BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission
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MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

IN THE MATTER OF PROPOSED AMENDMENTS REGARDING THE TRANSPORTATION OF NATURAL GAS, OTHER GASES AND HAZARDOUS LIQUIDS BY PIPELINES.

DOCKET NO. RG-00000A-04-0169

DECISION NO. 67442

OPINION AND ORDER

DATE OF HEARING: July 19, 2004

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Amanda Pope

IN ATTENDANCE: Mike Gleason, Commissioner
Kristin K. Mayes, Commissioner

APPEARANCES: Kevin Kent, on behalf of the Arizona Utility Group;

Craig Roecks, Assistant General Counsel, on behalf of Southwest Gas Corporation;

Paul Lopez, on behalf of El Paso Pipeline Group;

Mike Comstock, on behalf of the City of Mesa; and

Jason D. Gellman, Legal Division, on behalf of the Commission's Utilities Division Staff.

BY THE COMMISSION:

On May 24, 2004, the Arizona Corporation Commission ("Commission") issued Decision No. 66994, ordering publication of a Notice of Proposed Rulemaking in the Arizona Administrative Register and the scheduling of a public comment hearing regarding the proposed rulemaking to amend transportation rules Arizona Administrative Code ("A.A.C.") R14-5-202, R14-5-203, R14-5-204, and R14-5-205. The purpose of the proposed amendments is to update the Commission's Rules to incorporate the most recent amendments to the Code of Federal Regulations ("CFR"), Title 49, Parts 191, 192, 193, 195, 199 and Part 40, to set forth annual report filing requirements for operators of hazardous liquid pipelines, and to set forth laboratory and test selection procedures for both intrastate pipeline operators and master meter operators.

By Procedural Order issued May 27, 2004, a public comment hearing on the proposed rule amendment was scheduled for July 19, 2004. The Procedural Order stated that comments on the proposed rule amendment would be taken through the date of the public comment hearing, and established a schedule for the filing of formal written comments and responses prior to the public comment hearing.

A Notice of Proposed Rulemaking regarding the proposed amendments was filed with the Secretary of State and was published in the Arizona Administrative Register on June 18, 2004.

On June 21, 2004, the Arizona Utility Group ("AUG") filed written comments on proposed amendments to A.A.C. R14-5-202(O), (P), (R), and (S).

On July 6, 2004, Staff filed responsive comments to AUG's June 21, 2004 filing. By its filing, Staff indicated that a meeting with representatives from AUG was set for July 7, 2004 and that supplemental comments would be filed by Staff subsequent to that meeting, which would indicate whether it believes modifications to the proposed rules are appropriate.

Staff further indicated that it had received verbal comments from the Office of the Secretary of State.

On July 12, 2004, Staff filed its Supplemental Response to AUG's Comments Regarding the Proposed Rulemaking.

On July 14, 2004, AUG filed comments in response to the July 7, 2004 meeting, which set forth AUG's concerns with respect to those areas where agreement was not reached.

On July 15, 2004, El Paso Pipeline Group ("El Paso") filed comments on proposed amendments to A.A.C. R14-5-202(O) and (S) based upon its review of the proposed rules and its participation in the July 7, 2004 meeting.

A public comment hearing was held as scheduled on July 19, 2004, at which the Commission heard oral comments from AUG, Southwest Gas Corporation ("SWG"), El Paso, the City of Mesa, and Staff.

During the public comment hearing, AUG, SWG and the City of Mesa indicated that they intended to submit revisions to the proposed language contained in A.A.C. R14-5-202(S).

A Procedural Order was issued on July 19, 2004, directing that written revisions to A.A.C.

R14-5-202(S) be filed by August 2, 2004, directing Staff to respond to any comments made at the public hearing as well as to any suggested language for A.A.C. R14-5-202(S) by August 16, 2004, and directing any interested parties to file responses thereto by August 30, 2004.

On August 2, 2004, UNS, AUG, and SWG separately filed proposed changes to the language of A.A.C. R14-5-202(S). Additionally, SWG filed proposed changes as well as additional comments relating to several other provisions of the proposed rules.

Staff filed responsive comments on August 17, 2004.

On August 30, 2004, SWG filed its Opposition to Unisource Gas, Inc.'s Comments and Reply to Staff's Responsive Comments, which offered rebuttal to Staff's comments as filed on August 17, 2004 and stated that UNS' August 2, 2004 proposed amendment would engender further confusion.

On August 30, 2004, AUG, excluding UNS, filed a letter indicating support for the comments submitted by SWG on August 30, 2004.

On September 15, 2004, SWG filed a letter on behalf of AUG, UNS, and Staff by which it requested a deferral of a Decision in this matter until September 27, 2004 as the parties were continuing to negotiate a resolution to the disagreement regarding the text of the proposed rule relating to reporting obligations for pipeline operators.

On September 24, 2004, Staff contacted the Hearing Division to indicate that the parties were continuing to work toward a resolution of the proposed language for R14-5-202(S) and R14-5-205(P) and to request, on behalf of SWG and UNS, an extension of the September 27, 2004 deadline until October 1, 2004.

By Procedural Order dated September 27, 2004, Staff, SWG, and UNS were granted an extension for the filing of any consensus language until October 1, 2004.

On October 1, 2004, Staff filed its Notice of Consensus Regarding A.A.C. R14-5-202(S)(1) and R14-5-205(P)(1).

On October 4, 2004, Staff filed its Notice of Filing Errata Attachment A Consensus, which provided the text of the consensus language referenced in its October 1, 2004 filing.

On October 4, 2004, SWG filed a letter indicating that all parties to the negotiation, namely SWG, Staff, AUG, and UNS, agree to the proposed language for R14-5-202(S)(1), which was

provided as an attachment and mirrored that provided by Staff in its October 4, 2004 filing. SWG additionally indicated those sections of the rule for which its objections stand as well as those sections for which arguments it previously presented should be considered waived.

Comments that the Commission received on specific sections of the Proposed Rules following their publication, including both technical and legal issues, and the Commission' analysis and resolution of those comments, are summarized in Appendix B, which is attached to and incorporated in this Decision. In response to comments received, some clarifying language has been incorporated in some sections of the Proposed Rules, as explained in Appendix B, but no substantial changes to the Proposed Rules are required. The text of the Proposed Rules incorporating the modifications is attached to and incorporated in this Decision as Appendix A. Also attached to and incorporated in this Decision is Appendix C, which is an Economic, Small Business, and Consumer Impact Statement.

* * * * * * * * * *

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

FINDINGS OF FACT

1. On March 4, 2004, Staff filed a Memorandum to open this rulemaking docket.

2. On March 10, 2004, Staff docketed a Proposed Order containing Staff's final draft of the Proposed Rules. The Proposed Order recommended that the Commission direct the Hearing Division to issue a Procedural Order setting a period for public comment on the proposed rules and setting the date for a public comment hearing.

3. On March 18, 2004, Staff filed a Notice of Errata by which Staff corrected errors in the proposed amendments to A.A.C. R14-5-202(P) and R14-5-205(J) and submitted a new rules package incorporating those changes. By its filing, Staff requested that the rulemaking package attached to its March 18, 2004 filing supplant the rulemaking package docketed on March 10, 2004.

4. On May 24, 2004, the Commission issued Decision No. 66994, which ordered publication of a Notice of Proposed Rulemaking in the Arizona Administrative Register and the scheduling of a public comment hearing regarding the making of the Proposed Rules, which were

attached to the Decision.

5. On May 27, 2004, a Procedural Order was issued by which the Commission scheduled a public comment hearing on the Proposed Rules for July 19, 2004.

6. Pursuant to law, the Notice of Proposed Rulemaking was published on June 18, 2004 in the Arizona Administrative Register.

7. On June 21, 2004, AUG filed written comments on proposed amendments to A.A.C. R14-5-202(O), (P), (R), and (S).

8. On July 6, 2004, Staff filed responsive comments to AUG's June 21, 2004 filing, which indicated that a meeting with representatives from AUG was set for July 7, 2004 and that Staff intended to file supplemental comments subsequent to that meeting.

9 By its July 6, 2004 filing, Staff additionally indicated that it had received verbal comments from the Office of the Secretary of State.

10. On July 12, 2004, Staff filed its Supplemental Response to AUG's Comments Regarding the Proposed Rulemaking

11. On July 14, 2004, AUG filed comments in response to the July 7, 2004 meeting, which set forth AUG's concerns with respect to those areas where agreement was not reached.

12. On July 15, 2004, El Paso filed comments on proposed amendments to A.A.C. R14-5-202(O) and (S).

13. On July 19, 2004, a public comment hearing was held as scheduled, at which the Commission heard oral comments from AUG, SWG, El Paso, the City of Mesa, and Staff.

14. During the public comment hearing, AUG, SWG and the City of Mesa indicated that they intended to submit revisions to the proposed language contained in A.A.C. R14-5-202(S).

15. A Procedural Order was issued on July 19, 2004, which directed that proposed revisions to A.A.C R14-5-202(S) be filed by August 2, 2004, that Staff respond to any comments made at the public hearing as well as to any suggested language for A.A.C. R14-5-202(S) by August 16, 2004, and that any responses thereto be filed by any interested party by August 30, 2004.

16. On August 2, 2004, UNS, AUG and SWG filed proposed changes to the language of A.A.C. R14-5-202(S), and SWG additionally filed comments relating to several other provisions of

the proposed rules.

17. Staff filed responsive comments on August 17, 2004.

18. On August 30, 2004, SWG filed its Opposition to Unisource Gas, Inc.'s Comments and Reply to Staff's Responsive Comments, which offered rebuttal to Staff's comments as filed on August 17, 2004 and stated that UNS' August 2, 2004 proposed amendment would engender further confusion.

19. On August 30, 2004, AUG, excluding UNS, filed a letter indicating support for the comments submitted by SWG on August 30, 2004.

20. On September 15, 2004, SWG filed a letter on behalf of AUG, UNS, and Staff by which it requested a deferral of a Decision in this matter until September 27, 2004 as the parties were continuing to negotiate a resolution to the disagreement regarding the text of the proposed rule relating to reporting obligations for pipeline operators.

