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MEMORANDUM

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TO: Docket Control

FROM: Caroline Butler

DATE: March 26, 2002

RE: Notice of Final Rulemaking
Register, Vol. 8, Issue 11, Pages 971-73, March 15, 2002
 Letter from AG Janet Napolitano
 RG-00000A-00-0683

AZ CORP COMMISSION
DOCUMENT CONTROL

The attached documents are to be filed in the captioned docket. These are for the official record only and need not be distributed to the service list

Please call me if you have any questions. Thank you.

cc: Terry Fronterhouse
File

Arizona Corporation Commission

DOCKETED

MAR 26 2002

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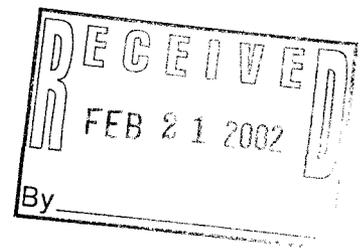


STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL



MAIN PHONE : (602) 542-5025
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February 15, 2002

Brian C. McNeil
Executive Secretary
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007-2996

Arizona Corporation Commission
DOCKETED

MAR 26 2002

DOCKETED BY	
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RE: A.G. Rule No. R01-020; A.A.C. R14-2-106

Dear Mr. McNeil:

We have reviewed the above-referenced rule adopted by the Arizona Corporation Commission on October 23, 2001. We have determined that the rule is in proper form, is clear, concise and understandable, within the power of the agency to adopt and within legislative standards, and was adopted in compliance with appropriate procedures.

Accordingly, pursuant to A.R.S. § 41-1044, I have affixed my signature to the original Approval of Final Rules and have forwarded it together with the original rule, notice of final rulemaking, economic, small business, and consumer impact statement and concise explanatory statement and four copies of each to the Secretary of State.

We have enclosed a copy for your reference.

Sincerely,

Janet Napolitano
Attorney General

ATTORNEY GENERAL APPROVAL OF FINAL RULES

1. **Agency Name:** Arizona Corporation Commission
2. **Chapter Heading:** Corporation Commission -- Fixed Utilities
3. **Code Citation for the Chapter:** 14 A.A.C. 2
4. **The Articles and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

<u>Sections</u>	<u>Action</u>
R14-2-106	Amend

5. **The rules contained in this package are approved as final rules pursuant to A.R.S. § 41-1044.**

6.  2-15-02
JANET NAPOLITANO, _____
Attorney General Date

AGENCY CERTIFICATE

1. **Agency name:** Arizona Corporation Commission
2. **Chapter heading:** Corporation Commission – Fixed Utilities
3. **Code citation for the Chapter:** 14 A.C.C. 2
4. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

Subchapters, Articles, Parts, and Sections

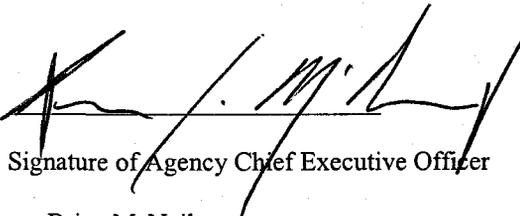
Action:

Article 1. General Provisions

R14-2-106.

Amend.

5. **The rules contained in this package are true and correct as (proposed, adopted, etc.).**

6. 
Signature of Agency Chief Executive Officer
Brian McNeil

2 Nov 01

Date of signing

Executive Secretary

Printed or typed name of signer

Title of signer

7. **No changes have been made to these rules since the Governor's Regulatory Review Council approved the rules. (This statement need only appear when the rules being submitted are final rules or summary rules approved by the council.)**

Note: These rules are exempt from Governor's Regulatory Review Council review under A.R.S. § 41-1044.

APPENDIX C

CONCISE EXPLANATORY STATEMENT

This explanatory statement is provided to comply with the provisions of A.R.S. §41-1036.

I. CHANGES IN THE TEXT OF THE PROPOSED RULE IN THE NOTICE OF RULEMAKING FILED WITH THE SECRETARY OF STATE

No changes have been made from the text of the revised rule published in the Arizona Administrative Register.

II. EVALUATION OF THE ARGUMENTS FOR AND AGAINST THE PROPOSED RULE

The proposed amended Arizona Corporation Commission Pipeline Safety Rules ("Rules") will update the Rules by incorporating the most recent national industry standards and practices for marking reclaimed water systems. The proposed revision includes the color purple for reclaimed water systems as a separate, distinguishable underground facility to be marked in compliance with state laws.

