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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: JULY 10, 2015
DOCKET NO.: RG-00000A-15-0098

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sarah Harpring. The recommendation has been filed in the form of an Opinion and Order on:

PIPELINE SAFETY
(RULEMAKING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JULY 20, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

AUGUST 18, 2015 and AUGUST 19, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

JUL 10 2015

DOCKETED BY
RTU

JODI JERICH
EXECUTIVE DIRECTOR

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 SUSAN BITTER SMITH - Chairman
4 BOB STUMP
5 BOB BURNS
6 DOUG LITTLE
7 TOM FORESE

8 IN THE MATTER OF THE PROPOSED
9 AMENDMENTS TO THE PIPELINE SAFETY
10 RULES A.A.C. R14-5-202, R14-5-203, R14-5-204,
11 R14-4-205, AND R14-5-207.

DOCKET NO. RG-00000A-15-0098

DECISION NO. _____

12 OPINION AND ORDER

13 DATE OF HEARING: June 18, 2015
14 PLACE OF HEARING: Phoenix, Arizona
15 ADMINISTRATIVE LAW JUDGE: Sarah N. Harpring
16 APPEARANCES: Charles Hains, Staff Attorney, Legal Division, on behalf
17 of the Safety Division of the Arizona Corporation
18 Commission.

19 **BY THE COMMISSION:**

20 This matter concerns a rulemaking to modify Arizona Administrative Code ("A.A.C.") Title
21 14, Chapter 5, Article 2, the Arizona Corporation Commission ("Commission") rules for Pipeline
22 Safety, by amending A.A.C. R14-5-202, R14-5-203, R14-5-204, R14-5-205, and R14-5-207. The
23 primary purpose of this rulemaking is to bring the Commission's Pipeline Safety rules into
24 compliance with federal requirements by updating the rules' incorporations by reference of various
25 parts of Title 49 of the Code of Federal Regulations ("49 CFR") and associated forms. The other
26 modifications to the rules are designed to make the rules more clear, concise, and understandable.

27 * * * * *

28 Having considered the entire record herein and being fully advised in the premises, the
Commission finds, concludes, and orders that:

FINDINGS OF FACT

Process for this Rulemaking

1. On March 24, 2015, the Commission's Legal Division filed a memorandum

1 requesting, on behalf of the Commission's Safety Division ("Staff"), that a docket be opened for the
2 purpose of proposing amendments to the Pipeline Safety rules, A.A.C. R14-5-202, R14-5-203, R14-
3 5-204, and R14-5-207. As a result, the above-captioned docket was opened.

4 2. On March 31, 2015, Staff issued a memorandum describing Staff's recommended
5 modifications to the Pipeline Safety rules and including a proposed order for Commission
6 consideration at the Open Meeting of April 14 and 15, 2015. In the proposed order, Staff
7 recommended that the Commission commence the formal rulemaking process by filing a Notice of
8 Rulemaking Docket Opening ("NRDO") and Notice of Proposed Rulemaking ("NPRM") with the
9 Office of the Secretary of State for publication in the *Arizona Administrative Register*, provided the
10 text of Staff's recommended rule modifications, and provided Staff's recommended schedule for the
11 rulemaking process.

12 3. On April 13, 2015, Staff filed Safety Division Proposed Amendment No. 1 ("Staff
13 Amendment No. 1"). Staff Amendment No. 1 added a minor proposed amendment to A.A.C. R14-5-
14 205, corrected typographical errors, and revised the recommended schedule for the rulemaking
15 process.

16 4. At the Commission's Open Meeting on April 13, 2015, the Commission approved the
17 proposed order, as amended by Staff Amendment No. 1.

18 5. On April 15, 2015, Staff filed a Notice of Errata stating that the caption for this matter
19 should include R14-5-205.¹

20 6. On April 23, 2015, Decision No. 75023 was issued, directing Staff to prepare and file
21 with the Office of the Secretary of State, for publication in the *Arizona Administrative Register* no
22 later than May 15, 2015, an NRDO and an NPRM including the text of Staff's recommended rule
23 modifications as included in the Decision. The Decision also required that an oral proceeding on the
24 NPRM be held in Phoenix on June 18, 2015; established dates for the submission of comments; and
25 established other procedural deadlines and requirements.

26 ...

27

28 ¹ The Commission's Docket Control Center revised the caption accordingly.

1 7. On April 27, 2015, Staff filed Notice of Filing Staff Suggested Service List, including
2 a list of stakeholders Staff believes appropriate to include on the service list for this matter.

3 8. On May 15, 2015, the NRDO and NPRM were published in the *Arizona*
4 *Administrative Register*. The NPRM is attached hereto and incorporated herein as Exhibit A.

5 9. On June 18, 2015, the oral proceeding for this matter was held before a duly
6 authorized Administrative Law Judge of the Commission at the Commission's offices in Phoenix,
7 Arizona. Staff appeared through counsel. Robert Miller, Pipeline Safety Supervisor, provided a
8 statement concerning the rulemaking. No members of the public attended to provide oral comment.

9 10. No members of the public provided written comments on the NPRM.

10 11. On July 8, 2015, Staff filed an Economic, Small Business, and Consumer Impact
11 Statement ("EIS"), along with a copy of the published NPRM.

12 12. Although Decision No. 75023 directed Staff to file, by August 7, 2015, a Staff
13 Memorandum summarizing and responding to oral and written public comments, the lack of public
14 comments eliminated the need for such a filing.

15 **Description of the Rule Changes**

16 13. The NPRM proposed to amend R14-5-202 as follows:

- 17 a. By updating the Code of Federal Regulations ("CFR") provisions incorporated
18 by reference in subsection (B)—49 CFR 40; 191; 192, except (I)(A)(2) and (3)
19 of Appendix D to Part 192; 193; 195, except 195.1(b)(2), (3), and (4); and
20 199—to reflect a parenthetical date of February 5, 2015, rather than October 1,
21 2012;
- 22 b. By revising subsection (J) to refer to the incorporation by reference of 49 CFR
23 192 in subsection (B) rather than including a duplicative incorporation by
24 reference;
- 25 c. By adding a comma in subsection (N);
- 26 d. By updating an address in subsection (Q);
- 27 e. By adding a new subsection (T), to clarify the non-destructive testing
28 requirement for LNG facility welds; and

1 f. By renumbering the subsequent subsections to conform and updating internal
2 cross-references accordingly.

3 14. The NPRM proposed to amend R14-5-203 by updating incorporations by reference in
4 subsections (C)(2) and (3) and making minor technical corrections in subsections (C)(4) and (6) to
5 improve clarity;

6 15. The NPRM proposed to amend R14-5-204 by updating incorporations by reference in
7 subsections (A)(1), (3), and (4);

8 16. The NPRM proposed to amend R14-5-205 by eliminating an extraneous comma in
9 subsection (B) to improve clarity; and

10 17. The NPRM proposed to amend R14-5-207 by making minor technical corrections in
11 subsections (B), (P), and (S) to improve clarity and inserting clarifying language in subsection
12 (Q)(1)(c).

13 **Rationale for the Rulemaking**

14 18. In the NPRM Preamble and during the oral proceeding on June 18, 2015, Staff
15 explained that the primary purpose of the rule amendments is to make the Commission's rules
16 consistent with current federal pipeline safety regulations by updating incorporations by reference in
17 the Commission's rules, to ensure that the Commission maintains compliance with the requirements
18 of its intergovernmental agreement with the U.S. Department of Transportation's Pipeline and
19 Hazardous Material Safety Administration ("PHMSA"). This updating includes updates to the
20 incorporations by reference for 49 CFR Parts 40, 191, 192, 193, 195, and 199 as well as several
21 PHMSA reporting forms. The secondary purpose of the rule amendments is to clarify the rules.

22 19. Under Title 49, § 60105 of the U.S. Code ("49 U.S.C. § 60105"), the Commission
23 holds certification from PHMSA authorizing the Commission to prescribe and enforce safety
24 standards and practices for intrastate pipeline facilities and intrastate pipeline transportation.² (See 49
25 U.S.C. § 60105(a).) To maintain this certification, Staff must annually submit to PHMSA a
26 certification stating, *inter alia*, that the Commission (1) has regulatory jurisdiction over the standards
27

28 ² The Commission has also been authorized to act as an interstate agent under 49 CFR Chapter 601.

1 and practices to which the certification applies; (2) has adopted, by the date of certification, each
2 applicable standard prescribed under 49 U.S.C. Chapter 601 or, if the standard was prescribed no
3 later than 120 days before certification, is taking steps to adopt the standard; and (3) is enforcing each
4 adopted standard through means including inspections by qualified Commission employees. (49
5 U.S.C. § 60105(b).) The certification filing must also identify the persons subject to the
6 Commission's safety jurisdiction, describe specific types of reported accidents or incidents during the
7 past 12 months, provide an investigation summary for each accident or incident, and describe the
8 Commission's regulatory and enforcement practices. (49 U.S.C. § 60105(c).) The PHMSA may
9 reject certification for a state authority if it determines that the state authority is not satisfactorily
10 enforcing compliance with the applicable federal safety standards of 49 U.S.C. Chapter 601. (49
11 U.S.C. § 60105(f).) A state authority that carries out a safety program pursuant to certification under
12 49 U.S.C. § 60105 is eligible to obtain grant funding from PHMSA of up to 80 percent of the state
13 authority's costs for the personnel, equipment, and activities reasonably required to carry out the
14 program for the next calendar year. (49 U.S.C. § 60107(a).) One of the performance factors
15 considered by PHMSA when determining the allocation of grant funds to a state authority is whether
16 the state has adopted the applicable federal pipeline safety standards. (49 CFR § 198.13(c)(7).)
17 PHMSA can withhold payment if it determines that a state authority is not satisfactorily carrying out
18 its safety program. (49 U.S.C. § 60107(b).)

19 20. At the oral proceeding on June 18, 2015, Mr. Miller stated that the rulemaking must be
20 effective by December 31, 2015, to comply with PHMSA's deadline. Mr. Miller further stated that
21 the Commission's failure to meet the requirements of the certification program could result in loss of
22 funding for the Commission's Pipeline Safety program. (Tr. at 4-5.)