21. On September 24, 2004, Staff contacted the administrative law judge to indicate that the parties were continuing to work toward a resolution of the proposed language for R14-5-202(S) and R14-5-205(P) and to request, on behalf of SWG and UNS, an extension of the September 27, 2004 deadline until October 1, 2004.

22. By Procedural Order dated September 27, 2004, Staff, SWG, and UNS were granted an extension for the filing of any consensus language until October 1, 2004.

23. On October 1, 2004, Staff filed its Notice of Consensus Regarding A.A.C. R14-5-202(S)(1) and R14-5-205(P)(1).

24. On October 4, 2004, Staff filed its Notice of Filing Errata Attachment A Consensus, which provided the text of the consensus language referenced in its October 1, 2004 filing.

25. On October 4, 2004, SWG filed a letter indicating that all parties to the negotiation, namely SWG, Staff, AUG, and UNS, agree to the proposed language for R14-5-202(S)(1), which was provided as an attachment and mirrored that provided by Staff in its October 4, 2004 filing. SWG additionally indicated those sections of the rule for which its objections stand as well as those sections for which arguments it previously presented should be considered waived.

26. The proposed amendments to A.A.C. R14-5-202 through R14-5-205 update the

Commission's Rules to incorporate the most recent amendments to the CFR, Title 49, Parts 191, 192, 193, 195, 199 and Part 40, which includes the requirement that operators of hazardous liquid pipelines submit an annual report.

27. In addition, the proposed amendments set parameters for laboratory testing for both intrastate pipeline operators and master meter operators, require that all newly installed natural gas, other gas or hazardous liquid intrastate pipelines have proper bedding and shading, require that all plastic pipe and fittings be marked with CD, CE, CF or CG per ASTM D2513, and update the location of the Office of Pipeline Safety.

28. A summary of the comments that the Commission received on specific sections of the proposed rules following their publication is attached hereto as Appendix B and incorporated herein by reference. Appendix B was prepared in accordance with A.R.S. § 41-1001(14)(d)(iii) and is to be included in the Preamble to be published with the Notice of Final Rulemaking.

29. In response to comments received, as explained in Appendix B, some clarifying language has been incorporated into certain sections of the Proposed Rules, but no substantial changes to the Proposed Rules are required.

30. The text of the Proposed Rules incorporating the clarifying modifications is set forth in Appendix A, attached hereto and incorporated herein by reference.

31. No Notice of Supplemental Rulemaking is required.

32. Prepared in accordance with A.R.S. § 41-1057, the Economic, Small Business, and Consumer Impact Statement is set forth in Appendix C, attached hereto and incorporated herein by reference.

CONCLUSIONS OF LAW

1. Pursuant to Article XV of the Arizona Constitution, §§ 40-202, 40-203, 40-321, 40-322, and 40-441 *et seq.*, the Commission has jurisdiction to enact amended A.A.C. R14-5-202 through A.A.C. R14-5-205.

2. Notice of the hearing was given in the manner prescribed by law.

3. The Proposed Rules as set forth in Appendix A contain no substantial changes from the Proposed Rules published in the Notice of Proposed Rulemaking.

4. Enactment of A.A.C. R14-5-202 through A.A.C. R14-5-205 as set forth in Appendix A is in the public interest.

5. The Summary of Comments and Response set forth in Appendix B should be adopted.

6. The Economic, Small Business, and Consumer Impact Statement set forth in Appendix C should be adopted.

ORDER

IT IS THEREFORE ORDERED that proposed amended A.A.C. R14-5-202 through A.A.C. R14-5-205 as set forth in Appendix A and the Summary of Comments and Response as set forth in Appendix B are hereby adopted.

IT IS FURTHER ORDERED that the Economic, Small Business, and Consumer Impact Statement, as set forth in Appendix C, is hereby adopted.

IT IS FURTHER ORDERED that the Commission's Utilities Division shall submit adopted amended Rules A.A.C. R14-5-202 through A.A.C. R14-5-205, as set forth in Appendix A; the Summary of Comments and Response, as set forth in Appendix B; and the Economic, Small Business, and Consumer Impact Statement, as set forth in Appendix C; to the Office of the Attorney General for endorsement as part of the rule package submission required by A.R.S. § 41-1044.

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IT IS FURTHER ORDERED that the Commission's Utilities Division is authorized to make non-substantive changes in the adopted amended Rules A.A.C. R14-5-202 through A.A.C. R14-5-205, and to the adopted Summary of Comments and Response, in response to comments received from the Attorney General's office during the approval process under A.R.S. § 41-1044 unless, after notification of those changes, the Commission requires otherwise.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER COMMISSIONER

COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 3rd day of Dec., 2004.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____
AP:mlj

SERVICE LIST FOR: PROPOSED RULEMAKING REGARDING THE TRANSPORTATION OF NATURAL GAS, OTHER GASES AND HAZARDOUS LIQUIDS BY PIPELINE

DOCKET NO. RG-00000A-04-0169

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Appendix A

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards

A. Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas, LNG and hazardous liquid pipeline systems, as described in A.R.S. § 40-441.

B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192 except I (2) and (3) of Appendix D to Part 192, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of ~~January 16, 2002~~ January 15, 2004 (and no future amendments), incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954~~P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975~~.

C. The above mentioned incorporated Parts of 49 CFR, except Parts 191, 193 Subpart A and 195 Subpart A and B, are revised as follows:

1. Substitute "Commission" where "Administrator of the Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
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, Research and Special Programs Administration, U. S. Department of Transportation appears.

D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, 30 days prior to placing a pipeline system into operation. Any changes in existing plans will be filed within 30 days of the effective date of the change.

E. Operators of an intrastate pipeline transporting sour gas or oil are subject to industry standards addressing facilities handling hydrogen sulfide (H_2S). Standards adopted are:

1. NACE Standard MR-0175-99 (1999 Revision); (and no future revisions), Standard Materials Requirements-Sulfide Stress Cracking Resistant Metallic Material for Oilfield Equipment, incorporated by reference and no future amendments. Copies are available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the NACE International, 1440 South Creek Drive, Houston, Texas 77084-4906~~P.O. Box 218340, Houston, Texas 77218-8340~~ ~~and~~ ~~on file with the Office of the Secretary of State~~.

2. API RP55 (1995 Edition); (and no future amendments), API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference

and no future amendments. Copies are available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and Techstreet, 777 East Eisenhower Parkway, Ann Arbor, Michigan 48108~~the CSSINFO, 310 Miller Avenue, Ann Arbor, Michigan, 48103 and on file with the Office of the Secretary of State~~.

F. Operators of an intrastate pipeline transporting LNG, hazardous liquid, natural gas or other gas will not construct any part of a hazardous liquid, LNG, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline system, the operator may require the property owner to remove the building from over the pipeline or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery, or the operator shall discontinue service to the pipeline system. When the encroachment can not be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.

G. Operators of an intrastate distribution pipeline transporting ~~LNG, hazardous liquid,~~ natural gas or other gas will not construct any part of a pipeline system closer than 8 inches to any other underground structure. If the 8-inch clearance

cannot be maintained from other underground structures, a sleeve, casing, or shielding shall be used.

H. Operators of an intrastate pipeline transporting natural gas or other gas that have regulators, meters, or regulation meter sets that have been out of service for 36 months will abandon those lines and cap all ends. The Operator's steps to accomplish the abandonment shall not exceed 6 months beyond the 36 months out service status.

I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than 3 feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe. The three (3) foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection shall not be effective with respect to building permits which are issued and subdivisions which are platted prior to October 1, 2000. For encroachment within the required three foot clearance caused by an action of the property owner, occupant or a service provider, after the effective date of this rule the operator may require the property owner to resolve the encroachment or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery or the operator shall discontinue service to the effected pipeline system. When the encroachment cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline

Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.

J. Operators of an intrastate pipeline transporting LNG, natural gas, other gases or hazardous liquid will utilize a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~January 16, 2002~~ January 15, 2004 (and no future amendments), incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 ~~P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975~~ except I (2) and (3) of Appendix D to Part 192 shall not be utilized.

K. Operators of an intrastate pipeline transporting natural gas or other gas will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~January 16, 2002~~ January 15, 2004 (and no future amendments), incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 ~~P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975~~.

L. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install Acrylonitrite-Butadiene-Styrene (ABS) or aluminum pipe in their pipeline systems.

M. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and approved by the Office of Pipeline Safety. Temporary aboveground plastic pipeline bypasses are permitted for up to sixty (60) days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times.

N. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas that construct a pipeline system or any portion thereof using plastic pipe, will 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 in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.

O. Operators of an intrastate pipeline transporting ~~hazardous liquid,~~ natural gas, ~~or~~ other gas <u>or hazardous liquid</u> ~~pipeline system~~ that construct an underground pipeline system ~~using plastic pipe~~ <u>using plastic pipe</u>, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety. <u>Steel pipe shall be installed with bedding and</u>

shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety.

P. Operators of an intrastate pipeline transporting natural gas or other gas ~~pipeline system~~ that construct an underground pipeline system using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. ~~In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c~~ In addition, all plastic pipe and fittings ~~shall be marked "Gas" and~~ shall be marked CD, CE, CF or CG as required by ASTM D2513 (1995c Edition and no future editions), incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, ~~the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187,~~ for areas where the service temperature is above 100°F.

Q. Operators of an intrastate pipeline system transporting hazardous liquid, natural gas or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104, 49 CFR 192, appendix A. The qualification of welders delineated in 49 CFR 192, appendix C may be used for low stress level pipe.

R. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and grade all detected leakage by the following guide: ASME

Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision and no future revisions), incorporated by reference ~~and on file with the Office of the Secretary of State~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the ASME, United Engineering Center, 345 East 47th Street, New York, N. Y. 10017. ("Should" as referenced in the Guide will be interpreted to mean "shall"). Leakage survey records shall identify in some manner each pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.

S. Laboratory testing of intrastate pipelines shall be conducted in accordance with the following:

1. If an operator of an intrastate natural gas, other gas or hazardous liquid pipeline removes a portion of a ~~pipeline that failed for any reason other than observable external corrosion or third party damage,~~ failed pipeline, where the cause of the failure is unknown, ~~from~~ as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this ~~paragraph~~ subsection shall include all of the following:

   a. Identity of the failed pipeline.

   b. Description and ~~Location~~ 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.

