 C.F.R. 199.9 shall be deleted.

~~(h)(f)~~ 49 C.F.R. 199.100 shall be deleted and replaced by the following: “The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform covered functions for operators of certain pipeline facilities subject to K.A.R. 82-11-4.”

(i) 49 C.F.R. 199.101(b) shall be deleted and replaced with the following: “After notice and opportunity for hearing as provided in 49 C.F.R. 190.206 or K.A.R. 82-11-6, K.A.R. 82-1-230, and K.A.R. 82-1-232(b), the associate administrator or the state agency, with respect to

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JUN 14 2021

APPROVED

JUN 15 2021

APPROVED

AUG 04 2021

pipeline facilities governed by an operator's plans and procedures may require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety."

(g) ~~49 C.F.R. 199.200 shall be deleted and replaced by the following: "The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform covered functions for operators of certain pipeline facilities subject to K.A.R. 82-11-4."~~

(j) The last sentence in 49 C.F.R. 199.225(b)(4)(i) shall be deleted and replaced with the following: "Records shall be submitted to PHMSA upon request of the administrator or the gas pipeline safety section upon request from the staff of the gas pipeline safety section of the state agency."

(k) 49 C.F.R. 199.229(d) shall be deleted and replaced with the following: "A service agent (e.g., Consortia/Third Party Service Administrator as defined in 49 C.F.R. Part 40.3) may prepare the MIS report on behalf of an operator. However, each report shall be certified by the operator's antidrug manager or designated representative for accuracy and completeness."

(Authorized by and implementing K.S.A. 66-1,150; effective April 16, 1990; amended March 12, 1999; amended July 7, 2003; amended June 26, 2009; amended Aug. 5, 2011; amended P-_____.)

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JUN 14 2021

DIVISION OF THE BUDGET

APPROVED

JUN 15 2021

DEPT. OF ADMINISTRATION

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AUG 04 2021

ATTORNEY GENERAL

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Corporation Commission
Agency

Cole Bailey
Agency Contact

(785) 271-3186
Contact Phone Number

K.A.R. 82-11-2
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The proposed amendments to K.A.R. 82-11-2 clarify the procedural hierarchy at the Kansas Corporation Commission (Commission). The current regulation indicates Commission Staff enforce the regulations adopted by the Commission. The Commission itself enforces its regulations. Commission Staff investigate alleged violations of pipeline safety standards and may bring enforcement actions before the Commission to consider.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

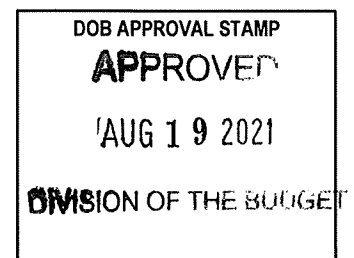
This regulation is part of the Kansas Natural Gas Pipeline Safety regulations which adopts and establishes rules and regulations as may be necessary to comply with the U.S. Natural Gas Pipeline Safety Act of 1968 (U.S.C. § 60101 et.seq.) See, K.S.A. 66-1,150(a).

The federal government does not mandate K.A.R. 82-11-2 or the proposed amendments. However, other Commission regulations stem from federal mandates. For example, pursuant to 49 U.S.C. § 60107, states that certify their authority over safety standards related to intrastate pipeline facilities and transportation may receive federal grants that cover up to 80 percent of compliance-related costs. While not mandated, K.A.R. 82-11-2's enforcement clarification supports Kansas' certification over safety standards related to intrastate pipeline facilities and transportation.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The proposed amendments to K.A.R. 82-11-2 should have no impact on enhancing or restricting business activities or growth.



- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;**

The proposed amendments to K.A.R. 82-11-2 should have no economic effect (i.e. implementation or compliance costs) that could impact specific businesses, sectors, public utility ratepayers, individuals, and local governments.