23 21. Staff asserted that because the rules at issue are safety rules, it is in the public interest
24 to have the rules in effect and capable of enforcement as soon as possible, and an immediate effective
25 date is justified under A.R.S. § 41-1032(A)(1).

26 **Authority for this Rulemaking**

27 22. The Commission is authorized to engage in rulemaking under both its constitutional
28 authority and its statutory authority endowed by the legislature. In the NPRM, Staff cited as

1 authority for this rulemaking both Article 15, § 3 of the Arizona Constitution (“Art. 15, § 3”) and
2 Arizona Revised Statutes (“A.R.S.”) § 40-441.

3 23. Article 15, § 3 provides, in pertinent part:

4 The Corporation Commission shall have full power to, and shall, prescribe
5 just and reasonable classifications to be used and just and reasonable rates
6 and charges to be made and collected, by public service corporations
7 within the State for service rendered therein, and make reasonable rules,
8 regulations, and orders, by which such corporations shall be governed in
9 the transaction of business within the State, and may . . . make and enforce
10 reasonable rules, regulations, and orders for the convenience, comfort, and
11 safety, and the preservation of the health, of the employees and patrons of
12 such corporations. . . .³

13 24. A.R.S. § 40-441 provides the Commission specific statutory authority to adopt rules
14 establishing safety standards and practices for pipeline systems and the transportation of gas and
15 hazardous liquids within Arizona:

16 For the purpose of providing state control over safety standards and
17 practices applicable to the transportation of gas and hazardous liquids and
18 gas and hazardous liquids pipeline facilities within the state to the full
19 extent permissible under federal law that is applicable to natural gas and
20 hazardous liquid gas pipelines, the commission shall adopt by regulation,
21 rule or order appropriate safety standards for all such transportation of gas
22 and hazardous liquids and gas and hazardous liquids pipeline facilities,
23 including both privately owned and public, which are not subject to
24 exclusive federal control. Upon the adoption of such regulations, rules or
25 orders, the commission shall make certifications and reports and take any
26 other necessary action in accordance with intrastate certifications and
27 interstate agent agreements under federal pipeline safety laws (49 United
28 States Code, subtitle VIII, chapter 601).

All terms used in this article that are defined in the federal pipeline safety laws (49 United States Code, subtitle VIII, chapter 601) shall have the definitions set forth in that act.⁴

29 25. Although not cited by Staff in the NPRM, the following statutes also provide the
30 Commission with authority for portions of the pipeline safety rules:

31 a. A.R.S. § 40-202(A) provides: “The commission may supervise and regulate
32 every public service corporation in the state and do all things, whether
33 specifically designated in this title or in addition thereto, necessary and
34 convenient in the exercise of that power and jurisdiction.” This language,
35
36

37 ³ Ariz. Const., Art. 15, § 3 (emphasis added). The Commission is aware of *Arizona Corp. Comm’n v. Pacific*
38 *Greyhound Lines*, 54 Ariz. 159 (1939) (“*Pacific Greyhound*”) and its progeny.

⁴ A.R.S. § 40-441 (emphasis added).

1 although very broad, has been interpreted by the Arizona Supreme Court as
2 bestowing no powers on the Commission in addition to those already granted
3 by the Arizona Constitution or specifically granted elsewhere by the
4 legislature, although the Court acknowledged that it also provides the
5 Commission the authority to do those things necessary and convenient in the
6 exercise of the powers so granted.⁵

7 b. A.R.S. § 40-203 states:

8 When the commission finds that the rates, fares, tolls, rentals,
9 charges or classifications, or any of them, demanded or collected
10 by any public service corporation for any service, product or
11 commodity, or in connection therewith, or that the rules,
regulations, practices or contracts, are unjust, discriminatory or
preferential, illegal or insufficient, the commission shall determine
and prescribe them by order, as provided in this title.⁶

12 c. A.R.S. § 40-321(A) states:

13 When the commission finds that the equipment, appliances,
14 facilities or service of any public service corporation, or the
15 methods of manufacture, distribution, transmission, storage or
16 supply employed by it, are unjust, unreasonable, unsafe, improper,
inadequate or insufficient, the commission shall determine what is
just, reasonable, safe, proper, adequate or sufficient, and shall
enforce its determination by order or regulation.

17 d. A.R.S. § 40-322 states, in pertinent part:

18 A. The commission may:

19 1. Ascertain and set just and reasonable standards,
20 classifications, regulations, practices, measurements or service to
be furnished and followed by public service corporations other
than a railroad.

21 2. Ascertain and fix adequate and serviceable standards for
22 the measurement of quantity, quality, pressure, initial voltage or
other condition pertaining to the supply of the product, commodity
or service furnished by such public service corporation.

23 3. Prescribe reasonable regulations for the examination and
24 testing of the product, commodity or service and for the
measurement thereof.

25

26 B. The commission, its officers and employees may enter
27 upon any premises occupied by a public service corporation, for
the purpose of making the examinations and tests and exercising

28 ⁵ *Southern Pacific Co. v. Arizona Corp. Comm'n*, 98 Ariz. 339, 348 (1965).

⁶ A.R.S. 40-203 (emphasis added).

any of the other powers provided for in this article

e. A.R.S. § 40-336 states:

The commission may by order, rule or regulation, require every public service corporation to maintain and operate its line, plant, system, equipment, and premises in a manner which will promote and safeguard the health and safety of its employees, passengers, customers and the public, and may prescribe the installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signalling, establish uniform or other standards of equipment, and require the performance of any other act which health or safety requires.

26. The Commission finds that the revisions to A.A.C. R14-5-202, R14-5-203, R14-5-204, R14-5-205, and R14-5-207 proposed in the NPRM are authorized under the Commission's constitutional authority and statutory authority described herein.

Administrative Procedure Act Requirements

27. The Commission is an "agency" under the Administrative Procedure Act ("APA"), A.R.S. Title 41, Chapter 6 (A.R.S. §§ 41-1001 through 41-1092.12), and is generally subject to APA requirements.

28. Under A.R.S. § 41-1057, the Commission is exempted from Article 5 of the APA (A.R.S. §§ 41-1051 through 41-1057), pertaining to the Governor's Regulatory Review Council, but is required to adopt substantially similar rule review procedures, to include preparation of an EIS and a statement of the effect of the rule on small business.

29. A.R.S. § 41-1044 requires the Attorney General to review rules that are exempt under A.R.S. § 41-1057 and further requires that such rules not be submitted to the Office of the Secretary of State unless first approved by the Attorney General. This requirement does not apply when the Commission is conducting rulemaking pursuant to its exclusive and plenary ratemaking authority under Art. 15, § 3.⁷

30. A.R.S. § 40-1030(A) provides that "[a] rule is invalid unless it is made and approved in substantial compliance with sections 41-1021 through 41-1029 and articles 4, 4.1 and 5 of this chapter, unless otherwise provided by law."

⁷ See *State ex rel. Corbin v. Arizona Corp. Comm'n*, 174 Ariz. 216, 848 P.2d 301 (Ariz. Ct. App. 1992); *Phelps Dodge Corp. v. Arizona Elec. Power Coop.*, 207 Ariz. 95, 83 P.3d 573 (Ariz. Ct. App. 2004).

1 31. A.R.S. § 41-1022(E) provides that if, as a result of public comment or internal review,
2 an agency determines that a proposed rule requires substantial change pursuant to A.R.S. § 41-1025,
3 the agency shall issue a supplemental notice containing the changes in the proposed rule and shall
4 provide for additional public comment pursuant to A.R.S. § 41-1023.

5 32. A.R.S. § 41-1025 prohibits an agency from adopting a final rule that is substantially
6 different from the rule proposed by the agency in its NPRM and provides that an agency must
7 consider all of the following in determining whether a rule is substantially different from the
8 proposed rule published in the NPRM:

9 1. The extent to which all persons affected by the rule should
10 have understood that the published proposed rule would affect
11 their interests.

11 2. The extent to which the subject matter of the rule or the issues
12 determined by that rule are different from the subject matter or
13 issues involved in the published proposed rule.

13 3. The extent to which the effects of the rule differ from the
14 effects of the published proposed rule if it had been made instead.⁸

14 33. Since fiscal year 2009-2010, Arizona has had in place a general rulemaking
15 moratorium, first through creation of the Legislature⁹ and then through gubernatorial orders. The
16 most recent gubernatorial order is Executive Order 2015-01 (“EO 2015-01”), effective on January 5,
17 2015, and expiring on December 31, 2015. EO 2015-01 generally prohibits a state agency from
18 conducting rulemaking except for specific purposes and with prior written approval from the Office
19 of the Governor. However, EO 2015-01 expressly exempts some entities, including the Commission,
20 from the applicability of those restrictions, while strongly encouraging voluntary compliance by
21 exempted entities within the context of their own rulemaking processes.¹⁰

22 ...

23 ⁸ A.R.S. § 41-1025(B).

24 ⁹ See Laws 2010, Ch. 287, § 18 (amending Laws 2009 (3rd Special Session) Ch. 7, § 28).

25 ¹⁰ EO 2015-01 also provides, in paragraph 4, that state agencies identified in paragraph (3) (the exemption paragraph)
26 must provide the Office of the Governor a written report for each proposed rule 30 days before engaging in any
27 rulemaking proceeding and must provide a written report within 15 days of any rulemaking. The reports are to explain
28 how the rulemaking advances the priorities and principles of EO 2015-01. The authorities cited for paragraph 4 are
Arizona Constitution Article 5, § 4 (which authorizes the Governor to require information in writing from officers in the
Executive Department) and A.R.S. § 41-101(A)(1) (which requires the Governor to supervise the official conduct of all
executive and ministerial officers). The Commission’s Legal Division has communicated with the Governor’s Office
concerning paragraph 4 and understands that the Governor’s Office does not expect the Commission to submit these
reports, as the Commission is not an executive department, and the Commissioners are not executive or ministerial
officers.