~~f. The operator's opinion regarding the probably cause or causes of the failure.~~

f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety.

An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.

2. Within forty-eight hours after telephonic notification pursuant to ~~paragraph~~ subsection (1), the Office of Pipeline Safety shall notify the operator ~~either~~ that either:

a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure~~.~~; or

b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed.

The Office of Pipeline Safety shall confirm its notification in writing.

3. If the Office of Pipeline Safety directs laboratory testing pursuant to ~~paragraph 2, subparagraph a~~ subsection (2)(a):

a. The Office of Pipeline Safety shall:

i. Determine the laboratory that will do the testing pursuant to ~~paragraph~~ subsection (4) and the period of time within which the testing is to be completed.

ii. Approve the number and types of tests to be performed.

iii. Notify the operator of its determinations pursuant to ~~items i and ii of this subparagraph~~ subsections (3)(a)(i) and (ii).

b. The operator shall:

i. Notify the Office of Pipeline Safety of the number and types of tests proposed by the operator.

ii. Notify the Office of Pipeline Safety of the date and time of any laboratory tests at least twenty days before the tests are done.

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 laboratory test results are provided to the Office of Pipeline Safety within thirty days of the completion of the tests.

v. Pay for the laboratory testing.

4. In determining a laboratory pursuant to ~~paragraph 3, subparagraph a, item I,~~ subsection (3)(a)(i), the Office of Pipeline Safety shall:

a. Submit a written request to at least three different laboratories for bids to conduct the testing.

b. Consider the qualifications of the respondent laboratories to perform the testing, including:

i. Past experience in performing the required test or tests according to ASTM International standards.

ii. Any recognition that the laboratory may demonstrate with national or international laboratory accreditation bodies.

c. Select the laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.

d. The Office of Pipeline Safety shall not select a laboratory pursuant to this ~~paragraph~~ subsection before either of the following, which ever occurs first:

i. The Office of Pipeline Safety has received written bids from at least three different laboratories.

ii. Thirty days from the date of the request for bids has passed.

~~S.~~ T. All repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquids, natural gas or other gas ~~pipeline system~~ will comply with the provisions of this Article.

~~T.~~ U. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public and pipeline safety.

~~U.~~ V. To ensure compliance with provisions of this rule 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, business methods, and affairs that pertain to the pipeline system operation.

~~V.~~ **W.** All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

R14-5-203. Pipeline Incident Reports and Investigations

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

B. Required incident reports by telephone:

1. Operators of an intrastate pipeline transporting LNG, natural gas or other gas ~~pipeline system~~ will notify by telephone the Office of Pipeline Safety immediately upon discovery of the occurrence of any of the following:

   a. The release of natural gas, other gas or liquefied natural gas (LNG) from a pipeline or LNG facility, when any of the following results:

      i. Death or personal injury requiring hospitalization.

      ii. An explosion or fire not intentionally set by the operator.

      iii. Property damage, including the value of the gas lost, estimated in excess of $5,000.

   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 gas service to a master meter system or when assisting with the isolation of any portion of a gas master meter system due to a failure of a leak test.

f. Emergency shutdown of a LNG process or storage facility.

2. Operators of an intrastate pipeline transporting hazardous liquid will notify by telephone the Office of Pipeline Safety immediately upon discovery of the occurrence of any of the following:

a. Death or personal injury requiring hospitalization.

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, stream, river, lake, reservoir, or other body of water that violates applicable environmental quality, water quality standards, causes a discoloration of the surface of the water or adjoining shoreline, or deposits sludge or emulsion beneath the surface of the water or upon adjoining shorelines.

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); (1994 Revision and no future revisions), incorporated by reference ~~and on file with the Office of the Secretary of State~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004.

iii. Confined to company property or pipeline right-of-way; and

iv. Cleaned up promptly.

g. Any release of hazardous liquid or carbon dioxide, that was significant in the judgment of the operator even though it did not meet the criteria ~~of any other paragraph~~ of this subsection.

3. Telephone incident reports will 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. The reporting party's telephone number,

e. Location of the incident,

f. Time of the incident, and

g. Fatalities and injuries, if any.

C. Require written incident report:

1. Operators of an intrastate pipeline transporting natural gas, LNG or other gases will file a written incident report when an incident occurs involving a natural gas or other gas pipeline that results in any of the following:

   a. An explosion or fire not intentionally set by the operator.

   b. Injury to a person that results in 1 or more of the following:

      i. Death.

      ii. Loss of consciousness.

      iii. Need for medical treatment requiring hospitalization.

   c. Property damage, including the value of the lost gas, estimated in excess of $5,000.

   d. Emergency transmission pipeline shutdown.

   e. 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%.

   f. Emergency shutdown of a LNG process or storage facility.

2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:

   a. RSPA F7100.1 - Distribution System: Incident Report, incorporated by reference ~~and on file with the Office of the Secretary of State~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix,~~

~~Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004.

b. RSPA F7100.2 - Transmission and Gathering System: Incident Report, incorporated by reference ~~and on file with the Office of the Secretary of State~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004.

c. Written incident reports with respect to LNG facilities will be in an investigative form defining the incident and corrective action taken to prevent a reoccurrence.

3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on RSPA F 7000-1, (January 2001 Revision and no future revisions), incorporated by reference ~~and on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004, when there is a release of hazardous liquid which results in any of the following:

a. An explosion or fire not intentionally set by the operator.

b. Injury to a person that results in 1 or more of the following:

i. Death.

ii. Loss of consciousness.

iii. Inability to leave the scene of the incident unassisted.

iv. Need for medical treatment.

v. Disability which interferes with a person's normal daily activities beyond the date of the incident.

c. 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);); (1994 Revision and no future revisions), incorporated by reference ~~and on file with the Office of the Secretary of State~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004.

iii. Confined to company property or pipeline right-of-way; and

iv. Cleaned up promptly.

d. Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding $5,000.

e. News media inquiry.

4. Written incident reports as required in this Section will be filed with the Office of Pipeline Safety, within the time specified below:

   a. Natural gas, LNG or other gas - within 20 days after detection.

   b. Hazardous liquids - within 15 days after detection.

5. The Operators shall also file a copy of all DOT required written incident reports with the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

6. Operators of a natural gas or other gas pipeline system will request a clearance from the Office of Pipeline Safety prior to turning on or reinstating service to a master meter operator.

D. Investigations by the Commission:

1. The Office of Pipeline Safety will investigate the cause of incidents resulting in death or serious injury.

2. Pursuant to an investigation under this rule, the Commission, or an authorized agent thereof, may:

   a. Inspect all plant and facilities of a pipeline system.

   b. Inspect all other property, books, papers, business methods, and affairs of a pipeline system.

   c. Make inquiries and interview persons having knowledge of facts surrounding an incident.

   d. Attend, as an observer, hearings and formal investigations concerning pipeline system operators.

e. Schedule and conduct a public hearing into an incident.

3. The Commission may issue subpoenas to compel the production of records and the taking of testimony.

4. Incidents not reported in accordance with the provisions of this rule will be investigated by the Office of Pipeline Safety.

5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Office of Pipeline Safety.

6. Late filed incident reports will be accompanied by a letter of explanation. Incidents referred to in late filed reports may be investigated by the Office of Pipeline Safety.

R14-5-204. Annual Reports

A. Except for operators of an intrastate pipeline transporting LNG, ~~hazardous liquid,~~ all other intrastate pipeline operators will file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, the following appropriate report(s):

1. RSPA F 7000-1.1 (February 2004 Edition and no future editions) – "Annual Report for calendar year 20__, hazardous liquid or carbon dioxide systems" and "Instructions for completing RSPA F 7000-1.1 Annual Report for calendar year 20__ hazardous liquid or carbon dioxide systems incorporated by reference, ~~on file with the Secretary of State~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the Information Resources Manager, Office of Pipeline Safety, U.S.

Department of Transportation, Room 2335, 400 Seventh Street, S.W., Washington, DC 20590.

~~1.~~ 2. RSPA F7100.1-1 (November 1985 Edition for use in 2004; March 2005 Edition and no future editions, which can be used in 2004 but will become mandatory starting in 2005) - "Annual Report for Calendar Year 20___, Gas Distribution System" and "Instructions for Completing RSPA Form F7100.1-1, Annual Report for Calendar Year 20___, Gas Distribution System", incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.

~~2.~~ 3. RSPA F7100.2-1 (~~January 2002~~ December 2003 Edition and no future editions) - "Annual Report for Calendar Year 20___, Gas Transmission and Gathering Systems" and "Instructions for Completing Form RSPA F7100.2-1, Annual Report for Calendar Year 20___, Gas Transmission and Gathering Systems", incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the Information Resources Manager, Office of Pipeline Safety,

Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.

B. The operator will also file a copy of all required annual reports by March 15 to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street S.W., Washington, D.C. 20590-0001.

R14-5-205. Master Meter System Operators

A. Applicability. This rule applies to the construction, reconstruction, repair, emergency procedures, operation and maintenance of all master meter systems, as a condition of receiving service from public service corporations. Noncompliance with this rule by operators of a master meter system shall constitute grounds for termination of service by the public service corporation when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the public service corporation oral instructions to terminate service, with written confirmation to be furnished within 24 hours.

B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of ~~January 16, 2002~~ January 15, 2004 (and no future amendments), incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the United States Government Printing

Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 ~~P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975~~.

C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:

1. Substitute "Commission" where "Administrator of the Research and Special Programs Administration", or "Office of Pipeline Safety" (OPS) appear.

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, Research and Special Programs Administration, U.S. Department of Transportation appears.

D. Operators of a master meter system will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter system location.

E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building or permit a building to be placed over a pipeline. Within 180 days of discovery of a building being located over a pipeline, the operator shall remove the building from over the pipeline, relocate the pipeline or discontinue the service to the pipeline located under the building.

F. Operators of a master meter system will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their systems.

G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a

joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~January 16, 2002~~ January 15, 2004 (and no future amendments), incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 ~~P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975~~.

H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will 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 in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.

I. Operators of a master meter system that construct an underground pipeline ~~using plastic pipe~~ using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety. Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety.