- C. Businesses that would be directly affected by the proposed rule and regulation;**

The proposed amendments to K.A.R. 82-11-2 clarify the enforcement hierarchy at the Commission and should not directly affect any particular business or businesses.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;**

The proposed amendments to K.A.R. 82-11-2 help clarify the Commission and its Staff's role in enforcing pipeline safety standards. This benefits Kansas by outlining a clear enforcement framework. There are no costs necessary to implement this framework and clarification.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;**

The proposed amendments to K.A.R. 82-11-2 should result in no cost or impact on business or economic development within Kansas. Accordingly, the proposed amendments result is as minimal approach as possible to clarifying the Commission and Commission Staff's role in pipeline-related enforcement proceedings.

- F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

\$0.00

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The proposed cost estimate reflects clarified roles and responsibilities detailed in the proposed amendments to K.A.R. 82-11-2. Because these amendments are limited to clarifying existing roles, there is no cost associated with the proposed amendments. Likewise, there is no data or methodology that would enable calculating an estimate of implementation or compliance costs for these clarifications.

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AUG 19 2021
DIVISION OF THE BUDGET

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

The proposed amendments to K.A.R. 82-11-2 do not increase or decrease revenues of cities, counties or school districts. Likewise, the regulation does not impose functions or responsibilities on the aforementioned entities that would otherwise increase expenditures or fiscal liabilities.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

Commission Staff has invited businesses (i.e. public utilities or pipeline operators subject to the Commission's jurisdiction), applicable business associations, governmental bodies, and associated parties with an interest affected by the Commission's proposed regulations to submit comments on the proposals. Additionally, the proposed regulations have been posted on the Commission's website and assigned their own docket number for public inspection.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

This section is not applicable because the proposed regulations are not environmental rules and regulations.

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AUG 19 2021

DIVISION OF THE BUDGET

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Corporation Commission
Agency

Cole Bailey
Agency Contact

(785) 271-3186
Contact Phone Number

K.A.R. 82-11-3 and K.A.R. 82-11-4
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The proposed amendments to K.A.R. 82-11-3 and K.A.R. 82-11-4 update the regulations' adoption of relevant federal regulations to 2018 editions. Specifically, K.A.R. 82-11-3 adopts 49 C.F.R. Part 191 and K.A.R. 82-11-4 adopts 49 C.F.R. Part 192. The proposed amendments are necessary to ensure Kansas' pipeline regulations appropriately mirror their federal counterparts.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

This regulation is part of the Kansas Natural Gas Pipeline Safety regulations which adopts and establishes rules and regulations as may be necessary to comply with the U.S. Natural Gas Pipeline Safety Act of 1968 (U.S.C. § 60101 *et. seq.*) See K.S.A. 66-1,150(a).

49 U.S.C. § 60105(a) permits Kansas to retain jurisdiction over safety standards and practices for intrastate pipeline facilities and intrastate pipeline transportation to the extent such standards and practices are regulated by a state authority so long as the state authority submits certification in compliance with 49 U.S.C § 60105(b)-(c). Part of the certification process is the state must adopt applicable standards prescribed under 49 U.S.C. Chapter 601. Pursuant to 49 U.S.C. § 60107, States who have certified their jurisdiction and authority over safety standards related to intrastate pipeline facilities and transportation may receive federal grants to cover up to 80 percent of Kansas' compliance-related costs.

The reporting requirements outlined in 49 C.F.R. Part 191, as adopted by K.A.R. 82-11-3, are necessary for the Commission to certify its jurisdiction over safety standards and practices for intrastate pipeline facilities and intrastate pipeline transportation. Likewise, the minimum federal safety standards detailed in 49 C.F.R. Part 192, as adopted by K.A.R. 82-11-4, are necessary for the Commission to certify its jurisdiction over safety standards and practices for intrastate pipeline facilities and intrastate pipeline transportation. For completeness, the attached Attachment 1 highlights which Kansas regulations are more stringent than federal counterparts or neighboring states.