1 34. Although the Commission's rulemakings are not restricted by EO 2015-01, if they
2 were, this rulemaking would meet the parameters of EO 2015-01 because the safety standards
3 updated through the rulemaking serve "[t]o prevent a significant threat to the public health, peace, or
4 safety," and the rulemaking is being conducted "[t]o comply with a federal statutory or regulatory
5 requirement [for which] compliance is related to a condition for the receipt of federal funds or
6 participation in any federal program."

7 35. A.R.S. § 41-1032(A) provides that a final rule filed with the Office of the Secretary of
8 State under A.R.S. § 41-1031 becomes effective 60 days after filing unless the rulemaking agency
9 includes in the Preamble information demonstrating that the rule needs to be effective immediately
10 upon filing, for one of five reasons, among them: (1) to preserve the public peace, health, or safety;
11 or (2) to avoid a violation of federal law or regulation or state law, if the need for an immediate
12 effective date is not created due to the agency's delay or inaction.

13 36. In order for the Commission's Pipeline Safety program to meet the deadline for
14 adoption of the current version of the federal pipeline safety regulations and maintain grant funding,
15 this rulemaking needs to take effect by December 31, 2015. Additionally, it is in the public interest
16 for the rules, which update and clarify the safety standards for intrastate pipeline systems, to become
17 effective as soon as possible to preserve public health and safety. We agree with Staff that this
18 rulemaking is eligible for an immediate effective date under A.R.S. § 41-1032(A)(1). We further find
19 that this rulemaking is eligible for an immediate effective date under A.R.S. § 41-1032(A)(2) so as to
20 avoid a violation of the federal requirements governing the Commission's pipeline safety certification
21 and grant funding. Thus, we will require the Preamble for the Notice of Final Rulemaking to include
22 language demonstrating the need for an immediate effective date.

23 **Public Comments & Responses**

24 37. No member of the public provided comment on this rulemaking.

25 **Modifications to the NPRM rule language**

26 38. In the NPRM, published May 15, 2015, in R14-5-202, Staff included a parenthetical
27 date of February 5, 2015, for the updated incorporation by reference of 49 CFR Parts 40, 191, 192,
28 193, 195, and 199. Staff intended the February 5, 2015, date to represent the current version of these

1 49 CFR Parts as of March 31, 2015, when Staff's Memorandum and proposed order were issued.
 2 However, the most recent codification of 49 CFR Parts 40, 191, 192, 193, 195, and 199 was issued
 3 October 1, 2014; the new codification will be issued on October 1, 2015;¹¹ and 49 CFR Parts 192,
 4 193, 195, and 199 have recently been amended through a PHMSA rulemaking. The current version
 5 of 49 CFR Parts 192, 193, 195, and 199 is available in a PHMSA Final Rule notice published in the
 6 Federal Register on January 5, 2015, with an effective date of March 6, 2015.¹² Although effective as
 7 of March 6, 2015, the PHMSA Final Rule changes will not be codified in the CFR until October
 8 2015. To ensure that the adopted version of the 49 CFR Parts incorporated by reference in R14-5-
 9 202 is completely clear, it is appropriate to revise the language of R14-5-202(B) by replacing
 10 "~~(October 1, 2012 February 5, 2015)~~" with "~~(October 1, 2012~~ October 1, 2014, as amended by the
 11 Final Rule published at 80 Fed. Reg. 168 (January 5, 2015) and effective March 6, 2015)." We find
 12 that this revision would not result in a substantial change to the proposed rules, as determined under
 13 A.R.S. § 41-1025, and would not necessitate a Notice of Supplemental Proposed Rulemaking because
 14 the revision does not change the persons affected by the rules, the subject matter of the rules, the
 15 issues determined by the rules, or the effects of the rules.¹³

16 39. Additionally, the NPRM, in R14-5-204(A)(2), did not update the parenthetical date for
 17 Form PHMSA F 7100.1-1 because that annual report form had not been yet been updated as of
 18 Staff's memorandum and proposed order. Since that time, however, an updated Form PHMSA F
 19 7100.1-1, dated May 2015, has been issued by PHMSA. To best achieve the purpose of
 20 incorporating by reference the most updated PHMSA standards possible as of this rulemaking, we
 21 find that it is reasonable and appropriate to update the incorporation by reference for Form PHMSA F

22 ¹¹ The U.S. Government Publishing Office codifies federal regulations by title number using a quarterly codification
 23 schedule.

24 ¹² 80 Fed. Reg. 168 (January 5, 2015). We note that another PHMSA Final Rule for 49 CFR Parts 191, 192, and 195
 25 was published in the Federal Register on March 11, 2015, with an effective date of October 1, 2015. (See 80 Fed. Reg.
 26 12762.) In the Final Rule publication of March 11, 2015, PHMSA authorized immediate compliance with the
 27 amendments in the Final Rule and specified that the incorporations by reference listed in the Final Rule were approved as
 28 of March 6, 2015. (*Id.*)

¹² Because the NPRM stated that the incorporations by reference in the rules were being updated to include "the most
 26 recent amendments" to 49 CFR, we conclude that stakeholders would have understood the February 5, 2015, date
 27 provided to encompass the changes published in the Federal Register on January 5, 2015.

¹³ Because the NPRM stated that the incorporations by reference in the rules were being updated to include "the most
 27 recent amendments" to 49 CFR, we conclude that stakeholders would have understood the February 5, 2015, date
 28 provided to encompass the changes published in the Federal Register on January 5, 2015.

1 7100.1-1, in R14-5-204(A)(2), by replacing “(January 2011)” with “(~~January 2011~~ May 2015).” We
 2 find that this revision will not result in a substantial change to the proposed rules, as determined
 3 under A.R.S. § 41-1025, and will not necessitate a Notice of Supplemental Proposed Rulemaking
 4 because the revision does not change the persons affected by the rules, the subject matter of the rules,
 5 the issues determined by the rules, or the effects of the rules.¹⁴

6 40. In addition, because most subsections of the rules being amended are not being
 7 changed through this rulemaking, we find that it is reasonable and appropriate to simplify the text
 8 submitted for the Notice of Final Rulemaking by including “no change” for those subsections that are
 9 not being changed. This revision makes no substantive change to the rule language as published in
 10 the NPRM.

11 41. The revisions described in Findings of Fact 38 through 40 will result in rules that are
 12 more clear, concise, and understandable than the rules as published in the NPRM and will not result
 13 in any rule’s becoming substantially different, under A.R.S. § 41-1025, from the rule as published in
 14 the NPRM. The revisions are reflected in the rule text set forth in Exhibit B, which is attached hereto
 15 and incorporated herein.

16 **Probable Economic Impacts**

17 42. In the EIS, attached hereto and incorporated herein as Exhibit C, Staff stated that this
 18 rulemaking will have no impact on master meter system operators,¹⁵ operators of natural gas or other
 19 gas systems, or operators of hazardous liquid pipelines, provided that the operators are already
 20 complying with federal pipeline safety regulations. Staff further stated that although the Commission
 21 will incur minimal costs from the rulemaking itself, it will also benefit from maintaining its agent
 22 status with PHMSA and from having in place rules that are consistent with the federal pipeline safety
 23 regulations and that enhance public safety. Staff additionally stated that private persons and users of
 24 gas service provided by regulated utilities should not be impacted by the rules any differently than
 25 other members of the general public in Arizona, all of whom should be benefitted by the enhanced

26 ¹⁴ The January 2011 form and the May 2015 form differ in that the May 2015 form requires the preparer to check two
 27 additional boxes to identify commodity group and operator type and requires the preparer to break down total excavation
 28 damage events by root cause rather than just reporting the total. Both versions of the form have burden estimates of
 approximately 16 hours.

¹⁵ Master meter system operators may be small businesses.

1 safety of the pipeline system. The Preamble to the NPRM also stated that operators of liquefied
 2 natural gas ("LNG") facilities will experience increased testing costs when welding is performed,
 3 although the additional costs are expected to be minimal, as welding is a nonrecurring activity. This
 4 information was omitted from the EIS and should be added into the EIS before it is submitted for a
 5 Notice of Final Rulemaking. In addition, the EIS should state that increased testing costs will only be
 6 incurred by an LNG facility operator if the operator is not already ensuring that nondestructive testing
 7 is completed for each weld performed on newly installed, replaced, or repaired pipeline or
 8 appurtenances.

9 43. The rulemaking primarily updates existing incorporations by reference by adopting the
 10 current versions of to 49 CFR Parts 40, 191, 192, 193, 195, and 199. These updates will not cause an
 11 economic impact for operators complying with the current federal requirements. The rulemaking also
 12 makes a few clarifying changes, which should benefit operators, the Commission, and the general
 13 public in Arizona, although this benefit would be difficult to quantify.

14 44. We find that the information included in the EIS, attached hereto as Exhibit C, with
 15 the additions noted in Findings of Fact No. 42, substantially conforms to the requirements of A.R.S.
 16 §§ 41-1057 and 41-1055¹⁶ and should be adopted.

17 **Resolution**

18 45. The proposed revisions to A.A.C. Title 14, Chapter 5, Article 2, as set forth in the
 19 NPRM attached hereto as Exhibit A, and modified as set forth in Findings of Fact Nos. 38 through 40
 20 and reflected in Exhibit B, are just and reasonable and in the public interest and should be adopted.

21 46. The proposed revisions to A.A.C. Title 14, Chapter 5, Article 2, as set forth in the
 22 NPRM attached hereto as Exhibit A, and modified as set forth in Findings of Fact Nos. 39 through 41
 23 and reflected in Exhibit B, should be submitted to the Office of the Attorney General in the form of a
 24 Notice of Final Rulemaking package conforming to the requirements of A.R.S. § 41-1001(16)(d) and
 25 the Rules of the Office of the Secretary of State.¹⁷ The Final Rulemaking package should include, as
 26

27 ¹⁶ Although A.R.S. § 41-1057 exempts the Commission from having its rules reviewed by GRRC and from application
 of A.R.S. § 41-1055, it also requires the Commission to adopt substantially similar rule review procedures, to include
 preparation of an economic impact statement and a statement of the effect of the rule on small business.

28 ¹⁷ See, e.g., A.A.C. R1-1-105, R1-1-601, and R1-1-602.