The Commission believes that through the adoption and incorporating of R14-2-106, the rules will be consistent with recent national industry standards and will enhance public safety which will be in the best interest of all citizens in the State of Arizona.

No members of the public appeared at the public comment to oppose the proposed rule change.

R14-2-106

Issue: The proposed revision includes the color purple for reclaimed water systems.

Analysis: The proposed amendment is logical and practical. There were no objections to Staff's proposed amendments.

Resolution: Staff's proposed amendments to the Rule should be adopted. The Rules shall be amended as included in Appendix B.

ECONOMIC IMPACT STATEMENT
PER A.R.S. SECTION 41-1055

1. BRIEF DESCRIPTION:

In March 2000, the City of Tucson, Tucson Water Department submitted a formal request to the Corporation Commission Safety Division on behalf of Arizona Blue Stake, industry companies and public service corporations, to amend the color code for marking underground facilities. The request followed two years of conferencing to determine the best preventive means of reducing the possibilities of cross-connecting drinkable water systems with reclaimed water systems.

The proposed changes will amend already existing rule R14-2-106. Commission Color Code to Identify Location of Underground Facilities.

2. NEED:

The American Public Works Association (APWA) has approved the color purple for identification of reclaimed water. The Office of Pipeline Safety has reviewed the matter and finds substantial evidence of statewide and industry support. The Commission Staff believes it would be in the best interest and safety of the public to initiate this rulemaking proceeding.

3. **AFFECTED CLASSES OF PERSONS:** Companies and individuals subject to the requirements of ARS 40-360 et seq. including but not limited to water system owners, contractors, and excavators.
4. **RULE IMPACT ON AFFECTED CLASSES OF PERSONS:** The rule will require persons subject to underground facility marking requirements to purchase and make appropriate accommodation for an additional color marking. The rule will clarify water lines to reduce confusion in cross-connecting systems.
5. **COST AND BENEFITS TO THE AGENCY:** The Commission will have fewer complaints and will be able to better maintain safety for the general public. The amendments to the rules will have no effect on other state agencies.
6. **COST AND BENEFITS TO POLITICAL SUBDIVISIONS:** The cost and benefits will provide an additional safety measure with minimal cost. The amendments were requested by several municipalities and Arizona Blue Stake.
7. **COST AND BENEFITS TO PRIVATE PERSONS:** There will be no additional cost to taxpayers, ratepayers or customers. The impact of the rule changes is to provide the taxpayers, ratepayers and customers with improved safety and to assure that all construction, operation and maintenance is accomplished in accordance with the established industry safety standards.

8. **COST AND BENEFITS TO CONSUMERS OR USERS OF ANY PRODUCT OR SERVICE IN THE IMPLEMENTATION OF THE NEW RULES:** The amended rule will benefit consumers, users and the general public by reducing the possibility of confusion between drinkable water systems and reclaimed water lines.
9. **LESS COSTLY OR INTRUSIVE METHODS:** The proposed rules are the least costly method for obtaining compliance with the industry safety standards. The rules do not impose additional standards. There is no less intrusive method.
10. **ALTERNATIVE METHODS CONSIDERED:** This amendment conforms with national industry standards and there are no alternative methods available to achieve the standardization.

AGENCY RECEIPT

NOTICE OF FINAL RULEMAKING

1. Agency name: Arizona Corporation Commission
2. The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:

<u>Subchapters, Articles, Parts, and Sections</u>	<u>Action</u>
Article 1. General Provisions	
R14-2-106	Amend.

NOTICE OF FINAL RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND
ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION – FIXED UTILITIES

PREAMBLE

1. **Sections Affected** **Rulemaking Action**

Article 1. General Provisions.

R14-2-106. Amend.
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§40-202, 40-203, 40-321, and 40-441.

Constitutional authority: Arizona Constitution, Article XV

Implementing statute: Not applicable
3. **The effective date of the rules:**

These rules are immediately effective. Decision No. 64183 provided that “this Decision shall become effective immediately” (Decision at 4). Decision 64183 was signed by the Commissioners on October 30, 2001.
4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 675, February 2, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 616, February 2, 2001

Notice of Public Hearing on Proposed Rulemaking: 7 A.A.R. 2088, May 18, 2001
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Timothy J. Sabo, Attorney, Legal Division

Address: Corporation Commission

1200 West Washington Street

Phoenix, Arizona 85007

Telephone Number: (602) 542-3402

Fax Number: (602) 542-4870

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed amended Arizona Corporation Commission Pipeline Safety Rules ("Rules") will update the Rules by incorporating by reference the most national industry standards and practices for marking reclaimed water systems. The proposed revision includes the color purple for reclaimed water systems as a separate, distinguishable underground facility to be marked in compliance with state laws.