J. Operators of a master meter system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal

expansion and contraction. ~~In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c~~ In addition, all plastic pipe and fittings ~~shall be marked "Gas" and~~ shall be marked CD, CE, CF or CG as required by ASTM D2513 (1995c Edition and no future editions), incorporated by reference, ~~on file with the Office of the Secretary of State~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, ~~the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187,~~ for areas where the service temperature is above 100°F.

K. Operators of a master meter gas system shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104, 49 CFR 192, appendix A.

L. All repair work performed on existing master meter systems will comply with the provisions of this Article.

M. Operators of a master meter system will not construct any part of a natural gas or other gas system closer than 8 inches to any other underground structure.

N. Operators of a master meter system will file a Notice of Construction 30 days prior to commencement of the construction of any pipeline. The Notice will contain the following information:

1. The dates of construction,

2. The size and type of pipe to be used,

3. The location of construction, and

4. The Maximum Allowable Operating Pressure (MAOP).

O. Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following guide -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision and no future revisions), except 4.4(c), incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004 and the ASME, United Engineering Center, 345 East 47th Street, New York, New York 10017. ("Should" as referenced in the guide will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety.

P. Laboratory testing of master meter systems shall be conducted in accordance with the following:

1. If an operator of a master meter system, other gas or hazardous liquid pipeline removes a portion of a ~~pipeline that failed for any reason other than observable external corrosion or third party damage,~~ failed pipeline, where the failure is unknown, ~~from~~ as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), ~~where the cause of the failure is unknown,~~ the operator shall retain the

portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this ~~paragraph~~ subsection shall include all of the following:

a. Identity of the failed pipeline.

b. Description and ~~Location~~ 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.

~~f. The operator's opinion regarding the probable cause or causes of the failure.~~

f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety.

An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.

2. Within forty-eight hours after telephonic notification pursuant to ~~paragraph~~ subsection (1), the Office of Pipeline Safety shall notify the operator ~~either~~ that either:

a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure~~.~~; or

b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed.

3. If the Office of Pipeline Safety directs laboratory testing pursuant to ~~paragraph 2, subparagraph a~~ subsection (2)(a):

a. The Office of Pipeline Safety shall:

i. Determine the laboratory that will do the testing pursuant to ~~paragraph~~ subsection (4) and the period of time within which the testing is to be completed.

ii. Approve the number and types of tests to be performed.

iii. Notify the operator of its determinations pursuant to ~~items i and ii of this subparagraph~~ subsections (3)(a)(i) and (ii).

b. The operator shall:

i. Notify the Office of Pipeline Safety of the number and types of tests proposed by the operator.

ii. Notify the Office of Pipeline Safety of the date and time of any laboratory tests at least twenty days before the tests are done.

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 laboratory test results are provided to the Office of Pipeline Safety within thirty days of the completion of the tests.

v. Pay for the laboratory testing.

4. In determining a laboratory pursuant to ~~paragraph 3, subparagraph a, item i~~ subsection (3)(a)(i), the Office of Pipeline Safety shall:

a. Submit a written request to at least three different laboratories for bids to conduct the testing.

b. Consider the qualifications of the respondent laboratories to perform the testing, including:

i. Past experience in performing the required test or tests according to ASTM International standards.

ii. Any recognition that the laboratory may demonstrate with national or international laboratory accreditation bodies.

c. Select the laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.

d. The Office of Pipeline Safety shall not select a laboratory pursuant to this ~~paragraph~~ subsection before either of the following, which ever occurs first:

i. The Office of Pipeline Safety has received written bids from at least three different laboratories.

ii. Thirty days from the date of the request for bids has passed.

~~P.~~ **Q.** Operators of a master meter system will file an annual report with the Commission on Commission Form 1-90/15M (1990 Edition and no future editions), "Annual Report for Calendar Year 20___, Small Operators of Gas Distribution System," incorporated by reference, ~~on file with the Office of the Secretary of State,~~ and copies available from the ~~Commission,~~ Office of Pipeline Safety, ~~1200 West Washington, Phoenix, Arizona 85007~~ 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004. This report will be filed with the Office of Pipeline Safety not later than April 15 for the preceding calendar year.

~~Q.~~ **R.** The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public safety.

~~R.~~ **S.** To ensure compliance with provisions of this rule, 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, business methods, and affairs that pertain to the operation of the master meter system.

~~S.~~ **T.** All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

Appendix B

SUMMARY OF THE COMMENTS MADE REGARDING THE RULE AND THE AGENCY RESPONSE TO THEM

ARTICLE 2. PIPELINE SAFETY

R14-5-202 – Construction and Safety Standards

R14-5-202

Issue: The Arizona Utility Group ("AUG") comments that Internet addresses should be provided for each agency or entity listed in the rule.

Subsequent to a workshop meeting, Staff and AUG agree to consider this proposal in an upcoming workshop.

Analysis: We agree with AUG and Staff that this issue should be addressed in a future workshop.

Resolution: No change required.

R14-5-202(B)

Issue 1: The AUG comments that the address listed for the U.S. Government Printing Office should be updated to reflect its warehouse services address, which is 8660 Cherry Lane, Laurel, MD 20707.

Staff comments that the address should be changed to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Analysis: We agree with Staff. The U.S. Government Printing Office website indicates that orders by mail should be sent to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Resolution: Replace "P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975" with "P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954."

Issue 2: The Secretary of State's Office ("SOS") comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 3: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 4: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-202(E)(1)

Issue 1: The AUG comments that the address listed for NACE International should be updated to reflect the current address, which is NACE International, 1440 South Creek Drive, Houston, Texas, 77084-4906.

Staff comments that it agrees that the address should be updated.

Analysis: We agree with Staff and AUG.

Resolution: Replace "P.O. Box 218340, Houston, Texas 77218-8340" with "1440 South Creek Drive, Houston, Texas 77084-4906."

Issue 2: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 3: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 4: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-202(E)(2)

Issue 1: The AUG comments that the address listed for CSSINFO should be updated to reflect the current address, which is 777 East Eisenhower Parkway, Ann Arbor, MI 48108.

Staff comments that it agrees that the address should be changed as proposed by AUG but adds that CSSINFO should be referred to by its new name of Techstreet.

Analysis: We agree with AUG and Staff that the address should be updated. Furthermore, we agree with Staff that CSSINFO is now known as Techstreet, and the rule should be amended accordingly.

Resolution: Replace "the CSSINFO, 310 Miller Avenue, Ann Arbor, Michigan, 48103" with "Techstreet, 777 East Eisenhower Parkway, Ann Arbor, Michigan 48108."

Issue 2: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 3: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 4: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-202(J)

Issue 1: The AUG comments that the address listed for the U.S. Government Printing Office should be updated to reflect its warehouse services address, which is 8660 Cherry Lane, Laurel, MD 20707.

Staff comments that the address should be changed to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Analysis: We agree with Staff. The U.S. Government Printing Office website indicates that orders by mail should be sent to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Resolution: Replace "P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975" with "P.O Box 371954, Pittsburgh, Pennsylvania 15250-7954."

Issue 2: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 3: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 4: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to

the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-202(K)

Issue 1: The AUG comments that the address listed for the U.S. Government Printing Office should be updated to reflect its warehouse services address, which is 8660 Cherry Lane, Laurel, MD 20707.

Staff comments that the address should be changed to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Analysis: We agree with Staff. The U.S. Government Printing Office website indicates that orders by mail should be sent to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Resolution: Replace "P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975" with "P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954."

Issue 2: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 3: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 4: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-202(O)

Issue: The AUG and El Paso Pipeline Group ("El Paso") comment that Staff's proposal to strike the language "using plastic pipe" in this section expands the rule's application to all pipe, and specifically steel pipe, thereby precluding the use of other adequate options for the protection of steel pipe, which could result in a significant economic impact. AUG comments that instead of striking the phrase "using plastic pipe," the following provision addressing steel pipe should be added at the end of the subsection: "Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected as allowed by federal regulation or approved by OPS."

AUG and El Paso comment that inclusion of the phrase "unless otherwise protected as allowed by federal regulation or approved by OPS" is intended to provide for the use of alternative methods for protecting the pipe from damage. El Paso adds that this treatment is consistent with the federal regulatory language.

Staff comments that the concerns expressed by AUG and El Paso are legitimate, that the rule should be modified such that the phrase "using plastic pipe" remains in the rule, and that the language proposed by AUG, and supported by El Paso, should be included with one modification. Specifically, Staff proposes adding the language "unless otherwise protected and approved by the Office of Pipeline Safety" rather than "unless otherwise protected as allowed by federal regulation or approved by OPS" as proposed by AUG and El Paso.

Analysis: We agree with Staff, AUG, and El Paso that the phrase "using plastic pipe" should remain in the rule. We agree with Staff, however, that the additional language relating to the use of steel pipe should be qualified by the phrase "unless otherwise protected and approved by the Office of Pipeline Safety." AUG's proposed reference to the use of methods approved by federal regulation does not mimic the existing state rule and effectively diminishes the Office of Pipeline Safety's ability to regulate the methodology to be utilized.

Resolution: Retain the phrase "using plastic pipe," and add "Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety" at the end of the subsection.

R14-5-202(P)

Issue 1: AUG comments that the reference to ASTM should be updated to reflect the fact that the organization is now referred to as ASTM International.

Staff agrees with AUG's comment and adds that the address listed for ASTM should be updated to reflect the new address, which is 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

Analysis: We agree with Staff and AUG.

Resolution: Replace "the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187," with "ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959."

Issue 2: AUG comments that the ASTM standard should reflect the identical standard found in the most current issue of the federal rule, which is D2513-87 for 49 CFR 192.63(a)(1) and otherwise D2513-96(a).

AUG and Staff agree, however, to discuss updating industry standards in a workshop to be held in the future.

Analysis: We agree with AUG and Staff that industry standards should be discussed at a future workshop and updated as necessary after a full discussion with the parties has taken place.

Resolution: No change required.

Issue 3: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 4: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 5: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

Issue 6: AUG comments that Staff's proposed language will require that all plastic pipe and fittings be marked both "Gas" and CD, CE, CF, or CG, which exceeds the 1995 standards set forth by the American Society for Testing and Materials ("ASTM") D2513. AUG comments that the proposed requirements will impose an unnecessary economic burden on pipeline operators given the need to obtain the required changes to current markings.