1 a separate Economic Impact Statement, the EIS attached hereto as Exhibit C, with the additions noted
2 in Findings of Fact No. 42. Additionally, the Preamble for the Notice of Final Rulemaking should
3 include language demonstrating the need for an immediate effective date for this rulemaking, as
4 provided under A.R.S. § 41-1032(A)(1) and (2), so as to preserve the public health and safety and to
5 avoid a violation of the PHMSA deadline for the Commission to adopt regulations conforming to the
6 current federal regulations for pipeline safety.

7 CONCLUSIONS OF LAW

8 1. Pursuant to Arizona Constitution, Art. 15, § 3 and A.R.S. §§ 40-202, 40-203, 40-321,
9 40-322, 40-336, and 40-441, the Commission has authority and jurisdiction to revise A.A.C. Title 14,
10 Chapter 5, Article 2, as set forth in the NPRM attached hereto as Exhibit A, and further modified as
11 described in Findings of Fact Nos. 38 through 40 and reflected in Exhibit B.

12 2. The Commission is required to submit this rulemaking to the Office of the Attorney
13 General for certification under A.R.S. § 41-1044.

14 3. Notice of the oral proceeding regarding the NPRM was provided in the manner
15 prescribed by law.

16 4. The revisions to A.A.C. Title 14, Chapter 5, Article 2, as set forth in the NPRM
17 attached hereto as Exhibit A and modified as set forth in Findings of Fact Nos. 38 through 40 and
18 reflected in Exhibit B, do not represent a substantial change from the proposed rules as published in
19 the NPRM.

20 5. The revisions to A.A.C. Title 14, Chapter 5, Article 2, as set forth in the NPRM
21 attached hereto as Exhibit A and modified as set forth in Findings of Fact Nos. 38 through 40 and
22 reflected in Exhibit B, are clear, concise, and understandable; within the Commission's power to
23 make; within enacted legislative standards; and made in compliance with appropriate procedures.

24 6. Adoption of the revisions to A.A.C. Title 14, Chapter 5, Article 2, as set forth in the
25 NPRM attached hereto as Exhibit A and modified as set forth in Findings of Fact Nos. 38 through 40
26 and reflected in Exhibit B, is just and reasonable and in the public interest.

27 7. The EIS attached hereto as Exhibit C, with the additions noted in Findings of Fact No.
28 42, substantially conforms to the requirements of A.R.S. §§ 41-1057 and 41-1055.

1 8. Because no oral or written comments were received regarding the NPRM, the
2 Preamble for the Notice of Final Rulemaking for this matter should reflect that no comments were
3 received.

4 **ORDER**

5 IT IS THEREFORE ORDERED that the Commission hereby adopts the text of A.A.C. Title
6 14, Chapter 5, Article 2, revised as set forth in the NPRM attached hereto as Exhibit A and modified
7 as set forth in Findings of Fact Nos. 38 through 40 and reflected in Exhibit B.

8 IT IS FURTHER ORDERED that the Commission hereby adopts the Economic Impact
9 Statement attached hereto as Exhibit C, with the additions noted in Findings of Fact No. 42.

10 IT IS FURTHER ORDERED that the Commission's Safety Division/Legal Division shall
11 prepare and file with the Office of the Attorney General, for certification under A.R.S. § 41-1044, a
12 Notice of Final Rulemaking package that includes (1) A Notice of Final Rulemaking setting forth the
13 text of A.A.C. Title 14, Chapter 5, Article 2, adopted herein and including a Preamble conforming to
14 A.R.S. § 41-1001(16)(d) and demonstrating the need for an immediate effective date for the
15 rulemaking as provided under A.R.S. § 41-1032; (2) the Economic Impact Statement adopted herein;
16 (3) any additional documents required by the Office of the Attorney General for certification under
17 A.R.S. § 41-1044; and (4) any additional documents required for publication and codification by the
18 Office of the Secretary of State after the rulemaking is certified by the Office of the Attorney
19 General.

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1 IT IS FURTHER ORDERED that the Commission's Safety Division/Legal Division is
2 authorized to make non-substantive changes in the text of A.A.C. Title 14, Chapter 5, Article 2
3 adopted herein; the Economic Impact Statement adopted herein; and any of the additional documents
4 required by the Office of the Attorney General or the Office of the Secretary of State, in response to
5 comments received from the Office of the Attorney General or the Office of the Secretary of State
6 during the certification, publication, and/or codification process, unless the Commission requires
7 otherwise after notification of those changes.

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10
11
12 CHAIRMAN _____ COMMISSIONER

13
14 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER

15
16 IN WITNESS WHEREOF, I, JODI JERICH, Executive
17 Director of the Arizona Corporation Commission, have
18 hereunto set my hand and caused the official seal of the
19 Commission to be affixed at the Capitol, in the City of Phoenix,
20 this _____ day of _____ 2015.

21
22 _____
23 JODI JERICH
24 EXECUTIVE DIRECTOR

25
26 DISSENT _____

27
28 DISSENT _____
SH:tv

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SERVICE LIST FOR:

PROPOSED AMENDMENTS TO PIPELINE SAFETY RULES

DOCKET NO.:

RG-00000A-15-0098

Jennifer Crapisi
Abbott Laboratories
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Casa Grande, Arizona 85193

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City of Willcox
101 South Railroad, Suite B
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Alliant Gas
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Page, Arizona 86040

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Hildale, Utah 84784-0809

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Terry Rigoni
Copper Market Gas
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160 South Huachuca
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Justin Burnett
City of Safford Utilities
405 West Discovery Park Blvd.
Safford, Arizona 85546

Steve Lines
Graham County Utilities, Inc.
9 West Center Street
P.O. Drawer B
Pima, Arizona 85543

1	Brian Jaconi Havasu Springs Resort 2581 Highway 95 Parker, Arizona 85344	Jim Lantto Southwest Gas Corp. Engineering Staff/Arizona Compliance 3401 East Gas Road P.O. Box 26500 Tucson, Arizona 85726
2		
3	Kenny Weickum Ikard and Newsom 4359 US HWY 64 Kirtland, New Mexico 87419	Shawn Brink Southwest Gas Corp. Central Arizona Division 9 South 43 rd Avenue P.O. Box 52075 Phoenix, Arizona 85072-2075
4		
5	Steve Marositz Kinder Morgan Energy Partners, LP 2319 South Riverside Avenue Bloomington, California 92316	Jeff Hanenburg Southwest Gas Corp. Central Arizona Division East Region 5705 South Kyrene Road Tempe, Arizona 85283-1729
6		
7	Gary Simmerman Mineral Park Inc. 7033 East Greenway Parkway, #120 Scottsdale, Arizona 85254	Mark Hingstrum Southwest Gas Corp. Southern Arizona Division 3401 East Gas Road P.O. Box 26500 Tucson, Arizona 85726
8		
9	Joe Campbell Mineral Park Inc. 8275 North Mineral Park Road Golden Valley, Arizona 86413	Shaun McFatridge Southwest Gas Corp. Southern Nevada Division 1705 Langford Drive Bullhead City, Arizona 86442
10		
11	Patrick Scott Mojave Pipeline 5499 West Needle Mountain Road Topock, Arizona 86436	Otis Williams Swissport Fueling, Inc. 4200 East Airplane Drive Phoenix, Arizona 85034
12		
13	Ken Leier North Baja Pipeline LLC 50600 Colorado River Road P.O. Box 323 Ehrenberg, Arizona 85334	Fausto Luna Remote Tank Farm 250 North 55 th Avenue Phoenix, Arizona 85043
14		
15	Brandon Matthews Pimalco Aerospace Aluminum 6833 West Willis Road, Box 5050 Chandler, Arizona 85225	Nathan Hlavaty Transwestern Pipeline 8001 Jefferson N.E. Albuquerque, New Mexico 87113
16		
17	Kevin Shaw Palins LPG Services LP 14702 West Olive Avenue Waddell, Arizona 85355	Paul Huber Tuba City School District #15 P.O. Box 67 Tuba City, Arizona 86045
18		
19	Rick Aragon Questar 1215 South Lake Street Farmington, New Mexico 87499	
20		
21	Eric DeBonis Southwest Gas Corp. Corporate Office 5241 Spring Mountain Road Las Vegas, Nevada 89150	
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- 1 Nathan Sheley
- 2 Unisource Energy Services
- 3 2901 West Shamrell Blvd., #110
- 4 Flagstaff, Arizona 86001

- 5 John Richardson
- 6 Valle Air Park
- 7 801 South State HWY 64, Space 100
- 8 Valle – Williams, Arizona 85007-2927

- 9 Phil Priebe
- 10 Zapco Energy Tactics Corp.
- 11 7501 South Swan Road
- 12 Tucson, Arizona 86706

- 13 Robert Marvin
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- 17 Janice M. Alward
- 18 Chief Counsel, Legal Division
- 19 1200 West Washington Street
- 20 Phoenix, Arizona 85007

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NOTICE OF PROPOSED RULEMAKING

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

CHAPTER 5. CORPORATION COMMISSION – TRANSPORTATION

[R15-25]

PREAMBLE

- | 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---------------------------------------------------------------------|---------------------------------|
| R14-5-202 | Amend |
| R14-5-203 | Amend |
| R14-5-204 | Amend |
| R14-5-205 | Amend |
| R14-5-207 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 40-441.
 Implementing statute: Arizona Constitution, Article XV § 3.
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 21 A.A.R. 685, May 15, 2015 (*in this issue*).
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Charles Hains, Commission Counsel, Legal Division
 Address: Arizona Corporation Commission
 1200 W. Washington St.
 Phoenix, AZ 85007
 Telephone: (602) 542-3402
 Fax: (602) 542-4870
 E-mail: Chains@azcc.gov
 Web site: www.azcc.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
 The purpose of the proposed rules is to amend R14-5-202, R14-5-203, R14-5-204, R14-5-205 and R14-5-207, of the Pipeline Safety Rules.
 The amendments to R14-5-202, R14-5-203, R14-5-204, R14-5-205 and R14-5-207 are revised for clarity and to update incorporations by reference of the most recent amendments to the Code of Federal Regulations ("CFR"), Title 49.
 The Commission is exempt from the Executive Order 2015-01 requirement to obtain prior approval before engaging in rulemaking proceedings.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 None
- 7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
 Small Business Subject to the Rules: These rules do not change the responsibilities of master meter operators already established in 1970 by the adoption by the Commission of the Code of Federal Regulations, Title 49, Parts 191 and 192.