DOB APPROVAL STAMP

APPROVED

AUG 19 2021

DIVISION OF THE BUDGET

Because of a series of events in the late 1980s, Kansas expanded on regulations applicable to intrastate natural gas pipelines. The Kansas approach of adopting more stringent regulations to address statewide concerns and provide for the public safety is a common approach taken by state pipeline safety programs. A comparison of state regulation to federal regulation was completed in 2013 by the National Association of Pipeline Safety Representatives and can be accessed at www.napsr.org. In addition to pipeline safety regulatory changes, the compendium contains safety initiatives public utility commissions across the nation have taken to improve safety for natural gas public utilities.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

Of the 116 entities that operate the 33,000 miles of intrastate natural gas pipelines jurisdictional to the Commission, 65 are public utilities which operate 99% of the jurisdictional mileage. The regulations should have no impact on enhancing or restricting business activities or growth because the costs to implement the proposed rules and regulations are contained within the public utilities' cost of service. The costs to perform necessary pipeline safety practices is recovered from ratepayers as a prudent operating expense.

The remaining pipeline operators are commercial entities that have built short pipelines to connect directly to interstate transmission pipelines to purchase natural gas. Because the affected entities are transporting natural gas, the pipeline operation is regulated for safety either by the Commission's safety program or the federal government. The cost of pipeline safety regulation for commercial interests is considered a minor cost when compared to the cost of constructing, operating, and maintaining a pipeline. Therefore, the rules and regulations are not considered a hindrance to business growth that desires or needs this degree of natural gas service.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

Commission staff does not believe adopting the proposed amendments will affect the Kansas economy. The main sector directly impacted by pipeline safety regulations is the public utility sector, particularly the companies or institutions responsible for operating natural gas distribution facilities. This may include large investor owned utilities, smaller municipal operated distribution systems, and commercial customers directly connected to interstate pipelines. Implementing pipeline safety regulations carry with them compliance costs in order to provide safe, efficient, and reliable service to Kansas consumers. Because natural gas in transportation must be transported through public spaces, pipeline safety regulations also provide safety for the general public.

DOB APPROVAL STAMP

APPROVED

AUG 19 2021

DIVISION OF THE BUDGET

It is difficult or impossible to quantify an economic effect of natural gas safety-related regulations. In the case of K.A.R. 82-11-3 and K.A.R. 82-11-4, the proposed revisions update Kansas' adoption of federal regulations while maintaining Kansas-specific provisions. Despite this update, the proposed amendments result in regulations that largely mirror existing Kansas law. In the case of K.A.R. 82-11-3, a large portion of the reporting requirements contained in 49 C.F.R. Part 191, as adopted by K.A.R. 82-11-3, have been in place since the early 2000s. The proposed amendments capture changes related to liquefied natural gas and underground storage facilities that occurred since K.A.R. 82-11-3 was last amended. In the case of K.A.R. 82-11-4, a significant portion of the federal regulation is amended to create Kansas-specific minimum safety standards. Commission Staff is not proposing amendments to the Kansas-specific portions.

Because the proposed amendments result in a regulatory scheme that largely mirrors Kansas' present regulatory environment, Commission Staff does not foresee public utilities or affected entities incurring significant, if any, compliance costs with the proposed amendments to K.A.R. 82-11-3 or K.A.R. 82-11-4. On the other hand, maintaining a safe and reliable natural gas distribution network benefits Kansas' economy. While it is impossible to determine the economic impact of a natural gas incident not occurring, the absence of natural gas incidents should only aid in expanding economic growth in the state.

C. Businesses that would be directly affected by the proposed rule and regulation;

All Kansas public utilities providing natural gas service along with a small number of commercial customers operating private pipelines. Most notably, natural gas local distribution companies and pipeline operators. Pipeline operators include municipal natural gas utilities, cooperatives, and gas gathering companies.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The benefits of the proposed rules and regulations are safe utility operating systems and infrastructure. The primary benefits are not directly observable. It is difficult to quantify the cost of a natural gas incident, fire, or explosion not occurring. Because Kansas has had pipeline safety regulations since the early 1970s, the incremental costs to public utilities for the proposed revisions are minimal. Pipeline operators have already implemented compliance programs based on Kansas' existing regulatory structure. Updating these regulations to more current federal revisions does not materially affect these compliance programs.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

Kansas' adoption of federal pipeline safety regulations is as abbreviated as necessary to maximize federal grants for assuming jurisdiction over pipeline safety enforcement. To minimize regulatory costs to operators and to promote public safety, Commission Staff implements training sessions for small operators and holds an annual seminar to inform the regulated community of any new federal or state requirements.

