

N.J.A.C. 13:103-1.3, and meeting program expectations and standards described within the Residential Community Home Program Agreement and resident handbook;

2. The juvenile is gainfully employed in the community, absent a public health emergency or other exigent circumstances, as determined at the discretion of the Commission;

3. The juvenile will reach their maximum date, as defined at N.J.A.C. 13:96-1.2, within 24 months;

4. The juvenile has submitted Form 104(b), Request of Waived Juvenile to Remain in Commission Custody; and

5. The Form 104(b) request has been approved by the Executive Director or designee.

(d) If a juvenile residing with the Commission beyond age 25 is removed from the Residential Community Home for disciplinary reasons, they shall be returned to the appropriate Secure Facility, as defined at N.J.A.C. 13:95-1.3. Upon a finding by the Disciplinary Hearing Officer, as designated by N.J.A.C. 13:101-6.1, that the juvenile is guilty of the disciplinary charge, the juvenile shall be transferred to the Department of Corrections pursuant to (c) above as soon as practical.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Natural Gas Pipelines

Readoption with Amendments: N.J.A.C. 14:7

Adopted New Rule: N.J.A.C. 14:7-1.19

Proposed: October 17, 2022, at 54 N.J.R. 1947(a).

Adopted: April 26, 2023, by the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Robert M. Gordon, and Dr. Zenon Christodoulou, Commissioners.

Filed: May 3, 2023, as R.2023 d.071, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 48:2-13, 48:2-73 et seq., 48:9-33, and 48:10-2 et seq.

BPU Docket Number: GX222020048.

Effective Dates: May 3, 2023, Readoption;
June 5, 2023, Amendments and New Rule.

Expiration Date: May 3, 2030.

Summary of Public Comment and Agency Response:

Written comments were submitted by: New Jersey Division of Rate Counsel (NJRC); jointly by New Jersey Natural Gas Company and Public Service Electric and Gas Company (GDC); and jointly by New Jersey Conservation Foundation, Pinelands Preservation Alliance, New Jersey League of Conservation Voters, Natural Resources Defense Council, Atlantic Climate Justice Alliance, and Sierra Club New Jersey Chapter (ENV).

The following is a summary of the comments received and the Board of Public Utilities' ("BPU" or "Board") responses.

General Comments

1. COMMENT: The NJRC generally supports the Board's efforts to assure that New Jersey's natural gas pipelines operate safely. However, the commenter specifically opposes the adoption of proposed new N.J.A.C. 14:7-1.19 in its present form. The commenter also notes that, during the stakeholder process that preceded the publication of the rule proposal, the State's gas distribution utilities raised concerns about additional costs and regulatory burdens that could result from some of the modifications contained in the draft prepared for comment by the Board's staff. To the extent these concerns remain in the notice of proposal as published in the New Jersey Register, the commenter urges the Board to

carefully consider the costs and benefits of the proposed modifications. (NJRC)

RESPONSE: The Board thanks the commenter for its support. To the extent that additional costs are involved, the Board considered multiple ways to reduce the costs resulting from this rulemaking. With respect to N.J.A.C. 14:7-1.19, specifically, the Board chose a phased approach to eliminating leak inventories in existence before July 1, 2023 (legacy leaks). The rules provide operators until June 30, 2025, to permanently repair Grade 2 legacy leaks and until June 30, 2027, to permanently repair Grade 3 legacy leaks. This will result in any incremental operations and maintenance costs being distributed over multiple years. The Board also eliminated a requirement for additional surveillance when horizontal directional drills conducted by third parties are in the vicinity of operator infrastructure because of the stakeholder process. The purported regulatory burden and anticipated costs of compliance did not justify the additional measures without further consideration regarding minimizing these impacts.

2. COMMENT: The GDC fully supports safety principles underlying the Natural Gas Pipelines rules, which implements N.J.S.A. 48:2-13, 48:2-73 et seq., 48:9-33, and 48:10-2 et seq. Natural gas pipeline safety is our utmost concern, and the commenters fully support enhancing the rules to achieve the highest safety standards, while also reflecting, and improving, the requirements of construction, operation, and maintenance of pipelines. For the most part, the proposed amendments accomplish these objectives and the commenters highly appreciate the Board's efforts in drafting such amendments that seek to achieve these shared goals. (GDC)

RESPONSE: The Board thanks the commenters for their support.

3. COMMENT: The GDC submits that all incremental operations and maintenance costs associated with the rulemaking, not otherwise reflected in rates, including associated utility administrative and IT costs, must be fully recoverable. (GDC)

RESPONSE: Nothing in this rulemaking prohibits a public utility from seeking recovery of prudently incurred costs. The Board notes that the utility bears the burden to establish the prudence of its expenditures in an appropriate proceeding before the Board.