Staff comments that it agrees that the economic impact of having plastic pipe and fittings marked "Gas" significantly outweighs the benefit and that having the plastic pipe and fittings marked CD, CE, CF, or CG will ensure the public safety. Accordingly, Staff and AUG agree to the deletion

of the phrase "shall be marked 'Gas' and" such that the subsection should read, "In addition, all plastic pipe and fittings shall be marked CD, CE, CF or CG as required by ASTM D2513."

Analysis: We agree with Staff and AUG.

Resolution: Delete "shall be marked 'Gas' and."

R14-5-202(R)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to

the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

Issue 4: The AUG comments that the rule's reference the American Society of Mechanical Engineer's ("ASME") Guide material in Appendix G-11-1983 is, in part, outdated and incorrect given a number of changes to the federal regulation. AUG further comments that although Appendix G-11 is used nationally by natural gas operators, it is utilized as a guide and may not, therefore, be applicable in all circumstances for all operators. AUG comments that the ASME was superceded by the AGA's Gas Pipeline Technology Committee, which was approved by the American National Standards Institute ("ANSI") Gas Pipeline and Technology Committee ("GPTC") Z380.1 in December 1992. Consequently, AUG argues that the most current version of the ANSI/GPTC Z380.1 guide material should be incorporated by reference.

Staff comments that updating the industrial standards is not always beneficial to the public safety. Consequently, Staff comments that certain industrial standards referenced in the Rules should not be updated at this time but that such an update might be appropriate in a subsequent rulemaking if it is in the public interest. Staff comments that AUG has agreed to defer such an update of certain industrial standards until the parties have had the opportunity to discuss the ramifications of so doing.

Analysis: We agree that any updates should be deferred until such time as the parties have had an opportunity to fully consider whether such updates would serve the public interest.

Resolution: No change required.

R14-5-202(S)

Issue: The SOS comments that references to "paragraph," "subparagraph" or "item" should be changed to "subsection" to conform to the Arizona Rulemaking manual.

Staff agrees and recommends conforming changes to utilize the term "subsection."

Analysis: We agree with the SOS and Staff.

Resolution: Replace all references to "paragraph," "subparagraph" and "item" with "subsection."

R14-5-202(S)(1)

Issue: Staff, SWG, AUG, and UNS comment that disagreements regarding the language in this subsection relating to laboratory testing have been resolved by discussions amongst the parties resulting in the following consensus language, which should replace all prior manifestations of the rule:

S. Laboratory testing of intrastate pipelines shall be conducted in accordance with the following:

1. If an operator of an intrastate natural gas, other gas or hazardous liquid pipeline removes a portion of a failed pipeline from an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), where the cause of the failure is unknown, the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this subsection shall include all of the following:

   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.
   f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety.

   An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.

Analysis: The proposed amendment represents consensus language addressing concerns raised by industry representatives. Specifically, there was concern that the term "failure," as it

originally appeared in Staff's proposed amendment, was not defined and therefore, not specific enough to discern what constitutes a reportable incident. Additionally, the industry representatives were concerned that this lack of specificity could result in daily reporting of minor incidents that occur in the normal course of business and do not warrant testing as originally proposed.

Additionally, the consensus language addresses the industry's concern, as specifically expressed by AUG, that the new notice requirements originally proposed by Staff do not relate back to the existing notice requirements as set forth in R14-5-203.

We agree with Staff, SWG, AUG, and UNS. We believe that the consensus language provides the required clarification for implementation of the rule while simultaneously reserving OPS' right to receive notification of the removal of a failed pipeline such that OPS may then make a determination as to whether further investigation and testing of the failed portion of pipeline should be undertaken.

We believe, however, that two minor modifications in the language of the proposed rule would provide clarity. Specifically, subsection (1) should be amended by inserting the phrase "where the cause of the failure is unknown" immediately after "failed pipeline," and subsequently, the word "from" should be replaced with the phrase "as the result of" such that the sentence reads as follows: "If an operator of an intrastate natural gas, other gas or hazardous liquid pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed."

Resolution: Amend 202(S)(1) to read as follows:

S. Laboratory testing of intrastate pipelines shall be conducted in accordance with the following:

1. If an operator of an intrastate natural gas, other gas or hazardous liquid

pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this subsection shall include all of the following:

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.
f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety.

An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.

R14-5-202(S)(2)

Issue: SWG comments, and AUG agrees, that the language of the rule should be amended to read as follows:

2. Within forty-eight hours after telephonic notification pursuant to subsection (1), the Office of Pipeline Safety shall notify the operator either that:

a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a third-party laboratory to determine the cause or causes of the failure; or
b. The Office of Pipeline Safety is not directing the operator to conduct third-party laboratory testing and the operator may discard the portion of the pipeline that was removed.

The Office of Pipeline Safety shall confirm its notification in writing.

Staff comments that it does not support this proposed language.

Analysis: We agree with Staff with regard to SWG's proposed language referencing a third-party laboratory. This language was presumably added in conjunction with SWG's additional amendments to subsection (S)(3), by which SWG proposes that the operator be responsible for

determining the laboratory to be used such that it would be necessary to specify that a third party laboratory, rather than the operator's, would be utilized. It is, however, unnecessary and redundant to add such language as the laboratory to be utilized pursuant to the rule will necessarily be a third-party laboratory chosen by, but not under the control of, the OPS.

We disagree with Staff, however, with regard to the insertion of the word "telephonic" and with regard to the additional language directing the Office of Pipeline Safety to confirm its notification in writing. Clarifying that the notification pursuant to subsection (1) is telephonic in nature creates consistency among the subsections. Additionally, requiring the OPS to confirm the telephonic notification in writing is not unduly burdensome, would improve clarity, and eliminate any dispute as to whether telephonic notification had been effected.

Additionally, we believe that the word "that" should be moved and inserted between the words "operator" and "either" in the second line of the subsection.

Resolution: Amend 202(S)(2) to read as follows:

2. Within forty-eight hours after telephonic notification pursuant to subsection (1), the Office of Pipeline Safety shall notify the operator that either:

   a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure; or

   b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed.

The Office of Pipeline Safety shall confirm its notification in writing.

R14-5-202(S)(3)

Issue 1: SWG comments that if OPS dictates the means and methods of a material investigation, it assumes civil liability as an operator if the investigation is negligently performed. Specifically, SWG comments that the OPS functions contemplated by the proposed rule have long been recognized by the federal law as being intimately associated with the operation and maintenance of a pipeline system, and the operator's negligent failure to comply with these legal requirements

exposes the operator to suit for civil liability when that negligence proximately results in injury.

In a subsequent reply to Staff's responsive comments, SWG adds that it is reasonable to expect the OPS to be a defendant in any litigation following a significant incident in which it can be alleged that OPS bears some responsibility. In support of this contention, SWG adds that the Commission is currently a defendant in a personal injury lawsuit relating to an incident involving the release and ignition of natural gas.

Staff comments that the proposed laboratory testing rules do not make OPS an operator. An operator is defined in the federal rules as being "a person who engages in the transportation of gas," and these federal rules were adopted in Arizona pursuant to A.A.C. R14-5-202(B). Neither OPS nor Staff will be engaged in the transportation of gas, and expanding the role of the OPS to include the selection of a laboratory does not make OPS an operator. Finally, Staff comments that although risk of litigation exists, it does not outweigh the benefits offered by passage of the amended rule.

Analysis: We agree with Staff that the oversight benefits offered by the amended rule outweigh the potential risk of litigation. As pointed out by SWG, the Commission currently occupies a supervisory role that may result in litigation notwithstanding the proposed amendment. Expanding the Commission's oversight role in this arena may result in a greater risk of litigation, but it is as likely that the Commission would be subject to the same litigation absent any additional oversight of future pipeline failure. Finally, while we acknowledge the risk of litigation based upon the OPS' oversight of testing facilities and methods, we do not believe that liability will arise as a consequence of the OPS being deemed an "operator."

Resolution: No change required.

Issue 2: SWG comments that OPS, unlike a federal agency, will not be immune to civil liability for its negligent determination of the means and methods of a material investigation as Arizona has abrogated its sovereign immunity for instruments of the state government in all instances

not within the narrow exceptions listed in A.R.S. § 12-820 through § 12-826.

SWG adds, however, that if a Commission administrative law judge were to adjudicate, pursuant to the Commission's Rules of Practice and Procedure, a discovery dispute related to the number and/or types of tests to be performed, the Commission would likely be insulated from civil liability to injured persons as some form of judicial immunity would probably apply to the judicial function.

Staff comments that Arizona courts have recognized that immunity still exists in those instances where dismissing immunity would hamper achievement of important governmental objectives. Staff further comments that absolute immunity will apply when the government is performing administrative functions involving fundamental governmental policy. The purpose of these laboratory testing rules is for the public health and safety, and the decision to require independent laboratory testing chosen by the OPS involved considerable thought and discretion that renders approval of these proposed rules equivalent to fundamental governmental policy. As such, if the Commission promulgates these rules, it will be protected by absolute immunity.

Staff comments that although absolute immunity is not as clear in terms of the implementation of the rules, liability would be predicated upon a showing of duty, breach, and proximate cause even if absolute immunity did not apply. Staff believes that the decision to adopt the laboratory testing rules should be based upon an analysis of whether the rules will advance the public safety rather than the possibility of liability. Staff adds that it believes the benefits of these laboratory testing rules outweigh the costs.

Analysis: We agree with Staff that the adoption of the laboratory testing rules should be based upon the advancement of public safety when this benefit is shown to outweigh the costs of potential litigation. While it appears that implementation of the rules could potentially expose the Commission to civil liability, it is not clear the extent to which the Commission would be insulated

from such liability should discovery disputes be adjudicated by a Commission administrative law judge. Moreover, any potential immunity derived from the Commission's judicial function would conceivably be limited to alleged negligence arising from the limited issue subject to adjudication and may not provide blanket protection. In the absence of a significantly diminished probability that liability would attach, we believe that the process of laboratory and test selection should not be delayed by administrative adjudication, and the OPS should be the entity responsible for the final decision should a dispute arise.

Resolution: No change required.