DOB APPROVAL STAMP

APPROVED

AUG 19 2021

DIVISION OF THE BUDGET

- F. **An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

\$0.00

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

Quantifying safety-related costs in public utility operations is difficult. From the data Commission Staff gathered in preparation of this economic analysis, Staff developed a rate of \$48/meter/year as a normalized cost of pipeline safety compliance for large public utilities. On an annual basis, this equals approximately \$46.3 million in safety compliance costs. However, this cost estimate resembles, to the best of Staff's knowledge and belief, all safety and compliance costs. This cost includes complying with Kansas' regulations as they exist today, not the incremental cost of the proposed amendments.

The amendments proposed by the Commission's Staff, on an incremental basis, have little to no cost to implement. If Kansas did not assume jurisdiction over pipeline safety, the federal government would require public utilities to comply with the same federal pipeline safety regulations proposed to be adopted or updated. For example, the amendments to K.A.R. 82-11-3 and K.A.R. 82-11-4 update the version of federal regulations the Commission adopts by reference. Regardless of the adopting authority, pipelines and their operators are required to maintain and operate their systems safely. Accordingly, there is no incremental cost to adopting these regulations as pipelines and pipeline operators would be required to follow substantially similar rules regardless.

There are two scenarios where incremental costs may occur. First is where Kansas proposes implementing a new requirement over and above a minimum federal requirement. Second is where Kansas proposes amending a Kansas-specific requirement. No revisions of this nature are included in the proposed amendments to K.A.R. 82-11-3 or K.A.R. 82-11-4. Given the nature of the amendments proposed by Commission Staff, Staff does not believe there is an incremental cost associated with their adoption. On a final note, in the event Kansas did not assume jurisdiction over intrastate pipeline safety, the federal minimum standards would apply without any Kansas-specific provisions.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

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AUG 19 2021
DIVISION OF THE BUDGET

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

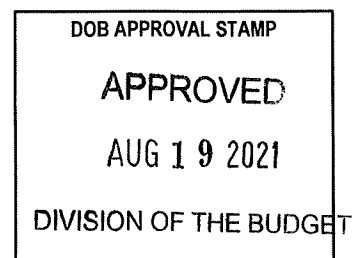
The proposed amendments to K.A.R. 82-11-3 and K.A.R. 82-11-4 do not increase or decrease revenues of cities, counties or school districts. The amendments are necessary to incorporate updated minimum safety standards promulgated by the federal government. Specifically, the amendments to K.A.R. 82-11-3 are necessary to incorporate reporting requirements of liquefied natural gas facilities and underground natural gas storage operations. Commission Staff is unaware of any city, county or school district engaged in the operation of liquefied natural gas plants or underground natural gas storage facilities. Likewise, the amendments to K.A.R. 82-11-4 are necessary to adopt more recent federal minimum safety standards. As noted above, affected interests must comply with these standards regardless of the adopting entity. By adopting the proposed amendments at the state level, Kansas retains state-specific safety standards as well as jurisdiction over compliance and enforcement. The proposed regulation does not impose functions or responsibilities on the aforementioned entities that would otherwise incrementally increase expenditures or fiscal liabilities.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

Commission Staff has invited businesses (i.e. public utilities or pipeline operators subject to the Commission's jurisdiction), applicable business associations, governmental bodies, and associated parties with an interest affected by the Commission's proposed regulations to submit comments on the proposals. Additionally, the proposed regulations were posted on the Commission's website and assigned their own docket number for public inspection.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

This section is not applicable because the proposed regulations are not environmental rules and regulations.



