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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

- BOB STUMP, CHAIRMAN
- GARY PIERCE
- BRENDA BURNS
- BOB BURNS
- SUSAN BITTER SMITH

IN THE MATTER OF THE PROPOSED  
 AMENDMENTS TO THE PIPELINE SAFETY  
 RULES A.A.C. R14-5-201, R14-5-202, R14-5-  
 203, R14-5-204 AND R-14-5-205 AND THE  
 ADDITION OF NEW RULES R14-5-206 AND  
 R14-5-207.

DOCKET NO. RG-00000A-13-0049

**STAFF'S NOTICE OF FILING**

Staff hereby provides notice of filing the attached Summary of Written Comments, Staff Responses to Comments, and the Revised Economic Impact Statement, in regards to the above-captioned matter.

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of September, 2013.

Charles H. Hains  
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Original and thirteen (13) copies of the foregoing filed this 3<sup>rd</sup> day of September, 2013, with:

Docket Control  
 Arizona Corporation Commission  
 1200 West Washington Street  
 Phoenix, Arizona 85007

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Arizona Corporation Commission  
**DOCKETED**

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AZ CORP COMMISSION  
DOCKET CONTROL

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**STAFF REPORT  
SAFETY DIVISION, PIPELINE SAFETY SECTION  
ARIZONA CORPORATION COMMISSION**

**PROPOSED RULEMAKING ON PIPELINE SAFETY RULES**

**DOCKET NO. RG-00000A-13-0049**

**STAFF RESPONSE TO ORAL COMMENTS**

**September 3, 2013**

## STAFF ACKNOWLEDGEMENT

The Staff Response to Oral Comments for Proposed Rulemaking on Pipeline Safety Rules, Docket No. RG-00000A-13-0049, was the responsibility of the Staff member listed below.

A handwritten signature in black ink, appearing to read "Robert Miller", written over a horizontal line.

Robert Miller  
Pipeline Safety Manager

## **Introduction**

The Arizona Corporation Commission (“Commission”) issued Decision No. 73911 on June 14, 2013. In that Decision, the Commission ordered that a Notice of Proposed Rulemaking regarding modifications to the Commission’s Pipeline Safety Rules be filed with the Office of the Secretary of State for publication. The Notice of Proposed Rulemaking was published in the *Arizona Administrative Register* on July 5, 2013.

Pursuant to Decision No. 73911, Staff filed the Economic, Small Business, and Consumer Impact Statement that addressed the economic impacts of the proposed Pipeline Safety rules on July 5, 2013.

Decision No.73911 requested that interested parties provide initial comments concerning the Notice of Proposed Rulemaking by filing written documents with the Commission’s Docket Control by August 9, 2013.

Decision No. 73911 also provided for an opportunity for interested parties to give oral comments at a public comment hearing to be held on August 9, 2013. The Safety Division was to file with the Commission’s Docket Control by September 3, 2013, a document including (1) a summary of all written comments filed by interested persons before August 9, 2013 and any oral comments received during the oral proceeding in this matter; (2) the Safety Division’s responses to those comments; and (3) a revised Economic, Small Business, and Consumer Impact Statement or a memorandum explaining why no revision to the prior Economic, Small Business, and Consumer Impact Statement is necessary.

## **Summary of Written Comments Filed August 9, 2013 Regarding the Proposed Pipeline Safety Rules**

Only one written comment was filed in the Commission’s Docket Control in relation to the Noticed of Proposed Rulemaking. Southwest Gas Company (“SWG”) filed comments on August 9, 2013. Although supportive of the rule change as an update to maintain consistency between state and federal requirements, SWG indicated concerns with respect to the proposed R14-5-201 definitions for “evacuation”, “independent laboratory”, “outage”, “sour gas”, and “unknown failure”. Likewise, SWG proposed a clarification to R14-5-202(S) and to R14-5-203(B)(1)(a) and –(a)(v).