Issue 3: SWG comments, and AUG agrees, that the language of the rule should be amended to read as follows:

3. If the Office of Pipeline Safety directs third-party laboratory testing pursuant to subsection (2)(a);
   a. The Office of Pipeline Safety shall:
      i. ~~Determine the laboratory that will do the testing pursuant to subsection (4) and the period of time within which the testing is to be completed~~.
      ~~ii.~~ ~~Approve the number and types of tests to be performed~~.
      ~~iii.~~ Notify the operator ~~of its determination pursuant to subsections 3(a)(i) and (ii).~~ if additional or alternative tests are required.
      ii. Notify the operator if representatives from the Office of Pipeline Safety and any of its consultants will observe or record any or all of the tests.
   b. The operator shall:
      i. Notify the Office of Pipeline Safety of the identity of the third-party laboratory. In choosing a third-party laboratory, the operator shall consider the qualifications of the laboratory to perform the testing, including:
         1. Past experience in performing the required test or tests according to ASTM International standards.
         2. Any recognition that the laboratory may demonstrate with national or international laboratory accreditation bodies.
      ~~i.~~ ii. Notify the Office of Pipeline Safety of the number and types of tests proposed by the operator.
      ~~ii.~~ iii. Notify the Office of Pipeline Safety of the location, date and time of any third-party laboratory tests at least twenty days before the tests are done.
      iv. Respond to the Office of Pipeline Safety regarding any required

alternative or additional tests pursuant to subsection (3)(a)(i).

~~iii.~~ v. At the request of the Office of Pipeline Safety, ensure that ~~a~~ representatives of the Office of Pipeline Safety ~~is~~ and any of its consultants are permitted to observe and record any or all of the tests.

~~iv.~~ vi. Ensure that the original third-party laboratory test ~~results are~~ report is provided to the Office of Pipeline Safety within thirty days of the ~~completion of the test~~ operator's receipt of the report.

~~v.~~ ~~Pay for the laboratory testing~~.

Staff comments that it does not support this proposed language.

Analysis: We agree with Staff. The language proposed by SWG effectively eliminates OPS' authority to determine both the laboratory that will undertake the testing as well as the number and types of tests to be performed.

Resolution: No change required.

Issue 4: SWG comments that when the OPS acts as an operator pursuant to the powers granted by the proposed rule, these activities will have the effect of preventing the operator from performing some of its operational obligations as set forth in 49 CFR § 192.617, which in turn jeopardizes the OPS' federal certification for gas or hazardous liquid under 49 U.S.C. § 60105(a) as well as its federal grant-in-aid funds. SWG adds that 49 U.S.C. § 60104(c) provides, "[a] State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed" in the Code of Federal Regulations.

Staff comments that the proposed rules are not incompatible with 49 CFR 192.617, which states that "[e]ach operator shall establish procedures for analyzing accidents and failures, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence." Staff states that OPS' selection of the laboratory and tests to be performed does not

conflict with this federal provision. Rather, SWG must establish procedures that incorporate and work within the framework of the proposed laboratory testing rules. Finally, Staff comments that because the two regulations can and should be read in harmony, the rule should be amended as proposed.

Analysis: We agree with Staff that the provisions of R14-2-202(S)(3) are not incompatible with the minimum federal safety standards as set forth in 49 CFR 192.617 and consequently, that 49 USC § 60104(c) permits a State authority to "adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation." Given that 49 CFR 192.617 requires an operator to establish procedures, rather than dictating the procedures to be utilized, we agree with Staff that the operator can establish procedures that incorporate and operate within this proposed rule.

Resolution: No change required.

Issue 5: The City of Mesa comments that subsection (a)(i) directs the OPS to determine the laboratory that will do the necessary testing thereby excluding the operator from the selection process, which may create problems for the City as it is governed by bidding requirements relating to the expenditure of public funds. Specifically, the City of Mesa notes that it could be problematic if the state chooses to utilize the higher of two bids submitted by laboratories performing the same service. The City of Mesa further commented that it was in the process of seeking a ruling on this issue and would submit any such ruling as soon as it was obtained.

AUG comments that OPS' selection of the laboratory in conjunction with subsection (b)(v), which requires the operator to pay for the testing, may violate the procurement laws for municipal or governmental entities.

Staff comments that the issue requires consideration as it was not specifically taken into account in this rulemaking, yet Staff further comments that it does not believe that the concerns

expressed by the City of Mesa are directly in conflict with the proposed amendment to the rule.

Analysis: We agree with Staff. The City of Mesa did not provide demonstrable evidence, in the form of a ruling, that payment by the operator violates its procurement laws, and consequently, the issue has not been shown to be in direct conflict with the proposed rule. It is, however, an issue which requires further consideration by the parties at a future workshop.

Resolution: No change required.

Issue 6: AUG comments that there could be legal conflicts with the state becoming involved in the selection of laboratories and types of tests, especially in those instances where litigation is involved. AUG further comments that increased legal liabilities that may result from this may be too great for industry to bear.

Staff comments that as the primary agency for regulating pipeline safety within the state, it is appropriate for OPS to directly regulate laboratory testing and that it is in the public interest and ensures public safety to do so.

Analysis: We agree with Staff. AUG's comments are speculative and do not present a demonstrable cost that outweighs the benefit to the public safety afforded by granting authority to OPS to select the laboratory and type of tests to be conducted.

Resolution: No change required.

Issue 7: El Paso comments that the role delineated in the rule for OPS, namely determining the facility to be used and overseeing laboratory testing, should be limited to those instances in which the damage is the result of an "incident" rather than a mere "failure," and it is discovered that the operator's facilities are not appropriate or that the testing cannot occur in a timely fashion.

Staff comments that as the primary agency for regulating pipeline safety within the state, it is appropriate for OPS to directly regulate laboratory testing and that it is in the public interest and

ensures public safety to do so.

Analysis: We agree with Staff that OPS is the appropriate entity to maintain control over the selection of laboratory and testing of materials.

Resolution: No change required.

R14-5-202(S)(3)(b)(v)

Issue: SWG comments that this subsection requires an operator to pay for the OPS' material testing in the absence of a finding by an adjudicatory body that there has been a violation of a pipeline safety rule by the operator or that there is a nexus between the testing and that violation. SWG further comments that this rule is especially problematic in those instances where an operator contests the testing and/or analysis of the OPS' selected laboratory and that dispute becomes central to an enforcement proceeding prosecuted by the Staff against the operator.

In that instance, SWG argues that the operator will bear the penalty of paying for what will be Staff's expert witness before there is even a hearing on the alleged violation. According to SWG, this would permit the Commission to shift the cost of its own investigation onto the operator as a penalty in violation of A.R.S. § 40-442(C), which requires that "[a]ll monies collected from civil penalties assessed pursuant to this article. . .shall be deposited. . .in the state general fund."

Staff comments that pipeline safety regulation stems from A.R.S. § 40-441 such that the requirement that the operator pay for the laboratory testing is not a violation of Arizona law. Staff further comments that requiring operators to pay for testing is not punitive, that operators currently pay for laboratory testing, and that regulators can impose certain costs and payment for performance of certain functions on operators. Staff adds that laboratory testing is often done before any report is issued and before any adversary administrative proceeding commences. Since requiring the operator to pay costs for laboratory testing is not a penalty, A.R.S. § 40-422 is not implicated. Staff further adds that nothing precludes an operator from having its own testing done and proffering evidence and

testimony from that testing.

Analysis: We agree with Staff that promulgation of a rule by which the operator is required to pay for necessary laboratory testing is not a violation of Arizona law. Additionally, we do not believe that SWG has established that the operator's obligation for payment constitutes a penalty such that A.R.S. § 40-422 is implicated and/or violated.

Resolution: No change required.

R14-5-202(S)(4)

Issue 1: SWG comments that by allowing a Commission administrative law judge to affirm or reject the operator's selection of the laboratory or the number and types of tests to be performed, and that if adjudication is made to resolve a discovery dispute, the Commission may be insulated from civil liability to injured persons as some form of judicial immunity may apply.

Staff comments that the OPS is the agency responsible for the safety of intrastate pipelines, and therefore, the OPS, rather than an administrative law judge or independent arbiter, should have the final word if a dispute arises.

Analysis: We agree with Staff. The rule does not provide for implementation of a review by an administrative law judge as the OPS should make the final determination with regard to the laboratory and number and types of tests chosen. Moreover, as previously indicated, it is unclear the extent to which the Commission would be insulated from liability if discovery disputes were to be adjudicated by a Commission administrative law judge.

Resolution: No change required.

Issue 2: SWG comments, and AUG agrees, that the language of the rule as proposed by Staff should be deleted and should be amended to read as follows:

> 4. The rules provided in A.A.C. R14-3-101 through A.A.C. R14-3-113 shall govern disputes between the operator and the Office of Pipeline Safety concerning the laboratory testing conducted in accordance with this section, including but not limited to the selection of the third-party laboratory, the

number and type of tests, and the location and timing of such tests. Destructive testing shall not be conducted on any removed portion of a pipeline once a party receives written notification from the other party that a dispute exists and is subject to resolution under this subsection.

SWG and AUG believe that such a provision would provide for a neutral third party arbiter should a dispute arise as to the laboratory chosen, the number and types of tests performed, and/or the test procedures to be utilized.

Staff comments that the OPS is the agency responsible for the safety of intrastate pipelines, and therefore, the OPS, rather than an administrative law judge or independent arbiter, should have the final word is a dispute arises.

Analysis: We agree with Staff. The rule does not provide for implementation of a review by an administrative law judge as the OPS should make the final determination with regard to the laboratory and number and types of tests chosen.

Resolution: No change required.

Issue 3: SWG comments that should the rule be amended such that OPS is the final arbiter of a dispute between it and the operator over the manner of testing and resolves those disputes in its own favor, then the operator may allege that its constitutional due process rights have been abridged by the OPS' summary edicts and that the testing ordered by OPS resulted in the destruction of evidence if the OPS later assumes a prosecutorial role in an enforcement action in which the OPS advocates the imposition of penalties against the operator.

SWG further comments that in this situation, an operator will allege that it is entitled to a proper remedy, which may include the preclusion of the test results in any enforcement action or outright dismissal of the enforcement action.