**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Corporation Commission
Agency

Cole Bailey
Agency Contact

(785) 271-3186
Contact Phone Number

K.A.R. 82-11-6
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The proposed amendments to K.A.R. 82-11-6 establish a uniform procedural framework for enforcing Kansas' pipeline safety standards and other safety-related proceedings. Specifically, the Kansas Corporation Commission (Commission) is responsible for enforcing the Kansas Underground Utility Damage Prevention Act (KUUDPA). Though similar in nature (i.e. safety-related regulations), enforcement actions brought under Kansas' pipeline safety standards differ procedurally from KUUDPA enforcement actions. The proposed amendments to K.A.R. 82-11-6 refine pipeline safety procedures to mirror those, as much as applicable, to KUUDPA procedures.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

This regulation is part of the Kansas Natural Gas Pipeline Safety regulations which adopts and establishes rules and regulations as may be necessary to comply with the U.S. Natural Gas Pipeline Safety Act of 1968 (U.S.C. § 60101 *et. seq.*) See K.S.A. 66-1,150(a).

49 U.S.C. § 60105(a) permits Kansas to retain jurisdiction over safety standards and practices for intrastate natural gas pipeline facilities (to the extent such standards and practices are regulated by a state authority) so long as the state authority submits certification in compliance with 49 U.S.C § 60105(b)-(c). As part of this certification process, Kansas must adopt applicable standards prescribed by the U.S. Department of Transportation under the authority of 49 U.S.C. Chapter 601. Pursuant to 49 U.S.C. § 60107, states who have certified their jurisdiction and authority over safety standards related to intrastate natural gas pipeline facilities may receive federal grants to cover up to 80 percent of Kansas' compliance-related costs.

The proposed amendments to K.A.R. 82-11-6 create a more uniform enforcement system at the Commission. The proposed amendments to K.A.R. 82-11-6 ensure enforcement actions brought under other regulations (adopted to receive federal grants) are conducted similar to other Commission proceedings.

DOB APPROVAL STAMP
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AUG 19 2021
DIVISION OF THE BUDGET

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

This proposed regulation should have no impact on enhancing or restricting business activities or growth. Restructuring Kansas' pipeline safety proceedings to more closely mirror other proceedings at the Commission (e.g. KUUDPA proceedings) should aid in streamlining Commission operations. Though Commission Staff does not consider this an "enhancement," a predictable procedural framework at the Commission may provide more regulatory certainty to jurisdictional entities.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

The Commission does not anticipate the proposed amendments to K.A.R. 82-11-6 will have any economic effect (i.e. implementation or compliance costs). The proposed regulation brings uniformity to Commission proceedings. As such, the proposed regulation should not result in additional implementation or compliance costs. Costs incurred from the execution of K.A.R. 82-11-6 result from enforcement of other Kansas regulations – not K.A.R. 82-11-6 specifically.

C. Businesses that would be directly affected by the proposed rule and regulation;

Businesses, pipelines or pipeline operators who allegedly violate Kansas' pipeline safety standards may be directly affected by the regulation in the event an enforcement action is brought against the alleged violator.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The proposed amendments to K.A.R. 82-11-6 modify pipeline safety enforcement procedures to resemble, as much as practicable, KUUDPA enforcement procedures. Maintaining a uniform procedural framework should benefit entities appearing before the Commission. This is because there can be substantial overlap regarding entities subject to both pipeline safety and KUUDPA regulations. As such, operating under one procedural framework for both proceedings should aid in increasing administrative efficiency at the Commission. There are no costs to implement this procedural framework.

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AUG 19 2021

DIVISION OF THE BUDGET

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;**

The proposed regulation creates, as much as practicable, uniform enforcement processes and procedures for similarly situated safety regulations. As such, it establishes a more unified procedural framework at the Commission. This framework should reduce costs on businesses in the event they must appear before the Commission in a pipeline safety-related proceeding.