### **I. Comments on Proposed Amendments to R14-5-201**

#### **A. R14-5-201(5)(d) definition of “evacuation”**

SWG indicated a concern with the proposed definition for “evacuation” to the effect that an operator may not be aware whether a given building that is evacuated is a daycare facility, retirement facility or assisted living facility due to the fact that these facilities may be located in residential areas and not clearly identified as being one of the specified types of buildings. SWG is recommending further explanation of the term “nonresidential building”. SWG suggests removal of “daycare facility, retirement facility or assisted living facility” from R14-5-201(5)(d) or, alternatively, limiting the applicability of R14-5-201(5)(d) to “when a utility has knowledge of the existence of a nonresidential building....”

Staff recognizes SWG concerns. In response, Staff would recommend the following change be made to R14-5-201(5)(d) for the purpose of clarification:

A nonresidential building upon discovery that it is occupied by individuals who are confined, are of impaired mobility, or would be difficult to evacuate because of their age or physical or mental condition or capabilities, such as a hospital, prison, school, daycare facility, retirement facility, or assisted living facility.

**B. R14-5-201(8) definition of “independent laboratory”**

SWG expressed reservations concerning the definition of “independent laboratories” because they feel the definition excludes all laboratories that may have a contract with an operator.

Staff does not agree with this assessment and feels that as written, “independent laboratory” applies only to the relationship between a specific laboratory and the operator for whom the investigation is ordered. The definition does not preclude the use of a laboratory that has a contractual agreement with another operator. An operator’s contractual relationship with a laboratory would not preclude the use of that laboratory for analysis of material failures of a different operator.

**C. R14-5-201(19)(b) definition of “Outage”**

SWG provided similar concerns regarding the proposed definition of “Outage” to those stated in regard to R14-5-201(5) definition of outage.

In response, Staff would recommend the same clarification as for R14-5-201(5)(d). The following change be made to R14-5-201(19)(b) for the purpose of clarification:

A nonresidential building upon discovery that it is occupied by individuals who are confined, are of impaired mobility, or would be difficult to evacuate because of their age or physical or mental condition or capabilities, such as a hospital, prison, school, daycare facility, retirement facility, or assisted living facility.

**D. R14-5-201(27) definition of “sour gas”**

SWG expressed concern that, as written, the current definition of sour gas lacks a minimum threshold for hydrogen sulfide present in order to constitute “sour gas” for purposes of the rule. SWG requests that the definition be clarified to include the minimum threshold of 0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m<sup>3</sup>) at standard conditions (4 parts per million) to the definition. The criterion SWG proposes is drawn from 49 C.F.R. §192.475(c)

Staff finds the proposed clarification to be reasonable and would suggest clarifying R14-5-201(27) to state:

“Sour gas” means natural gas that does not contains the corrosive sulfur-bearing compound hydrogen sulfide (H<sub>2</sub>S) in concentrations that exceed a minimum threshold of 0.25 grain of hydrogen sulfide per 100 cubic feet (5.8 milligrams/m<sup>3</sup>) under standard operating conditions (4 parts per million).

**R14-5-201(32) definition of “Unknown failure”**

SWG proposes replacing of the term “observable external corrosion” with the term “observable corrosion”. SWG states that the removal of the term “external” would eliminate the unnecessary exclusion of observable internal corrosion or stress corrosion cracking from the definition of “unknown failure.”

Staff is in agreement with SWG and supports this change. Staff would recommend clarifying R14-5-201(32)(a) to state:

The cause cannot be attributed to any observable ~~external~~ corrosion, third-party damage, natural or other outside force, construction or material defect, equipment malfunction, or incorrect operations; or

**II. Comments on Proposed Amendments to R14-5-202**

**A. R14-5-202(R)**

SWG has concerns relating to the frequency of leak surveys in class 1 and 2 locations and the requirement to repair all identified leaks including class 2 and 3 within one year of discovery. SWG also states that resources may have to be diverted from other activities that could reduce risks to their system.