The proposed 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 maintaining a safe pipeline system.

Operators of Liquefied Natural Gas facilities will experience some increased testing costs when welding is per-

formed. However, because welding is a nonrecurring activity, the additional cost is anticipated to be minimal.

The proposed 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.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Robert Miller, Office of Pipeline Safety
 Address: Arizona Corporation Commission
 2200 N. Central Ave., Ste. 300
 Phoenix, AZ 85004
 Telephone: (602) 262-5601
 Fax: (602) 262-5620
 E-mail: RMiller@azcc.gov
 Web site: www.azcc.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Commission has scheduled the following oral proceeding for public comments:

Date: June 18, 2015
 Time: 10:00 a.m.
 Location: Arizona Corporation Commission
 Hearing Room 1
 1200 W. Washington St.
 Phoenix, AZ 85007
 Nature: Public Comment Hearing

Written comments can be submitted on or before June 15, 2015, to the Commission's Docket Control at the address listed above. Please reference Docket No. RG-00000A-15-0098 on all documents.

Oral comments may be provided at the proceedings on June 18, 2015, at 10:00 a.m.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
 Not applicable
- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
 Not applicable
- c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
 Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

49 CFR 40 (February 5, 2015) adopted in R14-5-202(B)
 49 CFR 191 (February 5, 2015) adopted in R14-5-202(B)
 49 CFR 192 (February 5, 2015), except I(A)(2) and (3) of Appendix D to part 192 adopted in R14-5-202(B)
 49 CFR 193 (February 5, 2015) adopted in R14-5-202(B)
 49 CFR 195 (February 5, 2015), except 195.1(b)(2), (3), and (4) adopted in R14-5-202(B)
 49 CFR 199 (February 5, 2015) adopted in R14-5-202(B)

13. The full text of the rules follows:

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

CHAPTER 5. CORPORATION COMMISSION – TRANSPORTATION

**ARTICLE 2. PIPELINE SAFETY**

Section

- R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems
 R14-5-203. Pipeline Incident Reports
 R14-5-204. Annual Reports
 R14-5-205. Commission Investigations
 R14-5-207. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY**R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems**

- A.** Applicability: This Section applies to the construction, reconstruction, repair, operation, and maintenance of each intrastate gas, LNG, or hazardous liquid pipeline system, pursuant to A.R.S. § 40-441.
- B.** Subject to the definitional changes in R14-5-201 and the modifications noted in this Section, the Commission adopts, incorporates, and approves as its own 49 CFR 40; 191; 192, except (1)(A)(2) and (3) of Appendix D to Part 192; 193; 195, except 195.1(b)(2), (3), and (4); and 199 (October 1, 2012 February 5, 2015), including no future editions or amendments, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from the U.S. Government Printing Office, 710 North Capital Street N.W., Washington DC 20401, and at <http://www.gpo.gov/fdsys/>. For purposes of 49 CFR 192, "Business District" means an area where the public congregate for economic, industrial, religious, educational, health, or recreational purposes and two or more buildings used for these purposes are located within 100 yards of each other.
- C.** The above mentioned incorporated Parts of 49 CFR, except 49 CFR 191; 49 CFR 192.727(g)(1), 192.913(b)(1)(vii), 192.943(a), 192.949(a)-(b), and 192.951; 49 CFR 193 Subpart A; and 49 CFR 195 Subparts A and B, are revised as follows:
1. Substitute "Commission" where "Administrator," "Pipeline and Hazardous Materials Administration," "Office of Pipeline Safety," or "OPS" appears; and
 2. Substitute "Office of Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where the address for the "Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation" appears.
- D.** An operator of an intrastate pipeline shall file with the Commission an Operation and Maintenance Plan, including an emergency plan, at least 30 days before placing a pipeline system into operation. Any changes in an existing Operation and Maintenance Plan shall be filed within 30 days after the effective date of the change.
- E.** An operator of an intrastate pipeline transporting sour gas or sour oil shall comply with the following industry standards addressing facilities handling hydrogen sulfide (H₂S), which are incorporated by reference, including no future editions or amendments:
1. NACE Standard MR0175-99, Standard Materials Requirements-Sulfide Stress Cracking Resistant Metallic Material for Oilfield Equipment (1999 Revision), on file with the Office of Pipeline Safety and published by and available from the NACE International, 1440 S. Creek Dr., Houston, TX 77084-4906; and
 2. API RP55: Recommended Practice for Conducting Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide (2nd Edition 1995), on file with the Office of Pipeline Safety and published by and available from the American Petroleum Institute, 1200 L Street, NW, Washington, DC 20005-4070 and at <http://www.techstreet.com/>.
- F.** An operator of an intrastate pipeline transporting LNG, hazardous liquid, or gas shall not construct any part of a hazardous liquid, LNG, or gas pipeline system under a building. If a building encroaches over a pipeline system, the operator may require the property owner to remove the building from over the pipeline or to reimburse the operator the cost associated with relocating the pipeline system. The operator shall determine, within 90 days after discovering the encroachment, whether the encroachment can be resolved within 180 days. If the operator determines that the encroachment cannot be resolved within 180 days, the operator shall, within 90 days of discovery, submit to the Office of Pipeline Safety a written plan to resolve the encroachment within a period longer than 180 days. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the property owner and the operator to implement the written plan to resolve the encroachment. If the operator does not submit a written plan, and the encroachment is not resolved within 180 days of discovery, the operator shall discontinue service to the pipeline system. This modifies 49 CFR 192.361 and 195.210.
- G.** An operator of an intrastate distribution pipeline transporting gas shall not construct any part of a pipeline system less than 8 inches away from any other underground structure. If the 8-inch clearance cannot be maintained, a sleeve, casing, or shielding shall be used. This modifies 49 CFR 192.361.
- H.** An operator of an intrastate pipeline transporting gas that has regulators, meters, or regulation meter sets that have been out of service for 36 months shall disconnect the pipeline from all sources and supplies of gas or hazardous liquids, purge the gas or hazardous liquids from the pipeline being disconnected, and cap all ends within six months after the 36 months have passed. This modifies 49 CFR 192.727.



- I. An operator of an intrastate pipeline shall not install or operate a gas regulator that might release gas within 3 feet of a source of ignition, an opening into a building, an air intake into a building, or any electrical source that is not intrinsically safe. The 3 foot clearance from a source of ignition shall be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection does not apply to building permits issued and subdivisions platted before October 1, 2000. If an encroachment into the required 3 foot clearance is caused by an action of the property owner, an occupant, or a provider after the effective date of this rule, the operator may require the property owner to resolve the encroachment or to reimburse the operator the cost associated with relocating the pipeline system. The operator shall determine, within 90 days after discovering the encroachment, whether the encroachment can be resolved within 180 days. If the operator determines that the encroachment cannot be resolved within 180 days, the operator shall, within 90 days of discovery, submit to the Office of Pipeline Safety a written plan to resolve the encroachment within a period longer than 180 days. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the property owner and the operator to implement the written plan to resolve the encroachment. If the operator does not submit a written plan, and the encroachment is not resolved within 180 days of discovery, the operator shall discontinue service to the affected pipeline system. This modifies 49 CFR 192.357 and 192.361.
- J. An operator of an intrastate pipeline transporting LNG, gas, or a hazardous liquid shall use a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~October 1, 2010 (and no future amendments)~~, as incorporated by reference in subsection (B), and copies available from the Office of Pipeline Safety and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954, except Sections (I)(A)(2) and (3) of Appendix D to Part 192 shall not be utilized. This modifies 49 CFR 192.463(a), 193.2629, and 195.571.
- K. An operator of an intrastate pipeline transporting hazardous liquid or gas shall not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in a pipeline system. This modifies 49 CFR 192.53 and 192.59.
- L. An operator of an intrastate pipeline transporting hazardous liquid or gas shall not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and the installation is approved by the Office of Pipeline Safety. An operator may use a temporary aboveground plastic pipeline bypass for up to 60 days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times. This modifies 49 CFR 192.321 and 195.254.
- M. An operator of an intrastate pipeline transporting hazardous liquid or gas that constructs a pipeline system or any portion thereof using plastic pipe shall install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped, or attached to the pipe in another manner, provided that the adhesive or attachment is not detrimental to the integrity of the pipe wall. This modifies 49 CFR 192.321 and 195.246.
- N. An operator of an intrastate pipeline transporting gas or hazardous liquid that constructs an underground pipeline system using plastic pipe shall bury the installed pipe with at least 6 inches of sandy type soil, free of any rock or debris, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. Steel pipe shall be installed with at least 6 inches of sandy type soil, free of any debris or materials injurious to the pipe coating, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. This modifies 49 CFR 192.321, 192.361, and 195.246.
- O. An operator of an intrastate pipeline transporting gas that constructs an underground pipeline system using plastic pipe shall install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe and fittings for use in an area with service temperatures above 100° F shall be tested and marked CD, CE, CF, or CG as required by ASTM D2513 (1995), including no future editions or amendments, which is incorporated by reference, on file with the Office of Pipeline Safety, and published by and available from ASTM International, 100 Barr Harbor Dr., P.O. Box C700, W. Conshohocken, PA 19428-2959 and through <http://www.astm.org>. This modifies 49 CFR 192.63.
- P. An operator of an intrastate pipeline system transporting hazardous liquid or gas shall qualify welding procedures and shall ensure that welding of steel pipelines is performed in accordance with API Standard 1104, as incorporated by reference in 49 CFR 192.7, by welders qualified pursuant to API Standard 1104, except that welders qualified as delineated in 49 CFR 192, Appendix C may be used for low stress level pipe. This modifies 49 CFR 192.225, 192.227, 195.214, and 195.222.
- Q. An operator of an intrastate pipeline transporting gas shall survey and grade all detected leakage according to the standards provided below, which modify 49 CFR 192.706 and 192.723:
1. In the case of all gas except LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three Two~~ Park Avenue, New York, NY 10016-5990; and modified by omitting 4.4(c) and by replacing "should" with "shall" each time it appears.
 2. In the case of LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11A-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three Two~~ Park Avenue, New York, NY 10016-5990; and modified by replacing "should" with "shall" each time it appears.