- F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

\$0.00

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The proposed cost estimate reflects the fact that the procedural framework mirrors established Commission processes in other proceedings (e.g. KUUDPA actions). As such, there should be no additional costs associated with adopting this framework.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

The proposed amendments to K.A.R. 82-11-6 do not increase or decrease revenues of cities, counties or school districts. Likewise, the regulation does not impose functions or responsibilities on the aforementioned entities that would otherwise increase expenditures or fiscal liabilities.

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AUG 19 2021
DIVISION OF THE BUDGET

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

Commission Staff has invited businesses (i.e. public utilities or pipeline operators subject to the Commission's jurisdiction), applicable business associations, governmental bodies, and associated parties with an interest affected by the Commission's proposed regulation to submit comments on the proposal. Additionally, the proposed regulation was posted on the Commission's website and assigned its own docket number for public inspection.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

This section is not applicable because the proposed regulations are not environmental rules and regulations.

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AUG 19 2021

DIVISION OF THE BUDGET

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Corporation Commission
Agency

Cole Bailey
Agency Contact

(785) 271-3186
Contact Phone Number

K.A.R. 82-11-7
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

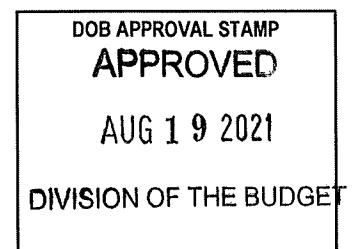
Amendments to K.A.R. 82-11-7 strike a redundant regulatory provision. The annual and incident reporting requirements struck from K.A.R. 82-11-7 are contained and adopted by reference in K.A.R. 82-11-3 or are already required from pipeline operators pursuant to 49 C.F.R. Part 191.5. In addition, the proposed amendments to K.A.R. 82-11-7 require natural gas pipeline operators to resubmit construction notices for a project(s) if the project(s) has not been started or has been started but not yet completed (i.e. in progress) by year-end.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

This regulation is part of the Kansas Natural Gas Pipeline Safety regulations which adopts and establishes rules and regulations as may be necessary to comply with the U.S. Natural Gas Pipeline Safety Act of 1968 (U.S.C. § 60101 *et. seq.*) See K.S.A. 66-1,150(a).

49 U.S.C. § 60105(a) permits Kansas to retain jurisdiction over safety standards and practices for intrastate natural gas pipeline facilities (to the extent such standards and practices are regulated by a state authority) so long as the state authority submits certification in compliance with 49 U.S.C § 60105(b)-(c). As part of this certification process, Kansas must adopt applicable standards prescribed by the U.S. Department of Transportation under the authority of 49 U.S.C. Chapter 601. Pursuant to 49 U.S.C. § 60107, States who have certified their jurisdiction and authority over safety standards related to intrastate natural gas pipeline facilities may receive federal grants that cover up to 80 percent of Kansas' compliance-related costs.

Because a separate Kansas Corporation Commission (Commission) regulation adopts annual and incident reporting requirements, the redundant recitation of these requirements may be struck from K.A.R. 82-11-7. The construction notice resubmission amendment is not mandated by the federal government.



III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The proposed amendments to K.A.R. 82-11-7 should have minimal, if any, effect restricting business activities or growth. The stricken portions of the regulation are redundant and already adopted in a separate regulation. Additionally, pipeline operators are familiar with the process of submitting construction notices to the Commission because operators are currently required to submit such notices at least 10 business days before starting a construction project. Requiring operators to resubmit construction notices for projects not yet started or completed at year-end will aid in determining which projects remain outstanding. Because operators are already familiar with submitting construction notices, any additional submissions should require minimal effort from an operator. Additionally, enabling the electronic submission of construction notices (as proposed in the regulation) will streamline business operations and possibly enhance business activities and growth.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

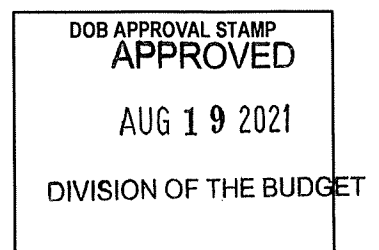
The Commission does not anticipate an economic impact resulting from the adoption of the proposed amendments to K.A.R. 82-11-7. The regulation strikes a redundant reporting requirement, which should have no economic impact. The regulation requires follow-up construction notices in limited circumstances. Requiring operators to provide updates regarding ongoing construction projects should not result in additional implementation or compliance costs as operators are already submitting construction notices prior to commencing construction.