Staff acknowledges that there are current regulations and standards such as the referenced American Society of Mechanical Engineers (ASME) Managing System Integrity of Gas Pipelines, B31.8s-2004 that address similar issues of leak detection, mitigation of leaks and

other risks to the pipeline. Staff further acknowledges the efforts of SWG in taking all available steps necessary to prevent the release of gas that could result in an incident.

However, Staff does not agree that Subsection R14-5-202(R) should be removed or modified from how Staff currently proposes to modify it. Requiring that transmission pipeline leakage surveys be conducted at least twice a year, not to exceed 7-1/2 months in all class locations and repairing underground leaks classified as grade two or three either upon discovery or within one year after discovery is reasonable and appropriate. R14-5-202(R) as proposed is intended to enhance the discovery and repair of transmission line leaks. Staff believes the increased operational pressures and increased severity of catastrophic failures associated with transmission pipelines compared to lower pressure leaks associated with distribution systems prompts a reasonable conclusion that time spent eliminating leaks on a transmission pipeline is well spent and would not hamper SWG's ability to manage other risks associated with the operation of their pipeline system.

**B. R14-5-202(S)**

SWG supports this subsection but is requesting a modification to include a 5 day window to facilitate completion of any nondestructive testing.

Staff does not believe that a 5 day window or any time restriction on conducting NDT testing on each weld performed on newly installed, replaced or repaired intrastate transmission pipeline or an appurtenance as proposed by SWG is necessary. As drafted, the current subsection does not include a deadline for testing to be completed. Staff's belief is that should an operator fail to nondestructively test any required pipe or appurtenance Staff would then require the operator to remove the pipe or appurtenance from service. This allows the operator complete flexibility in scheduling nondestructive testing. For example, an operator working on a larger project could choose to do all the required testing at the end of their project even if it exceeds 5 days from when the new construction or repair was performed.

**III. Comments on Proposed Amendments to R14-5-203**

**A. R14-5-203(B)(1)(a)**

SWG has a concern that, as written, the current subsection will result in an operator having to report a release of gas discovered from any pipeline, regardless of whether the operator owns and operates the pipeline.

Staff believes that the present language is sufficiently clear in the placement of the obligation solely on the operator for the operator's own pipeline.

**B. R14-5-203(B)(1)(a)(v)**

SWG has expressed concern that the condition of “unintentional release of gas from a transmission pipeline” is overly broad and would mandate the reporting of previously non-hazardous Grade 2 and Grade 3 leaks. SWG goes on to state that in addition to being unnecessary, requiring operators to immediately notify the Office of Pipeline Safety creates practical issues for the operator. The example given by SWG involves two pipelines in close proximity to each other, one transmission and one distribution. SWG states that depending on the severity of the leak it may be weeks before an operator excavates to determine which line is actually leaking. SWG asserts that this scenario may result in operators reporting leaks that are not on a transmission line or may result in reporting leaks sometime after the initial discovery.

Staff disagrees that the requirement to report any unintentional release of gas from a transmission line is overly broad. It is the intention of this section to require that the operator make such a report. Given the high pressures and increased threat of a catastrophic failure, any leak on a transmission line could easily and quickly escalate the severity of the circumstance. In the example given by SWG, when a transmission line and a distribution line are in close proximity to each other, Staff would expect that the operator not wait to excavate the area regardless of the readings to determine which of the two lines were leaking.

**Summary of Oral Comments Regarding the Pipeline Safety Rules and Staff Response**

SWG and Copper Market Gas, Incorporated were present during the oral comment proceeding. However, neither party provided oral comments in regard to the proposed rule changes. SWG deferred to the written comments that they filed.

In light of the lack of oral comment, Staff has no additional response to provide.