The Commission believes that through the adoption and incorporating of R14-2-106, the rules will be consistent with recent national industry standards and will enhance public safety which will be in the best interest of all citizens in the State of Arizona.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

In March 2000, the City of Tucson, Tucson Water Department submitted a formal request to the Corporation Commission Safety Division on behalf of Arizona Blue Stake, industry companies and public service corporations, to amend the color code for marking underground facilities. The request followed two years of conferencing to determine the best preventive means of reducing the possibilities of cross-connecting drinkable water systems with reclaimed water systems.

In April of 1999, the American Public Works Association (APWA) approved the color purple for identification of reclaimed water. The Office of Pipeline Safety has reviewed the matter and finds substantial evidence of statewide and industry support. The Commission Staff believes it would be in the best interest and safety of the public to initiate this rulemaking proceeding.

9. **The summary of the economic, small business, and consumer impact:**

Small Business Subject to the Rules: The amended rule will have no effect upon consumers or users of the underground utilities being provided by regulated public utilities as they presently are required to be in compliance with all standards, but, this will benefit consumers, users and the general public by additional clarification of underground water systems.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

No changes were made between the proposed rules and final rules.

11. **A summary of the principal comments and the agency response to them:**

No comments were made by members of the public at the public comment hearing July 5, 2001 or at the Open Meeting October 23, 2001.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

13. **Incorporations by reference and their location in the rules:**

None

14. **Was this rule previously adopted as an emergency rule?**

No

If so, please indicate the Register citation:

_____ A.A.R. _____,

Vol. # Page # Issue date

15. **The full text of the rules follows:**

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND
ASSOCIATIONS; SECURITIES REGULATION**

CHAPTER 2. CORPORATION COMMISSION – FIXED UTILITIES

ARTICLE 1. GENERAL PROVISIONS

- R14-2-101. Accident Reports**
- R14-2-102. Treatment of Depreciation**
- R14-2-103. Defining Filing Requirements in Support of a Request by a public Service Corporation Doing Business in Arizona for a Determination of the Value of Property of the Corporation and of the Rate of Return Thereon, or in Support of Proposed Increased Rates or Charges**
- R14-2-104. Inspection of Annual Reports**
- R14-2-105. Notice of rate hearings**
- R14-2-106. Commission Color Code to Identify Location of Underground Facilities**
- A. If the location of an underground facility is marked with stakes, paint or in some customary manner pursuant to A.R.S. § 40-360.21.13, the facility owner will use the following color code:

<u>Facility Type</u>	<u>Specific Color</u>
Electric Power Distribution and Transmission.	Safety Red
Gas Distribution and Transmission; Oil Products Distribution and Transmission; Dangerous Materials, Product Lines.	High Visibility Safety Yellow
Telephone and Telegraph System; Cable Television.	Safety Alert Orange
Fiber Optics Communication Lines.	The Letter "F" in Safety Alert Orange

Water Systems; Slurry Pipelines.

Safety Precaution Blue

Reclaimed Water Systems.

Purple

Sanitary Sewer Systems.

Safety Green

* * * * *

UNACCEPTABLE FACILITY LOCATION COLORS:

Florescent Pink – This shall be considered a land surveyor marking.

White – This shall be reserved for excavator markings.

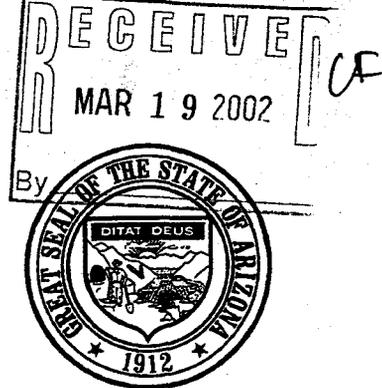
- B. Excavators and Underground Facility Owners shall consider use of the color fluorescent pink to be indicative of land survey markings and not location markings for any underground facility. Surveyors may place aerial photogrammetric markings (targets) using the color white, such markings shall have a fluorescent pink dot not less than two inches in diameter placed within one foot of any edge of the aerial marking. Fluorescent pink shall not be used by excavators or underground facility owners.

- C. Excavators making markings pursuant to Arizona Revised Statute Ann. § 40-360.22.C are required to use the color white.

- D. Colors similar to those listed in R14-2-106.A through R14-2-106.C shall not be used for other than their listed purpose.