3. Leakage survey records shall identify in some manner each pipeline surveyed and shall be maintained to demonstrate that each required leakage survey has been conducted. This modifies 49 CFR 192.706 and 192.723.
- R. An operator of an intrastate transmission pipeline transporting gas shall conduct a leakage survey at least twice each calendar year, at an interval not exceeding 7 1/2 months, independent of class location, and shall repair each underground leak classified as grade two or three either upon discovery or within one year after discovery. This modifies 49 CFR 192.706 and 192.711.
- S. An operator of an intrastate transmission pipeline transporting gas and operating at or above 20 percent of Specified Minimum Yield Strength shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. The nondestructive testing shall be completed before the newly welded area of the pipeline or appurtenance is used for service. This modifies 49 CFR 192.241.
- T. An operator of an LNG facility shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. This modifies 49 CFR 193.2303.
- ~~F.U.~~ In the event of an unknown failure of a gas, LNG, or hazardous liquid pipeline, resulting in the operator's being required to provide a telephonic or written report under R14-5-203(B) or (C) and in the operator's removing a portion of the failed pipeline, the following shall occur:
 1. The operator shall retain the portion of failed pipeline that was removed;
 2. The operator shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed, providing the following information:
 - a. Identity of the failed pipeline,
 - b. Description and location of the failure,
 - c. Date and time of the removal,
 - d. Length or quantity of the removed portion,
 - e. Storage location of the removed portion, and
 - f. Any additional information about the failure or the removal of the portion of the failed pipeline that is requested by the Office of Pipeline Safety;
 3. Within 48 hours after receiving telephonic notification pursuant to subsection (~~F U~~)(2), the Office of Pipeline Safety shall:
 - a. Determine, based on the information provided by the operator and the availability, adequacy, and reliability of any pipeline testing laboratory operated by the operator, whether it is necessary to have the removed portion of pipeline tested at an independent laboratory; and
 - b. Telephonically notify the operator either:
 - i. That the operator must have the removed portion of pipeline tested, in accordance with Office of Pipeline Safety directions, by an independent laboratory selected by the Office of Pipeline Safety as provided in subsection (~~F U~~)(5), to determine the cause or causes of the failure; or
 - ii. That the operator is not required to have the removed portion of pipeline tested by an independent laboratory and instead must conduct testing in its own pipeline testing laboratory, after which the operator may discard the removed portion of pipeline;
 4. After providing telephonic notice as provided in subsection (~~F U~~)(3)(b), the Office of Pipeline Safety shall confirm its notification in writing;
 5. If the Office of Pipeline Safety directs testing by an independent laboratory:
 - a. The Office of Pipeline Safety shall:
 - i. Determine, as provided in subsection (~~F U~~)(6), the independent laboratory that will do the testing and the period of time within which the testing is to be completed;
 - ii. Determine, based on the available information concerning the failure, the number and types of tests to be performed on the removed pipeline; and
 - iii. Notify the operator of its determinations; and
 - b. The operator shall:
 - i. Contact the selected independent laboratory to arrange the scheduling of the required tests;
 - ii. Notify the Office of Pipeline Safety, at least 20 days before the date of the tests, of the date and time scheduled for the laboratory tests;
 - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests;
 - iv. Ensure that the original test results are provided to the Office of Pipeline Safety by the independent laboratory within 30 days after the tests are completed; and

- v. Pay for the independent laboratory testing; and
- 6. In determining an independent laboratory to perform testing required under subsection (~~F~~ U), the Office of Pipeline Safety shall:
 - a. Submit to at least three different independent laboratories written requests for bids to conduct the testing;
 - b. Consider each responding independent laboratory's qualifications to perform the testing, as demonstrated by:
 - i. Past experience in performing the required test or tests according to ASTM International standards, and
 - ii. Any recognition that a laboratory may have received from a national or international laboratory accreditation body, such as through a certification or accreditation process;
 - c. Wait to select an independent laboratory until one of the following occurs:
 - i. The Office of Pipeline Safety has received written bids from at least three different independent laboratories, or
 - ii. Thirty days have passed since the date of the request for bids; and
 - d. Select the independent laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests. This modifies 49 CFR 192.617, 193.2515, and 195.402.

~~U~~ V. An operator shall ensure that all repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquid, or gas complies with this Article.

~~V~~ W. The Commission may waive compliance with any of the requirements of this Section upon a finding that such a waiver is in the interest of public and pipeline safety.

~~W~~ X. To ensure compliance with the provisions of this Article, the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, electronic files, business methods, and affairs that pertain to the pipeline system operation.

R14-5-203. Pipeline Incident Reports

A. Applicability. This Section applies to all intrastate pipeline systems.

B. Required incident reports by telephone:

1. An operator of an intrastate pipeline transporting LNG or gas shall immediately notify by telephone the Office of Pipeline Safety, at 602-262-5601 during normal working hours or at 602-252-4449 at all other times, upon discovering the occurrence of any of the following related to the operator's intrastate pipeline system:
 - a. Release of gas or LNG from a pipeline or LNG facility, when any of the following results:
 - i. Death or personal injury requiring hospitalization;
 - ii. Injury to any individual resulting in loss of consciousness;
 - iii. An explosion or fire not intentionally set by the operator;
 - iv. Property damage estimated in excess of \$5,000, including the value of the gas lost; or
 - v. Unintentional release of gas from a transmission pipeline;
 - b. Emergency transmission pipeline shutdown;
 - c. News media inquiry;
 - d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG, or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%;
 - e. Permanent or temporary discontinuance of service to a master meter system or when assisting with the isolation of any portion of a master meter system due to failure of a leak test;
 - f. Emergency shutdown of any LNG facility;
 - g. An evacuation; or
 - h. An outage.
2. An operator of an intrastate pipeline transporting hazardous liquid shall immediately notify by telephone the Office of Pipeline Safety, at 602-262-5601 during normal working hours or at 602-252-4449 at all other times, upon discovering a failure in a pipeline system resulting in the occurrence of any of the following:
 - a. Injury to an individual that results in one or more of the following:
 - i. Death or personal injury requiring medical treatment,
 - ii. Loss of consciousness, or
 - iii. Inability of the individual to leave the scene of the incident unassisted;
 - b. An explosion or fire not intentionally set by the operator;

- c. Property damage estimated in excess of \$5,000;
 - d. Pollution of any land or stream, river, lake, reservoir, or other body of water that violates applicable environmental quality or water quality standards, causes a discoloration of the water surface or adjoining shoreline, or deposits sludge or emulsion beneath the water surface or upon the adjoining shoreline;
 - e. News media inquiry;
 - f. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
 - i. Not otherwise reportable under this Section;
 - ii. Not one described in 49 CFR 195.52(a)(4), as incorporated by reference in R14-5-202 and available from the Office of Pipeline Safety;
 - iii. Confined to the operator's property or the pipeline right-of-way; and
 - iv. Cleaned up promptly; or
 - g. Any release of hazardous liquid or carbon dioxide that was significant in the judgment of the operator even though it did not meet any of the criteria in subsections (B)(2)(a)-(f).
3. A telephonic incident report shall include the following information:
- a. Name of the pipeline system operator,
 - b. Name of the reporting party,
 - c. Job title of the reporting party,
 - d. Telephone number of the reporting party,
 - e. Location of the incident,
 - f. Time of the incident, and
 - g. Description of any fatalities and injuries.
- C. Required written incident reports:
1. An operator of an intrastate pipeline transporting LNG or gas shall file a written incident report when an incident involving a pipeline occurs resulting in any of the following:
 - a. Release of gas or LNG from a pipeline or LNG facility, when any of the following results:
 - i. Death or personal injury requiring hospitalization;
 - ii. Loss of consciousness;
 - iii. An explosion or fire not intentionally set by the operator;
 - iv. Property damage estimated in excess of \$25,000, including the value of all released gas; or
 - v. Unintentional release of gas from a transmission pipeline;
 - b. An incident involving an evacuation, outage, or property damage and resulting in expenses including the value of any released gas and of restoring service or evacuation estimated in excess of \$25,000;
 - c. Emergency transmission pipeline shutdown;
 - d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG, or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%; or
 - e. Emergency shutdown of any LNG facility.
 2. A written incident report concerning a gas pipeline system shall be completed using the following, as applicable, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from PHMSA at East Building, Second Floor, 1200 New Jersey Ave., SE, Washington, DC 20590, and at <http://www.phmsa.dot.gov/pipeline/library/forms>:
 - a. Form PHMSA F 7100.1: Incident Report – Gas Distribution System (~~June 2014~~ October 2014), including no future editions or amendments;
 - b. Form PHMSA F 7100.2: Incident Report – Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~ October 2014), including no future editions or amendments; or
 - c. Form PHMSA F 7100.3: Incident Report – Liquefied Natural Gas (LNG) Facilities (~~June 2014~~ October 2014), including no future editions or amendments.
 3. An operator of an intrastate pipeline transporting hazardous liquid shall file a written incident report completed using Form PHMSA F 7000-1: Accident Report – Hazardous Liquid Pipeline Systems (~~December 2012~~ July 2014),

including no future editions or amendments, which is incorporated by reference, on file with the Office of Pipeline Safety, and published by and available from PHMSA as set forth in subsection (C)(2), any time the operator would have been required to make a notification as required under R14-5-203(B)(2).

4. A written incident report required by this Section shall be filed with the Office of Pipeline Safety within the time specified below:
 - a. For an LNG; or gas - incident, within 20 days after detection; and
 - b. For a hazardous liquid incident, within 15 days after detection.
5. An operator shall either file a copy of each DOT required written incident report electronically with PHMSA at <https://portal.phmsa.dot.gov/pipeline> or submit a written request for an alternative reporting method to the Information Resource Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, PHP-20, 1200 New Jersey Avenue, SE, Washington, DC 20590, under 49 CFR 195.58, as incorporated by reference in R14-5-202.
6. After an incident involving shutdown or partial shutdown of a master meter system, an operator of a gas pipeline system shall request and obtain a clearance from the Office of Pipeline Safety before turning on or reinstating service to a the master meter system or portion of the master meter system that was shut down.