Staff comments that evidence of laboratory test results may be suppressed but only under certain limited circumstances, and suppressing evidence is a radical remedy that should only occur in very egregious situations. Additionally, Staff indicates that in a criminal proceeding, for example,

the destruction of evidence may result in an unfavorable inference to the state but would not result in the suppression of the lab results.

Staff further comments that as long as some of the removed portion of the pipeline is preserved so that other parties can conduct testing, there is no prejudice or denial of due process. Suppression as a possible remedy does not mean that it is probable, and the Commission should not fear approving these rules just because of the remote possibility that a scenario may arise where the lab results could be suppressed.

Analysis: We agree with Staff that an operator's due process rights will not be violated by destructive testing so long as either a sample is preserved for alternative testing or the parties reach an agreement on the destructive testing prior to its undertaking. Additionally, we agree with both parties that issues concerning destruction of evidence and appropriate sanctions should be decided on a case-by-case basis such that it is not possible to predict the degree to which destructive testing will render the state incapable of prosecuting any potential violations against the operator. Consequently, we believe the amended rule should be adopted.

Resolution: No change required.

Issue 4: The City of Mesa comments that the rule directs the OPS to determine the laboratory that will do the necessary testing thereby excluding the operator from the selection process, which may create problems for the City as it is governed by bidding requirements relating to the expenditure of public funds. Specifically, the City of Mesa notes that it could be problematic if the state chooses to utilize the higher of two bids submitted by laboratories performing the same service. The City of Mesa further commented that it was in the process of seeking a ruling on this issue and would submit any such ruling as soon as it was obtained.

Staff comments that the issue requires consideration as it was not specifically taken into account in this rule making, yet Staff further comments that it does not believe that the concerns

expressed by the City of Mesa are directly in conflict with the proposed amendment to the rule.

Analysis: We agree with Staff. The City of Mesa did not provide demonstrable evidence, in the form of a ruling, that payment by the operator violates its procurement laws, and consequently, the issue has not been shown to be in direct conflict with the proposed rule. It is, however, an issue which requires further consideration by the parties at a future workshop.

Resolution: No change required.

Issue 5: AUG comments that there are potential problems with a bid process conducted by the state in which the operators will be limited to three laboratories and no provisions are mentioned for cases in which three bids are not available.

Staff comments that the rules require a written request be submitted to at least three laboratories, and if no response to the bids is received after 30 days, then OPS can choose a laboratory.

Analysis: We agree with Staff.

Resolution: No change required.

R14-5-203 – Pipeline Incident Reports and Investigations

R14-5-203(B)(2)(f)(ii)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-203(B)(2)(g)

Issue: The SOS comments that references to paragraph, subparagraph or item should be changed to subsection to conform to the Arizona Rulemaking manual.

Staff agrees and comments that the sentence "[a]ny release of hazardous liquid or carbon dioxide, that was significant in the judgment of the operator even though it did not meet the criteria of any other paragraph of this section," should be changed to "[a]ny release of hazardous liquid or carbon dioxide, that was significant in the judgment of the operator even though it did not meet the criteria of this subsection."

Analysis: We agree with Staff and the SOS.

Resolution: Replace "of any other paragraph of this section" with "of this subsection."

R14-5-203(C)(2)(a)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-203(C)(2)(b)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-203(C)(3)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-203(C)(3)(c)(ii)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees to the amendment with one exception, addition of the word "and" such that the phrase "and on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff.

Resolution: Delete "and on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-204 – Annual Reports

R14-5-204(A)(1)

Issue 1: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 2: AUG comments that the report forms used by the Commission should be the current forms specified by the federal regulations. AUG suggests, therefore, that the Commission adopt the most current version of the federal pipeline incident reporting and Annual Report forms.

Staff comments that the form and noted edition is the most recent as of July 6, 2004. Staff recommends, however, that the word "Edition" should be added after "February 2004."

Analysis: We agree with Staff that the form and noted edition is the most recent.

Resolution: Insert "Edition" after "February 2004."

R14-5-204(A)(2)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggests that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

Issue 4: AUG comments that the report forms used by the Commission should be the current forms specified by the federal regulations. AUG suggests, therefore, that the Commission adopt the most current version of the federal pipeline incident reporting and Annual Report forms.

Staff agrees with AUG's comments and recommends that the most recent edition be cited in the rule. Accordingly, Staff recommends adding "for use in 2004; March 2005 Edition" before "and no future editions" and adding ", which can be used in 2004 but will become mandatory starting in 2005" thereafter.

Analysis: We agree with Staff.

Resolution: Amend subsection (2) to read "November 1985 Edition for use in 2004; March 2005 Edition and no future editions, which can be used in 2004 but will become mandatory starting in 2005."

R14-5-204(A)(3)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggests that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

Issue 4: AUG comments that the report forms used by the Commission should be the current forms specified by the federal regulations. AUG suggests, therefore, that the Commission adopt the most current version of the federal pipeline incident reporting and Annual Report forms.

Staff agrees with AUG's comments and recommends that the most recent edition be cited in the rule. Accordingly, Staff recommends deleting "January 2002" as the noted edition and adding "December 2003."

Analysis: We agree with Staff and AUG.

Resolution: Replace "January 2002" with "December 2003."

R14-5-205 – Master Meter System Operators

R14-5-205

Issue: The AUG comments that Internet addresses should be provided for each agency or entity referenced.

Subsequent to a workshop meeting, Staff and AUG agree to consider this proposal in an upcoming workshop.

Analysis: We agree with AUG and Staff that this issue should be addressed in a future workshop.

Resolution: No change required

R14-5-205(B)

Issue 1: The AUG comments that the address listed for the U.S. Government Printing Office should be updated to reflect its warehouse services address, which is 8660 Cherry Lane, Laurel, MD 20707.

Staff comments that the address should be changed to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Analysis: We agree with Staff. The U.S. Government Printing Office website indicates that orders by mail should be sent to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Resolution: Replace "P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975" with "P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954."

Issue 2: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 3: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 4: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggests that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-205(G)

Issue 1: The AUG comments that the address listed for the U.S. Government Printing Office should be updated to reflect its warehouse services address, which is 8660 Cherry Lane, Laurel, MD 20707.

Staff comments that the address should be changed to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Analysis: We agree with Staff. The U.S. Government Printing Office website indicates that orders by mail should be sent to P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.

Resolution: Replace "P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975" with "P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954."

Issue 2: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 3: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 4: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-205(I)

Issue: Staff comments that as this subsection addresses bedding and shading for master meter system operators, it should be amended in accordance with the proposed amendment for R14-5-202(O) by retaining the phrase "using plastic pipe" and adding the sentence, "Steel pipe shall

be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety" at the end of the subsection.

Analysis: We agree with Staff.

Resolution: Add "Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety" at the end of the subsection.

R14-5-205(J)

Issue 1: AUG comments that the reference to ASTM should be updated to reflect the fact that the organization is now referred to as ASTM International.

Staff agrees with AUG's comment and adds that the address listed for ASTM should be updated to reflect the new address, which is 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

Analysis: We agree with Staff and AUG.

Resolution: Replace "the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187," with "ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959."

Issue 2: To maintain conformity between the provisions for operators of intrastate pipelines and master meter system operators, this subsection should be amended in the same manner proposed by Staff for R14-5-202.P. In reference to R14-5-202.P, Staff and AUG agree that the phrase "shall be marked 'Gas' and" should be deleted such that the subsection should read, "In addition, all plastic pipe and fittings shall be marked CD, CE, CF or CG as required by ASTM D2513."

Analysis: We believe that the subsection should be amended in conformity with R14-5-202.P.

Resolution: Delete "shall be marked 'Gas' and."

Issue 3: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 4: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 5: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-205(O)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

R14-5-205(P)

Issue: The SOS comments that references to "paragraph," "subparagraph" or "item" should be changed to "subsection" to conform to the Arizona Rulemaking manual.

Staff agrees and recommends conforming changes to utilize the term "subsection."

Analysis: We agree with the SOS and Staff.

Resolution: Replace all references to "paragraph," "subparagraph" and "item" with "subsection."

R14-5-205(P)(1)

Issue: Staff comments that R14-2-205(P)(1) should be amended in accordance with the amendment proposed for R14-2-202(S)(1) as it is the corollary provision applicable to master meter operators.

Analysis: We agree with Staff, yet we believe that two minor modifications in the language of the proposed rule would provide clarity. Specifically, subsection (1) should be amended by inserting the phrase "where the cause of the failure is unknown" immediately after "failed pipeline," and subsequently, the word "from" should be replaced with the phrase "as the result of" such that the sentence reads as follows: "If an operator of an intrastate natural gas, other gas or hazardous liquid pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed."

Resolution: Amend 205(P)(1) to read as follows:

P. Laboratory testing of master meter systems shall be conducted in accordance with the following:

1. If an operator of a master meter system, other gas or hazardous liquid pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this subsection shall include all of the following:

   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.
   f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety.

   An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.

R14-5-205(P)(2)

Issue: To the extent that 205(P)(1) is amended as stated above, we believe that 205(P)(2) should be amended in accordance with any amendments to 202(S)(2).

Analysis: Accordingly, the word "telephonic" and additional language directing the Office of Pipeline Safety to confirm its notification in writing should be added to this subsection in accordance with the proposed amendment to 202(S)(2). Clarifying that the notification pursuant to subsection (1) is telephonic in nature creates consistency among the subsections. Additionally, requiring the OPS to confirm the telephonic notification in writing is not unduly burdensome, would improve clarity, and eliminate any dispute as to whether telephonic notification had been effected.

Additionally, we believe that the word "that" should be moved and inserted between the words "operator" and "either" in the second line of the subsection.

Resolution: Amend 205(P)(2) to read as follows:

2. Within forty-eight hours after telephonic notification pursuant to subsection (1), the Office of Pipeline Safety shall notify the operator that either:

a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure; or

b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed.

The Office of Pipeline Safety shall confirm its notification in writing.

R14-5-205(Q)

Issue 1: The SOS comments that it will no longer maintain incorporated reference materials on file and therefore, requests that the phrase "on file with the Office of the Secretary of State" be stricken from the final rulemaking package.

Staff agrees and states that the phrase "on file with the Office of the Secretary of State" should be stricken.