Arizona Administrative Register

A Weekly Publication of the Office of the Secretary of State



www.sos.state.az.us

Volume 8, Issue 11

March 15, 2002

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Scott Cancelosi
Assistant Director
Public Services Division

BETSEY BAYLESS
Secretary of State

John J. Kyl
Acting Editor
Arizona Administrative Register

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R14-2-106 Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 40-202, 40-203, 40-321, 40-441, and 40-442 et seq.
Constitutional authority: Arizona Constitution, Article XV
Implementing statute: Not applicable
3. **The effective date of the rules:**
These rules are effective upon decision approving an Order by the Commission. Decision No. 64183 was signed by the Commissioners on October 30, 2001.
4. **A list of all previous notices appearing in the Register addressing the final rule:**
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Address: Corporation Commission
1200 West Washington
Phoenix, AZ 85007
Telephone: (602) 542-3402
Fax: (602) 542-4870
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
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The Commission believes that through the adoption and incorporating of R14-2-106, the rules will be consistent with recent national industry standards and will enhance public safety which will be in the best interest of all citizens in the State of Arizona.
7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
None

Arizona Administrative Register
Notices of Final Rulemaking

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

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10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

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11. A summary of the principal comments and the agency response to them:

No comments were made by members of the public at the public comment hearing July 5, 2001 or at the Open Meeting October 23, 2001.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS
AND ASSOCIATIONS; SECURITIES REGULATION**

CHAPTER 2. CORPORATION COMMISSION – FIXED UTILITIES

ARTICLE 1. GENERAL PROVISIONS

Section

R14-2-106. Commission Color Code to Identify Location of Underground Facilities

ARTICLE 1. GENERAL PROVISIONS

R14-2-106. Commission Color Code to Identify Location of Underground Facilities

A. If the location of an underground facility is marked with stakes, paint or in some customary manner pursuant to A.R.S. § 40-360.21.13, the facility owner will use the following color code:

Facility Type	Specific Color
Electric Power Distribution and Transmission.	Safety Red
Gas Distribution and Transmission; Oil Products Distribution and Transmission; Dangerous Materials, Product Lines.	High Visibility Safety Yellow
Telephone and Telegraph System; Cable Television.	Safety Alert Orange
Fiber Optics Communication Lines.	The Letter "F" in Safety Alert Orange
Water Systems; Slurry Pipelines.	Safety Precaution Blue

Notices of Final Rulemaking

Reclaimed Water Systems.

Purple

Sanitary Sewer Systems.

Safety Green

UNACCEPTABLE FACILITY LOCATION COLORS:

Florescent Pink – This shall be considered a land surveyor marking.

White – This shall be reserved for excavator markings.

- B. Excavators and Underground Facility Owners shall consider use of the color florescent pink to be indicative of land survey markings and not location markings for any underground facility. Surveyors may place aerial photogrammetric markings (targets) using the color white, such markings shall have a florescent pink dot not less than two inches in diameter placed within one foot of any edge of the aerial marking. Florescent pink shall not be used by excavators or underground facility owners.
- C. Excavators making markings pursuant to Arizona Revised Statute Ann. § 40-360.22.C are required to use the color white.
- D. Colors similar to those listed in R14-2-106.A through R14-2-106.C shall not be used for other than their listed purpose.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 4. DEPARTMENT OF ENVIRONMENTAL QUALITY - SAFE DRINKING WATER

PREAMBLE

1. Sections Affected

Rulemaking Action

R18-4-101	Amend
R18-4-102	Amend
R18-4-103	Amend
R18-4-104	Amend
R18-4-106	Amend
R18-4-108	ReNUMBER
R18-4-108	Amend
R18-4-109	ReNUMBER
R18-4-109	New Section
R18-4-110	Amend
R18-4-111	Amend
R18-4-115	Amend
R18-4-119	Amend
R18-4-122	Amend
Appendix A	New Appendix
R18-4-202	Amend
R18-4-203	Amend
R18-4-210	Amend
R18-4-216	Amend
R18-4-218	Amend
R18-4-219	Amend
R18-4-220	Amend
R18-4-221	Amend
R18-4-222	Amend
R18-4-223	Amend
R18-4-301.01	Amend
Table 1	New Table
R18-4-305	ReNUMBER
R18-4-306	Repeal
R18-4-306	ReNUMBER
R18-4-306	Amend
R18-4-307	Amend
R18-4-308	Amend
R18-4-309	Amend
R18-4-310	Amend
R18-4-311	Amend