R14-5-204. Annual Reports

- A. An operator of an intrastate pipeline shall file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, an annual report completed using one of the following, as applicable, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from PHMSA as provided in R14-5-203(C)(2):
 1. Form PHMSA F 7000-1.1: Annual Report for Calendar Year 20__ Hazardous Liquid Pipeline Systems (June ~~2011~~2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
 2. Form PHMSA F 7100.1-1: Annual Report for Calendar Year 20__ Gas Distribution System (January 2011), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
 3. Form PHMSA F 7100.2-1: Annual Report for Calendar Year 20__ Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form; or
 4. Form PHMSA F 7100.3-1: Annual Report for Calendar Year 20__ Liquefied Natural Gas (LNG) Facilities (~~June 2011~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form.
- B. An operator of an intrastate pipeline shall submit a copy of each required annual report by March 15, for the previous calendar year, to PHMSA at <https://portal.phmsa.dot.gov/pipeline>.

R14-5-205. Commission Investigations

- A. The Office of Pipeline Safety shall investigate the cause of each reportable incident, accident, or event resulting in a death or an injury requiring hospitalization and may investigate other incidents, accidents, or events.
- B. While investigating an incident, accident, or event, the Commission; or an authorized agent of the Commission may:
 1. Inspect all plant and facilities of a pipeline system and all other property of a pipeline system operator;
 2. Inspect the books, papers, business methods, and affairs of a pipeline system operator;
 3. Make inquiries regarding and interview persons having knowledge of facts surrounding an incident or accident;
 4. Attend, as an observer, all hearings and formal investigations concerning a pipeline system operator;
 5. Schedule and conduct a public hearing into the incident or accident; and
 6. Issue subpoenas to compel the production of records and the taking of testimony.

R14-5-207. Master Meter System Operators

- A. Applicability: This Section applies to the construction, reconstruction, repair, emergency procedures, operation, and maintenance of all master meter systems.
- B. An operator of a master meter system shall comply with this Section as a condition of receiving service from a provider. Noncompliance with this Section by an operator of a master ~~meters~~ meter system constitutes grounds for termination of service by the provider when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the provider oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- C. Each operator of a master meter system shall comply with all applicable requirements of 49 CFR 192, as incorporated by reference in R14-5-202.

- D.** An operator of a master meter system shall:
1. Establish an Operation and Maintenance Plan, including an emergency plan; and
 2. At all times, maintain a copy of the Operation and Maintenance Plan at the master meter system location.
- E.** An operator of a master meter system shall:
1. Ensure that no part of a gas pipeline system is constructed under a building and that no building is placed over any portion of a gas pipeline system; and
 2. Upon discovering that a building is located over a portion of a gas pipeline system, complete one of the following within 180 days:
 - a. Remove the building from over the pipeline,
 - b. Relocate the pipeline, or
 - c. Discontinue service to the portion of the pipeline system located under the building.
- F.** An operator of a master meter system shall not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in the master meter system.
- G.** An operator of a master meter system that constructs a pipeline or any portion thereof using plastic pipe shall install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe. Tracer wire may be taped or attached to the pipe in another manner, provided that the adhesive or attachment is not detrimental to the integrity of the pipe wall.
- H.** An operator of a master meter system that constructs an underground pipeline using plastic pipe shall bury the installed pipe with at least 6 inches of sandy type soil, free of any rock or debris, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. Steel pipe shall be installed with at least 6 inches of sandy type soil, free of any debris or materials injurious to the pipe coating, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety.
- I.** An operator of a master meter system that constructs an underground pipeline using plastic pipe shall install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe and fittings for use in an area with service temperatures above 100° F shall be marked CD, CE, CF, or CG as required by ASTM D2513 (1995), incorporated by reference in R14-5-202 and available from the Office of Pipeline Safety.
- J.** An operator of a master meter system shall qualify welding procedures and shall ensure that welding of steel pipelines is performed in accordance with API Standard 1104, as incorporated by reference in 49 CFR 192.7 and R14-5-202, by welders qualified pursuant to API Standard 1104.
- K.** An operator of a master meter system shall ensure that all repair work performed on an existing master meter system complies with this Article.
- L.** An operator of a master meter system shall:
1. Ensure that each underground steel pipeline is protected against external corrosion with an external protective coating meeting the requirements of 49 CFR 192.461;
 2. When installing a new underground steel pipeline system, before placing the new pipeline system into service, provide a cathodic protection system designed to protect the new pipeline system in its entirety;
 3. When repairing, partially replacing, or relocating an existing underground steel pipeline system, within 45 days after completing the repair, replacement, or relocation, provide a cathodic protection system designed to protect the pipeline system; and
 4. Ensure that each cathodic protection system has a voltage of at least negative 0.85 volts direct current (-0.85Vdc) as measured using a saturated copper-copper sulfate half cell.
- M.** An operator of a master meter system shall ensure that no portion of an underground gas system is installed less than 8 inches away from any other underground structure.
- N.** At least 30 days before commencing construction of any pipeline, an operator of a master meter system shall file with the Office of Pipeline Safety a Notice of Construction that includes at least the following information:
1. The dates projected for commencing and completing construction,
 2. The size and type of pipe to be used,
 3. The location of construction, and
 4. The MAOP for the new pipeline.
- O.** An operator of a master meter system shall:
1. Perform leakage surveys at intervals not exceeding 15 months, but at least once each calendar year, using leak detection procedures approved by the Office of Pipeline Safety;
 2. Except for LPG, perform each leakage survey in accordance with ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983, other than 4.4(c), as incorporated by reference in R14-5-202(Q);

3. For LPG, perform each leakage survey in accordance with ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11A-1983, as incorporated by reference in R14-5-202(Q); and
 4. Repair each grade 1 leak immediately upon discovery, each grade 2 leak within 30 days of discovery, and each grade 3 leak within one year of discovery.
- P. In the event of an unknown failure of a gas pipeline resulting in a master meter system operator's being required to provide a report under subsection (Q) and in the operator's removing a portion of the failed pipeline, the following shall occur:
1. The operator shall retain the portion of failed pipeline that was removed;
 2. The operator shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed, providing the following information:
 - a. Identity of the failed pipeline,
 - b. Description and location of the failure,
 - c. Date and time of the removal,
 - d. Length or quantity of the removed portion,
 - e. Storage location of the removed portion, and
 - f. Any additional information about the failure or the removal of the portion of the failed pipeline that is requested by the Office of Pipeline Safety;
 3. Within 48 hours after receiving telephonic notification pursuant to subsection (Q)(2), the Office of Pipeline Safety shall:
 - a. Determine, based on the information provided by the operator and the availability, adequacy, and reliability of any pipeline testing laboratory operated by the operator, whether it is necessary to have the removed portion of pipeline tested at an independent laboratory; and
 - b. Telephonically notify the operator either:
 - i. That the operator must have the removed portion of pipeline tested, in accordance with Office of Pipeline Safety directions, by an independent laboratory selected by the Office of Pipeline Safety as provided in subsection (P)(6), to determine the cause or causes of the failure; or
 - ii. That the operator is not required to have the removed portion of pipeline tested by an independent laboratory and instead must conduct testing in its own pipeline testing laboratory, after which the operator may discard the removed portion of pipeline;
 4. After providing telephonic notice as provided in subsection (P)(3)(b), the Office of Pipeline Safety shall confirm its notification in writing;
 5. If the Office of Pipeline Safety directs testing by an independent laboratory:
 - a. The Office of Pipeline Safety shall:
 - i. Determine, as provided in subsection (P)(6), the independent laboratory that will do the testing and the period of time within which the testing is to be completed;
 - ii. Determine, based on the available information concerning the failure, the number and types of tests to be performed on the removed pipeline; and
 - iii. Notify the operator of its determinations;
 - b. The operator shall:
 - i. Contact the selected independent laboratory to arrange the scheduling of the required tests;
 - ii. Notify the Office of Pipeline Safety, at least 20 days before the date of the tests, of the date and time scheduled for the laboratory tests;
 - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests;
 - iv. Ensure that the original test results are provided to the Office of Pipeline Safety by the independent laboratory within 30 days after the tests are completed; and
 - v. Pay for the independent laboratory testing; and
 6. In determining an independent laboratory to perform testing required under subsection (P), the Office of Pipeline Safety shall:
 - a. Submit to at least three different independent laboratories written requests for bids to conduct the testing;
 - b. Consider each responding laboratory's qualifications to perform the testing, as demonstrated by:
 - i. Past experience in performing the required test or tests according to ASTM International standards; and

- ii. Any recognition that a laboratory may have received from a national or international laboratory accreditation body, such as through a certification or accreditation process;
 - c. Wait to select an independent laboratory until:
 - i. The Office of Pipeline Safety has received written bids from at least three different independent laboratories; or
 - ii. Thirty days have passed since the date of the request for bids, whichever comes sooner; and
 - d. Select the independent laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.
- Q.** An operator of a master meter system shall:
1. Telephonically notify the Office of Pipeline Safety, at 602-262-5601 during normal working hours or at 602-252-4449 at all other times, at the earliest practicable moment following discovery of any of the following related to the operator's master meter system:
 - a. An event involving a release of gas from a pipeline, along with any of the following:
 - i. A death or personal injury requiring hospitalization;
 - ii. Injury to any individual resulting in the individual's loss of consciousness;
 - iii. Estimated property damage, including the value of all released gas, in excess of \$5,000;
 - iv. Unintentional estimated gas loss of 3 million cubic feet or more;
 - v. An explosion or fire not intentionally set by the operator;
 - vi. A news media inquiry;
 - vii. An evacuation; or
 - viii. An outage;
 - b. An event involving overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG, or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%;
 - c. An event involving permanent or temporary discontinuance of service to a master meter system or any portion of a master meter system due to a failure of a leak test or for any purpose other than to perform routine maintenance; or
 - d. An event that is significant, in the judgment of the operator, even though it does not meet any of the criteria listed in subsections (Q)(1)(a) through (c);
 2. Include the following information in a telephonic report under subsection (Q)(1):
 - a. The names of the operator and the person making the report;
 - b. The job title of the person making the report;
 - c. The telephone numbers of the operator and the person making the report;
 - d. A description of the type and location of the event;
 - e. The time of the event;
 - f. The number of fatalities and personal injuries, if any; and
 - g. All other significant facts that are known by the operator and are relevant to the cause of the event or the extent of the damages; and
 3. Not later than April 15 of each year, submit to the Office of Pipeline Safety an annual report for the prior calendar year, completed on Commission Form MM-04: "Annual Report for Calendar Year 20 __, Small Operators of Gas Distribution System," which is included herein as Exhibit A.
- R.** The Commission may waive compliance with any of the requirements of this Section upon a finding that such a waiver is in the interest of public and pipeline safety.
- S.** To ensure compliance with all applicable provisions of this Article, the Commission or an authorized representative thereof; may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, electronic files, business methods, and affairs that pertain to the operation of the master meter system.