Analysis: We agree with Staff and the SOS.

Resolution: Delete "on file with the Office of the Secretary of State."

Issue 2: The AUG comments that contact information for the Office of the Secretary of State should be provided in the regulation.

Staff comments that based upon information from the SOS indicating that it will no longer have incorporated reference materials on file, contact information should not be included in the final rulemaking package.

Analysis: As it would be confusing to add contact information for an agency no longer maintaining the incorporated referenced materials, we agree with Staff.

Resolution: No change required.

Issue 3: The AUG comments that the rules utilize inconsistent references to the Office of Pipeline Safety and suggest that references thereto be consistent with R14-5-202(C).

Staff Comments that "Office of Pipeline Safety" is defined in R14-5-201 as "the Pipeline Safety personnel for the Commission," and consequently, Staff recommends changing references to the "Commission Office of Pipeline Safety" to "Office of Pipeline Safety" to ensure consistency throughout the rules.

Analysis: We agree with Staff and AUG.

Resolution: Delete "Commission" immediately preceding "Office of Pipeline Safety."

Appendix C

ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT

1. **BRIEF DESCRIPTION**: The proposed amendments will amend already existing rules (R14-5-202, R14-5-203, R14-5-204, and R14-5-205) under Chapter 5, which is entitled "Transportation."

The proposed amendments to the existing rules are designed to update the Arizona Corporation Commission Pipeline Safety rules to recognize the amendments to Title 49, Code of Federal Regulations (CFR) Parts 40, 191, 192, 193, 195 and 199 as of January 15, 2004 (Minimum Safety Standards for Construction, Operation and Maintenance of natural gas, other gases and hazardous liquid pipeline facilities).

Furthermore, the proposed amendments will change the physical address for the Office of Pipeline Safety. The proposed amendments to A.A.C. R14-5-202(O) and R14-5-205(I) will define proper bedding and shading to be provided around plastic and steel underground pipelines during construction. Proposed amendments to R14-5-202(P) and R14-5-205(J) will additionally change the requirements for marking fittings and plastic pipelines.

The proposed amendments regarding laboratory testing of a failed pipeline, as set forth in R14-5-202(S) and R14-5-205(P), create a framework within which both intrastate pipeline operators and master meter operators must comply with the Office of Pipeline Safety's requirements. These requirements include the Office of Pipeline Safety selecting the laboratory where a sample of the failed pipeline is to be tested and determining the number and type of tests to be performed. The proposed amendments will also require the laboratory results to be submitted directly to the Office of Pipeline Safety. 49 CFR 192.617 requires a pipeline operator to establish procedures for analyzing a failure and determining the cause of an incident. The proposed amendments regarding laboratory testing are not, however, inconsistent with the federal regulations.

2. **NEED**: The Commission has been granted agent status by which it is allowed to enforce the Federal Pipeline Safety Standards. To maintain that status, the Commission must, pursuant to the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act, adopt and remain current with the Federal Pipeline Safety Standards.

The Commission believes that through the adoption and incorporation by reference of updates to Title 49, the rules will be consistent with the federal regulations and will thereby enhance public safety, which will ultimately be in the best interest of the citizens of the State of Arizona.

In addition, the Office of Pipeline Safety has the authority to impose additional restrictions on intrastate pipelines provided the additional restrictions are not inconsistent with the federal regulations. The additional regulations relating to laboratory testing, shading of pipelines, and the marking of plastic fittings and pipelines are necessary to ensure and protect the public health and safety.

3. **AFFECTED CLASS 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. **COST-BENEFIT ANALYSIS OF RULE IMPACT ON AFFECTED CLASSES OF PERSONS:**

A. There will be little impact on master meter system operators who are already in compliance with the Federal Pipeline Safety Regulations. The proposed amendments regarding shading of pipe as well as the marking of plastic pipe and fittings should have no impact. The proposed amendments regarding laboratory testing may have some impact as the Office of Pipeline Safety will select the laboratory as well as the number and types of tests to be performed and have direct access to the laboratory results. Additionally, master meter system operators will, pursuant to the amended rules, be required to pay for the laboratory testing. Although the rule mandates that the operator

pay for necessary testing, this is a cost currently borne by the operator and does not, therefore, represent an additional cost to the operator.

B. There will be little impact on operators of natural gas or other gas systems who are already in compliance with the Federal Pipeline Safety Regulations. The proposed amendments regarding shading of pipe as well as the marking of plastic pipe and fittings should have no impact. The proposed amendments regarding laboratory testing may have some impact as the Office of Pipeline Safety will select the laboratory as well as the number and types of tests to be performed and have direct access to the laboratory results. Additionally, operators of natural gas or other gas systems will, pursuant to the amended rules, be required to pay for the laboratory testing. Although the rule mandates that the operator pay for necessary testing, this is a cost currently borne by the operator and does not, therefore, represent an additional cost to the operator

C. There will be little impact on operators of hazardous liquid pipelines who are already in compliance with the Federal Pipeline Safety Regulations. The proposed amendments regarding shading of pipe as well as the marking of plastic pipe and fittings should have no impact. The proposed amendments regarding laboratory testing may have some impact as the Office of Pipeline Safety will select the laboratory as well as the number and types of tests to be performed and have direct access to the laboratory results. Additionally, operators of hazardous liquid pipelines will, pursuant to the amended rules, be required to pay for the laboratory testing. Although the rule mandates that the operator pay for necessary testing, this is a cost currently borne by the operator and does not, therefore, represent an additional cost to the operator

5. **COSTS AND BENEFITS TO THE AGENCY:** The proposed amendments will provide the Commission with better access to information regarding the status of natural gas, other gas, and hazardous liquid pipelines operating within Arizona. The proposed amendments to the rules will have no effect on other state agencies. While the proposed amendments regarding laboratory testing may have some impact on pipeline and master

meter operators, the amendments are required to ensure and protect public health and safety.

The costs to the Commission of the proposed rulemaking relate to the undertaking of new tasks at the Commission. For example, the Office of Pipeline Safety staff will be required to review newly required annual reports, to review information provided by pipeline operators relating to any pipeline failure, to make a determination as to whether testing relating to the failure is required, to undertake the laboratory selection process, and to make a determination as to the number and types of tests to be performed.

The Office of Pipeline Safety must have the ability to determine the cause of an incident, and laboratory testing is a key means of determining the cause or causes of a leak, explosion or other incident involving natural gas or hazardous liquids. Thus, the Office of Pipeline Safety must have the ability to mandate the number and types of laboratory tests and have direct and expedient access to the test results.

The benefits of the proposed amendments regarding shading requirements for hazardous liquid pipelines are derived from ensuring the public health. The benefits of the proposed amendments regarding the marking of fittings and plastic pipelines are (1) the ability to meet the new federal standards for newly-installed fittings and plastic pipelines; and (2) the ability to accurately reflect the ratings of those fittings and plastic pipelines. Overall, the benefits to the public health and safety outweigh any potential cost to master meter and intrastate pipeline operators.

6. **COSTS AND BENEFITS TO POLITICAL SUBDIVISIONS:** For those political subdivisions that are operators of intrastate pipelines or master meter operators, there will be little or no impact to the extent they are currently in compliance with Federal Pipeline Safety Regulations. Any impact or cost to those political subdivisions will be similar to those of other operators. As the operator will be required to pay for the laboratory testing, municipalities may bear an additional cost to resolve procurement issues arising

from a potential conflict between the manner in which a laboratory is chosen pursuant to the rules and the municipalities' governing procurement laws.

The benefits to political subdivisions include the preservation and protection of the public health and safety as previously described.

7. **COSTS AND BENEFITS TO PRIVATE PERSONS**: There should be little or no additional cost to taxpayers, ratepayers and/or customers. The proposed amendments provide this class of persons with improved safety and assure that all construction, operation and maintenance activities are accomplished in accordance with the established minimum federal safety standards as well as any additional state standards where appropriate.

8. **COSTS AND BENEFITS TO CONSUMERS OR USERS OF ANY PRODUCT OR SERVICE IN THE IMPLEMENTATION OF THE NEW RULES**: The new rules will have no effect upon consumers or users of the gas services provided by the regulated public utilities as they are presently required to be in compliance with applicable standards. The proposed amendments will, however, benefit consumers, users and the general public by ensuring the operation and maintenance of a safe pipeline system.

9. **PROBABLE EFFECT ON STATE REVENUES**: The proposed rules provide an increased regulatory role for the Commission, which may result in increased litigation relating to any allegedly negligent oversight of the laboratory selection and/or testing process that proximately results in an injury. Any additional cost to the State, however, is not measurable to the extent that the State may currently be subject to litigation for alleged negligent oversight, and additional liability related to the increased oversight of the laboratory process is highly speculative.

10. **LESS COSTLY OR INTRUSIVE METHODS**: The proposed rules represent the least costly method for obtaining compliance with the minimum federal safety standards. There are no less intrusive methods that will ensure the public health and safety to the degree ensured by the proposed amendments.

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

12. **PROBABLE IMPACT ON SMALL BUSINESS:**

A. Small business subject to the Rules: Businesses subject to the rulemaking are operators of natural gas, other gas, and hazardous liquid pipelines as well as master meter operators, which may include mobile home parks, apartment complexes and other small commercial operations. However, few of the master meter and pipeline operators qualify as small businesses as defined by A.R.S. § 41-1001(19).

B. Administrative and other costs required for compliance: The costs to the Commission of the proposed rulemaking relate to the undertaking of new tasks at the Commission. For example, the Office of Pipeline Safety staff will be required to review newly required annual reports, to review information provided by pipeline operators relating to any pipeline failure, to make a determination as to whether testing relating to the failure is required, to undertake the laboratory selection process, and to make a determination as to the number and types of tests to be performed.

The potential costs to the master meter or pipeline operators will relate to increased reporting requirements in the case of a failed pipeline and any voluntary laboratory costs incurred by the operator in addition to the costs relating to the laboratory tests mandated by the Office of Pipeline Safety.

C. Description of methods used to reduce impact on small business: The impact of the rule's new requirements on the small business community are minimal as most master meter and intrastate pipeline operators do not qualify as small businesses.

D. Feasibility and legality of methods proposed in (3) above: Not applicable.