4. COMMENT: ENV thanks the Board for updating and strengthening N.J.A.C. 14:7 and supports the proposed amendments that address safety issues on construction, operation, and maintenance of transmission and distribution gas pipelines and continuing rules that are more stringent than Title 49 of the Code of Federal Regulations, including the requirement to meet the highest Class 4 safety regulations for new intrastate pipelines. (ENV)

RESPONSE: The Board thanks the commenters for their support.

5. COMMENT: The Board needs to address the dangers of the delivery of other fuel sources through pipeline systems, most notably hydrogen. As demonstrated at N.J.A.C. 14:7-1.1(a), where "intrastate natural gas operators" is proposed to be amended to "intrastate operators," the Board is clearly aware of the need to capture all pipeline activities under its regulation safety net. Hydrogen has significantly different physical and chemical properties than methane gas. It has more volatile ignition and combustion characteristics, and research shows that any addition of hydrogen to gas-pipe delivery may adversely affect the integrity of the pipeline network, increasing the likelihood and consequences of accidental leaks. There are significant questions over leakage rate, safe mixing levels, and combustion of hydrogen in an actual pipeline system that are still being studied. We need to exercise extreme caution to protect public safety before creating any new industry standards. For safety, health, and economics reasons, we oppose the introduction of hydrogen into New Jersey's pipeline system and expect the Board to rigorously engage in an objective, independent analysis of the pros and cons of introducing hydrogen into New Jersey's fuel mix before it is allowed to be transported. (ENV)

RESPONSE: The Board thanks the commenters for their comments and is aware of the challenges of transporting hydrogen gas through pipeline. To the extent that an operator transports mixed gas through pipeline, the proposed safety rules will apply. However, the ability for an operator to sell hydrogen is outside of the purview of this rule proposal.

N.J.A.C. 14:7-1.1A Definitions

6. COMMENT: The commenters support the clarification and standardization of definitions. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.9 Distribution System Valve Requirements and Emergency Response Drills

7. COMMENT: The commenters expressed support for strengthening requirements for emergency drills. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.10 Valve Assessment and Emergency Closure Plan--Transmission Pipelines

8. COMMENT: The commenters support strengthening valve closure testing assessment requirements. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.11 Installation of Pipe

9. COMMENT: The commenters request specific guidelines for pipe 30 inches and above, and the elimination of notification for pipe 30 inches and above. (GDC)

RESPONSE: The Board notes that the proposed requirement for prior approval of the size and type of subsurface marking or warning tape applies to pipe that is greater than 30 inches in diameter. Since the installation, maintenance, or repair of pipe greater than 30 inches in diameter is not a common occurrence, this requirement is not unduly burdensome. Therefore, the Board declines these changes.

10. COMMENT: The commenters support the new rules concerning the use of installation materials such as flowable fill, warning tape, and tracer wire. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.17 Incidents and Service Interruptions—Reporting

11. COMMENT: With respect to N.J.A.C. 14:7.17(c)2iv, to promote consistency with Federal regulations at 49 CFR 191.3 Definitions—“Incidents”; commenters recommend that the monetary threshold be revised from \$5,000 to \$122,000 to be consistent with N.J.A.C. 14:2-4.4(b). The commenters fully support and comply with the language that an operator shall submit incidents and service interruption reports under specific conditions to the Board; however, the commenters strongly recommend that the requirements to submit these reports be consistent. (GDC)

RESPONSE: The Board notes that the monetary threshold for an incident, as defined at 49 CFR 191.3, applies to all pipelines. This includes larger operators where even a small incident could easily exceed the threshold for reporting. This threshold also includes loss to the property of the operator, others, or both. By contrast, N.J.A.C. 14:7-17(c)2iv only includes losses to the property of others. In addition, unlike the Federal code, N.J.A.C. 14:7-17 applies only to intrastate operators, and, thus, larger operators of transmission pipelines are not covered. Furthermore, N.J.A.C. 14:7-17(a) is clear that “Notwithstanding any other rule to the contrary, this section applies to, and governs, the conduct of pipeline operators.” This means that this section supersedes any other substantially similar reporting requirement for pipeline operators contained elsewhere in the New Jersey Administrative Code. For these reasons, the Board declines to make the suggested revision.