**Discussion of Economic, Small Business, and Consumer Impact Statement**

Staff has no modifications based on the comments received. However, Staff noticed that an incorrect earlier draft of the Economic, Small Business, and Consumer Impact Statement was filed on July 5, 2013. The filed draft did not note that changes were proposed to R14-5-201 in addition to the other sections. Likewise, the section discussing need for the rule amendments neglected to discuss the significance of updating the rules with respect to maintaining the Commission’s participation in the Federal Department of Transportation, Pipeline and Hazardous Materials Safety Administration’s pipeline safety program. Therefore, Staff has attached to this Staff Report, a copy of an updated Economic, Small Business, and Consumer Impact Statement.

**ECONOMIC IMPACT STATEMENT  
PER A.R.S. § 41-1055**

1. **BRIEF DESCRIPTION:** These amendments will amend already existing rules (R14-5-201, R14-5-202, R14-5-203, R-14-5-204 and R14-5-205) and add new rules (R14-5-206 and R14-5-207) under Chapter 5 entitled "Transportation". The proposed amendments to the existing rules are designed to update the Arizona Corporation Commission Pipeline Safety rules to reorganize the rules for improved clarity and to recognize the amendments to the Code of Federal Regulations (CFR), Title 49, Parts 40, 191, 192, except I(A)(2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199 revised as of October 1, 2012.
  
2. **NEED:** The Commission's Pipeline Safety Section, through its participation in the Federal Department of Transportation pipeline safety program, receives an annual grant from the Pipeline and Hazardous Materials Safety Administration's Federal Office to offset the Pipeline Safety Section's operational cost. Additionally, the Pipeline Safety Section has been granted agent status allowing it to enforce the Federal Pipeline Safety Standards. To maintain that status and to continue to receive grant monies the Commission must, pursuant to the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act, adopt and keep current with the Federal Pipeline Safety Standards. The Commission believes that through the adoption and incorporation by reference of CFR Title 49 updates, the rules will be consistent with the Federal Regulations and will enhance public safety which will be in the best interest of all citizens in the State of Arizona.

3. **AFFECTED CLASSES OF PERSONS:**

- A. Operators of master meter gas distribution systems.
- B. Intrastate operators of natural gas and other gas pipelines.
- C. Intrastate operators of hazardous liquid pipelines.

4. **RULE IMPACT ON AFFECTED CLASSES OF PERSONS:**

- A. There will be no impact on master meter system operators if they are already complying with the Federal Pipeline Safety Regulations.
- B. There will be no impact on operators of natural gas or other gas systems if they are already complying with the Federal Pipeline Safety Regulations.
- C. There will be no impact on operators of hazardous liquid pipelines if they are already complying with the Federal Pipeline Safety Regulations.

5. **COST AND BENEFITS TO THE AGENCY:** The proposed amendments to the existing rules will have a minimal cost effect on the Commission and will have no impact on other state agencies. The Commission will benefit by maintaining agent status in keeping current with the Federal Pipeline Safety Standards. The Commission believes that by amending the existing rules, the rules will be consistent with the Federal Regulations and will enhance public safety which will be in the best interest of all citizens in the State of Arizona.

6. **COST AND BENEFITS TO POLITICAL SUBDIVISIONS:** For those political subdivisions that are operators of intrastate pipelines or master meter operators, there will

be little impact to political subdivisions if they are already complying with the Federal Pipeline Safety Regulations.

7. **COST AND BENEFITS TO PRIVATE PERSONS:** The proposed amendments to the existing rules will have no effect upon private persons or users of the gas service 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 the operation and maintenance of a safe pipeline system.
  
8. **COST AND BENEFITS TO CONSUMERS OR USERS OF ANY PRODUCT OR SERVICE IN THE IMPLEMENTATION OF THE NEW RULES:** The proposed amendments to the existing rules will have no effect upon consumers or users of the gas service 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 the operation and maintenance of a safe pipeline system.
  
9. **LESS COSTLY OR INTRUSIVE METHODS:** The amendments to the rules are the least costly method for obtaining compliance with the long standing minimum safety standards. The rules do not impose additional standards. There is no less intrusive method.

10. **ALTERNATIVE METHODS CONSIDERED:** There are no alternative methods available that ensure the public health and safety to the degree the proposed amendments ensure.