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND
ASSOCIATIONS; SECURITIES REGULATION
CHAPTER 5. CORPORATION COMMISSION – TRANSPORTATION
ARTICLE 2. PIPELINE SAFETY**

Section

- R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems
- R14-5-203. Pipeline Incident Reports
- R14-5-204. Annual Reports
- R14-5-205. Commission Investigations
- R14-5-207. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems

- A. No change
- B. Subject to the definitional changes in R14-5-201 and the modifications noted in this Section, the Commission adopts, incorporates, and approves as its own 49 CFR 40; 191; 192, except (I)(A)(2) and (3) of Appendix D to Part 192; 193; 195, except 195.1(b)(2), (3), and (4); and 199(~~October 1, 2012~~ October 1, 2014, as amended by the Final Rule published at 80 Fed. Reg. 168 (January 5, 2015) and effective March 6, 2015), including no future editions or amendments, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from the U.S. Government Printing Office, 710 North Capital Street N.W., Washington DC 20401, and at <http://www.gpo.gov/fdsys/>. For purposes of 49 CFR 192, "Business District" means an area where the public congregate for economic, industrial, religious, educational, health, or recreational purposes and two or more buildings used for these purposes are located within 100 yards of each other.
- C. No change
1. No change
 2. No change
- D. No change
- E. No change
1. No change
 2. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. An operator of an intrastate pipeline transporting LNG, gas, or a hazardous liquid shall use a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~October 1, 2010 (and no future amendments)~~, as incorporated by reference in subsection (B), and copies available from the Office of Pipeline Safety and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954, except. Sections (I)(A)(2) and (3) of Appendix D to Part 192 shall not be utilized. This modifies 49 CFR 192.463(a), 193.2629, and 195.571.
- K. No change
- L. No change
- M. No change
- N. An operator of an intrastate pipeline transporting gas or hazardous liquid that constructs an underground pipeline system using plastic pipe shall bury the installed pipe with at least 6 inches of sandy type soil, free of any rock or debris, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. Steel pipe shall be installed with at least 6 inches of sandy

type soil, free of any debris or materials injurious to the pipe coating, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. This modifies 49 CFR 192.321, 192.361, and 195.246.

O. No change

P. No change

Q. No change

1. In the case of all gas except LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three~~ Two Park Avenue, New York, NY 10016-5990; and modified by omitting 4.4(c) and by replacing "should" with "shall" each time it appears.

2. In the case of LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11A-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three~~ Two Park Avenue, New York, NY 10016-5990; and modified by replacing "should" with "shall" each time it appears.

3. No change

R. No change

S. No change

T. An operator of an LNG facility shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. This modifies 49 CFR 193.2303.

~~T.~~ U. No change

1. No change

2. No change

a. No change

b. No change

c. No change

d. No change

e. No change

f. No change

3. Within 48 hours after receiving telephonic notification pursuant to subsection (~~T~~ U)(2), the Office of Pipeline Safety shall:

a. No change

b. No change

- i. That the operator must have the removed portion of pipeline tested, in accordance with Office of Pipeline Safety directions, by an independent laboratory selected by the Office of Pipeline Safety as provided in subsection (~~F~~ U)(5), to determine the cause or causes of the failure; or
 - ii. No change
- 4. After providing telephonic notice as provided in subsection (~~F~~ U)(3)(b), the Office of Pipeline Safety shall confirm its notification in writing;
- 5. No change
 - a. No change
 - i. Determine, as provided in subsection (~~F~~ U)(6), the independent laboratory that will do the testing and the period of time within which the testing is to be completed;
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
- 6. In determining an independent laboratory to perform testing required under subsection (~~F~~ U), the Office of Pipeline Safety shall:
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change

~~U~~, V. No change

~~V~~, W. No change

~~W~~, X. No change

R14-5-203. Pipeline Incident Reports

A. No change

B. No change

- 1. No change

- a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
2. No change
- a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - g. No change
3. No change
- a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- C. No change

1. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
2. No change
 - a. Form PHMSA F 7100.1: Incident Report – Gas Distribution System (~~June 2011~~October 2014), including no future editions or amendments;
 - b. Form PHMSA F 7100.2: Incident Report – Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~October 2014), including no future editions or amendments; or
 - c. Form PHMSA F 7100.3: Incident Report – Liquefied Natural Gas (LNG) Facilities (~~June 2011~~October 2014), including no future editions or amendments.
3. An operator of an intrastate pipeline transporting hazardous liquid shall file a written incident report completed using Form PHMSA F 7000-1: Accident Report – Hazardous Liquid Pipeline Systems (~~December 2012~~July 2014), including no future editions or amendments, which is incorporated by reference, on file with the Office of Pipeline Safety, and published by and available from PHMSA as set forth in subsection (C)(2), any time the operator would have been required to make a notification as required under R14-5-203(B)(2).
4. No change
 - a. For an LNG, or gas - incident, within 20 days after detection; and
 - b. No change
5. No change
6. After an incident involving shutdown or partial shutdown of a master meter system, an operator of a gas pipeline system shall request and obtain a clearance from the Office of Pipeline Safety before turning on or reinstating service to a the master meter system or portion of the master meter system that was shut down.

R14-5-204. Annual Reports

- A. No change

1. Form PHMSA F 7000-1.1: Annual Report for Calendar Year 20__ Hazardous Liquid Pipeline Systems (~~June 2011~~2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
2. Form PHMSA F 7100.1-1: Annual Report for Calendar Year 20__ Gas Distribution System (~~January 2011~~May 2015), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
3. Form PHMSA F 7100.2-1: Annual Report for Calendar Year 20__ Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form; or
4. Form PHMSA F 7100.3-1: Annual Report for Calendar Year 20__ Liquefied Natural Gas (LNG) Facilities (~~June 2011~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form.

B. No change

R14-5-205. Commission Investigations

A. No change

B. While investigating an incident, accident, or event, the Commission, or an authorized agent of the Commission may:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change

R14-5-207. Master Meter System Operators

A. No change

B. An operator of a master meter system shall comply with this Section as a condition of receiving service from a provider. Noncompliance with this Section by an operator of a master ~~meters~~ meter system constitutes grounds for termination of service by the provider when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the provider oral instructions to terminate service, with written confirmation to be furnished within 24 hours.

C. No change

D. No change

1. No change
2. No change

E. No change

1. No change

- 2. No change
 - a. No change
 - b. No change
 - c. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- M. No change
- N. No change
 - 1. No change
 - 2. No change.
 - 3. No change
 - 4. No change
- O. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- P. In the event of an unknown failure of a gas pipeline resulting in a master meter system operator's being required to provide a report under subsection (Q) and in the operator's removing a portion of the failed pipeline, the following shall occur:
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change

- 3. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
- 4. No change
- 5. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
- 6. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change

- Q. No change
 - 1. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - viii. No change

- b. No change
 - c. An event involving permanent or temporary discontinuance of service to a master meter system or any portion of a master meter system due to a failure of a leak test or for any purpose other than to perform routine maintenance; or
 - d. No change
2. No change
- a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change;
 - f. No change
 - g. No change
3. No change
- R. No change
- S. To ensure compliance with all applicable provisions of this Article, the Commission or an authorized representative thereof; may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, electronic files, business methods, and affairs that pertain to the operation of the master meter system.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

- SUSAN BITTER SMITH - CHAIRMAN
- BOB STUMP
- BOB BURNS
- DOUG LITTLE
- TOM FORESE

IN THE MATTER OF THE PROPOSED
 AMENDMENTS OF THE PIPELINE SAFETY
 RULES A.A.C. R14-5-202, R14-5-203, R14-5-204,
 R14-5-205, AND R14-5-207.

DOCKET NO. RG-00000A-15-0098

**NOTICE OF FILING
 ECONOMIC, SMALL BUSINESS AND
 CONSUMER IMPACT STATMENT**

Pursuant to Decision No. 75023, Staff hereby provides notice of filing the attached Economic, Small Business, and Consumer Impact Statement. Also attached is the Notice of Proposed Rulemaking that was published in the *Arizona Administrative Register* on May 15, 2015.

RESPECTFULLY SUBMITTED this 8th day of July, 2015.



Charles H. Hains
 Attorney, Legal Division
 Arizona Corporation Commission
 1200 West Washington Street
 Phoenix, Arizona 85007
 (602) 542-3402

Original and thirteen (13) copies of the foregoing filed this 8th day of July, 2015, with:

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

RECEIVED

JUL 09 2015

ARIZONA CORPORATION COMMISSION
 HEARING DIVISION

DECISION NO. _____

1 Copy of the foregoing mailed this
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Roseann Osorio

**ECONOMIC, SMALL BUSINESS AND
CONSUMER IMPACT STATEMENT**

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

1. **BRIEF DESCRIPTION:** These amendments will amend rules R14-5-202, R14-5-203, R14-5-204, R-14-5-205 and R14-5-207. The proposed amendments are designed to update the Arizona Corporation Commission Pipeline Safety rules for conformity with the most current requirements of 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), (3), and (4)) and 199 (March 6, 2015) and improve clarity.

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.