C. Businesses that would be directly affected by the proposed rule and regulation;

All Kansas public utilities providing natural gas service along with a small number of commercial customers operating private pipelines. Most notably, natural gas local distribution companies and pipeline operators. Pipeline operators include municipal natural gas utilities, cooperatives, and gas gathering companies.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The proposed amendments to K.A.R. 82-11-7 allow the Commission and its staff to account for construction projects undertaken by pipeline operators that have extended construction timelines. As such, the Commission and its staff will be able to identify projects posing unique challenges to operators and inquire as to why the construction of additional facilities is (potentially) taking extended time to complete. The costs to implement this regulation are minimal because pipeline operators are already familiar with submitting construction notices. In essence, the knowledge and understanding gained from additional notice submissions outweighs the opportunity cost associated with resubmitting a construction notice.



E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The proposed amendments to K.A.R. 82-11-7 strike annual and incident reporting requirements. This amendment will have no cost and impact on business and economic development within the state, or on local governments and officials. This is because the reporting requirement is already present in another regulation. The additional construction notice requirements utilize a calendar year cutoff date to minimize the number of projects that would need to be noticed. Phrased differently, the regulation only requires one additional notice submission per year, and only in the event a pipeline operator has an ongoing construction project(s) subject to the notice requirement.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0.00

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

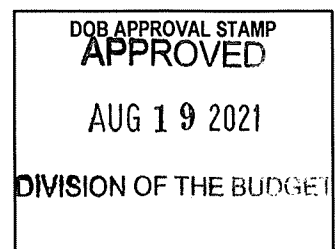
YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The proposed cost estimate reflects the fact that the construction notice requirement simply requires the operator resubmit a previously submitted construction notice. As such, there should be no additional costs associated with preparing the construction notice.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒



- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

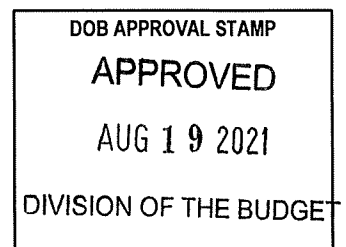
The proposed regulation strikes redundant reporting requirements and requires the resubmission of a previously filed construction notice if a construction project has not been started or completed at the end of the calendar year. Because the construction notice would already be prepared and submitted (as required under the current regulation) any resubmission should neither increase nor decrease the revenues of any entity that may fall under the definition of an operator.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

Commission Staff has invited businesses (i.e. public utilities or pipeline operators subject to the Commission's jurisdiction), applicable business associations, governmental bodies, and associated parties with an interest affected by the Commission's proposed regulations to submit comments on the proposals. Additionally, the proposed regulations have been posted on the Commission's website and assigned their own docket number for public inspection.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

This section is not applicable because the proposed regulations are not environmental rules and regulations.



**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Corporation Commission
Agency

Cole Bailey
Agency Contact

(785) 271-3186
Contact Phone Number

K.A.R. 82-11-10
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The proposed amendments to K.A.R. 82-11-10 update drug and alcohol testing requirements. Presently, Kansas' pipeline-related drug and alcohol regulation adopts by reference a 2010 federal regulation. The proposed amendments update this adoption to the 2018 version of the federal regulation.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. *(If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)*

This regulation is part of the Kansas Natural Gas Pipeline Safety regulations which adopts and establishes rules and regulations as may be necessary to comply with the U.S. Natural Gas Pipeline Safety Act of 1968 (U.S.C. § 60101 *et. seq.*) See K.S.A. 66-1,150(a).

49 U.S.C. § 60105(a) permits Kansas to retain jurisdiction over safety standards and practices for intrastate pipeline facilities and intrastate pipeline transportation to the extent such standards and practices are regulated by a state authority so long as the state authority submits certification in compliance with 49 U.S.C § 60105(b)-(c). As part of this certification process, Kansas must adopt applicable standards prescribed under 49 U.S.C. Chapter 601. Pursuant to 49 U.S.C. § 60107, States who have certified their jurisdiction and authority over safety standards related to intrastate pipeline facilities and transportation may receive federal grants to cover up to 80 percent of Kansas' compliance-related costs.

49 C.F.R. § 199.1 makes 49 C.F.R. Part 199 applicable to operators and pipeline facilities subject to 49 C.F.R. Part 192, 193 or 195. K.A.R. 82-11-4 adopts 49 C.F.R. Part 192. As such, Kansas' certification under 49 U.S.C. § 60105 requires Kansas adopt drug and alcohol testing requirements contained within 49 C.F.R. Part 199 to be eligible for certain federal grants.

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DIVISION OF THE BUDGET

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

This proposed regulation should have minimal, if any, affect enhancing or restricting business activities or growth. Kansas has long required pipeline operators to comply with federal regulations related to drug and alcohol testing. Presently, Kansas' operators must comply with a 2010 version of federal drug and alcohol testing requirements. The proposed amendments to K.A.R. 82-11-10 update Kansas' adoption of a federal regulation to a more current version.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

There is no anticipated economic impact resulting from the adoption of this proposed regulation. The proposed amendments to K.A.R. 82-11-10 ensure Kansas' adoption of drug and alcohol testing mirrors more current versions of federal law. Due to the long history of Kansas and the federal government requiring such drug and alcohol testing programs, pipeline operators today have designed their operations to comply with these requirements.

C. Businesses that would be directly affected by the proposed rule and regulation;

All Kansas public utilities providing natural gas service along with a small number of commercial customers operating private pipelines. Most notably, natural gas local distribution companies and pipeline operators. Pipeline operators include municipal natural gas utilities, cooperatives, and gas gathering companies.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The proposed amendments to K.A.R. 82-11-10 ensure Kansas operators and the public are protected from pipeline safety related incidents. Mandating pipeline operators implement appropriate drug testing and verification programs helps guarantee pipeline systems are operated and maintained in a safe manner. The costs to implement this regulation are minimal because pipeline operators are already familiar with implementing these programs. Presently, Kansas' pipeline operators must comply with a 2010 version of federal drug and alcohol testing requirements. The proposed regulation adopts a more current version of this federal regulation, but the underpinnings of the regulation have not undergone substantive revisions since the 2010 version was adopted.

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AUG 19 2021

DIVISION OF THE BUDGET

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The proposed regulation's drug and alcohol testing requirements have no incremental cost and impact on business and economic development within the state, or on local governments and officials. Pipeline operators must today implement drug and alcohol testing programs. Adopting a more current version of this regulation will not change or significantly alter programs presently implemented.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0.00

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The proposed cost estimate reflects the fact that pipeline operators are presently required to implement drug and alcohol testing programs. The Commission's staff does not believe implementing a more current version of a federal regulation (which created this requirement) will cause additional costs to be incurred. Additionally, because of this pre-existing requirement Commission staff believes it is impossible to develop a methodology to accurately capture incremental costs associated with updating this regulation.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

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AUG 19 2021

DIVISION OF THE BUDGET

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

Because pipeline operators must presently implement drug and alcohol testing procedures, updating this regulation to incorporate a more current version of a federal regulation should neither increase nor decrease the revenues of any entity that may fall under the definition of an operator.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

Commission Staff has invited businesses (i.e. public utilities or pipeline operators subject to the Commission's jurisdiction), applicable business associations, governmental bodies, and associated parties with an interest affected by the Commission's proposed regulations to submit comments on the proposals. Additionally, the proposed regulations have been posted on the Commission's website and assigned their own docket number for public inspection.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

This section is not applicable because the proposed regulations are not environmental rules and regulations.

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