12. COMMENT: The commenters support new rules requiring increased accountability and the shortening of incident reporting timeframes. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.19 Gas Leak Classification and Repair

13. COMMENT: The commenter opposes the adoption of the current form of the proposed new N.J.A.C. 14:7-1.19, Gas leak classification and repair. The commenter suggests, at a minimum, eliminating the consideration of environmental issues that, it contends, exceed the authority of the Board from the proposed leak repair requirements. The commenter also suggests revising the rulemaking to conform to the definitions and recommendations for monitoring and repair timeframes to reflect existing industry standards found in the Guide for Gas Transmission, Distribution, and Gathering Piping Systems (2022),

published by the Gas Piping Technology Committee (GPTC Guide). (NJRC)

RESPONSE: For the reasons discussed in the Responses to Comments 14 through 21, the Board declines to make the requested changes.

14. COMMENT: The addition of proposed monitoring and repair requirements for leaks that pose an environmental threat or hazard exceed the Board’s statutory authority. The grant of jurisdiction to the Board pursuant to the Natural Gas Safety Act, N.J.S.A. 48:10-2 et seq., permits the Board to regulate the monitoring and repair of leaks in the State’s natural gas pipelines, and such rules may be more stringent than the Federal standards, as long as they are not “inconsistent with or contrary to” the Federal standards. Pursuant to N.J.S.A. 48:10-5, the Board may not impose more stringent standards to address “environmental hazards” and actual, or potential, “environmental threats.” This would be contrary to both the plain language of the New Jersey statutes and their evident intent. Pursuant to N.J.S.A. 48:10-4 and 48:10-5, the Legislature granted jurisdiction to the Board for the purpose of protecting the “life, health, and property” of the State’s citizens, and authorized the issuance of rules “for the safe construction, operation and maintenance by natural gas pipeline utilities of pipelines for the transmission of natural gas within or through the State of New Jersey ...” Thus, the current legislative grant of authority to the Board focuses on safety. It is not a grant of authority to issue environmental regulations. N.J.S.A. 48:2-23 is also not a general grant of jurisdiction to the Board to issue environmental regulations as detailed in *In re Centex Homes, LLC*, 411 N.J. Super. 244 (App. Div. 2009). (NJRC)

RESPONSE: The Board disagrees with this comment. Proposed new N.J.A.C. 14:7-1.19 is a gas pipeline safety rule squarely within the statutory authority delegated to the Board by the Legislature, pursuant to N.J.S.A. 48:2-13, 48:2-23, 48:2-73 et seq., 48:9-33, and 48:10-2 et seq., and in furtherance of the requirements of the Natural Gas Pipeline Safety Act of 1968 (Federal Safety Act), 49 U.S.C. §§ 1671 et seq. (also located at 49 U.S.C. §§ 60105 et seq.). The rule requires operators of pipelines to investigate, grade, and repair pipeline leaks. Pursuant to the rule, whether a leak poses a threat or hazard to the environment are merely criteria, among other criteria, that operators are required to use to determine the grade of a pipeline leak and, thereby, how quickly the pipeline must be repaired. The rule does not govern environmental damage that occurs as a result of environmental threats and hazards from pipeline leaks, which the Board agrees, is regulated by other State agencies, including the New Jersey Department of Environmental Protection. Unlike the rules at issue in *In re Centex, LLC*, 411 N.J. Super. 244 (App Div. 2009), N.J.A.C. 14:7-1.19 does not enable the Board to use environmental considerations to make “land use decisions” based upon authority derived from executive orders and the State Planning Act, N.J.S.A. 52:18A-196 et seq., a statute that does not mention the Board. See *id.* at 256 and 267.

As expressed in this rulemaking, the Board has express statutory authority to prescribe rules governing the operation and maintenance of natural gas pipelines pursuant to N.J.S.A. 48:10-5, and to regulate those pipelines “as may be necessary for the protection of life, health, and property of the citizens of this State.” N.J.S.A. 48:10-4. In determining reasonable rules to further this goal, the Board is required to consider, “among other factors, such factors as economic necessity ... the preservation of tangible and intangible property values, private and public ...” N.J.S.A. 48:10-6. In addition, as the commenter acknowledged, the Board may require a public utility to furnish safe, adequate, and proper service “in a manner that tends to conserve and preserve the quality of the environment and prevent the pollution of the waters, land and air of this State.” N.J.S.A. 48:2-23. The rule is within the Board’s statutory authority because it dictates when a pipeline leak must be repaired in order to protect “life, health, and property” based upon various considerations, which include threats and hazards to the environment. See N.J.S.A. 48:10-4.

The proposed new rule is also consistent with the intent underlying the Federal enabling statutes. The Board’s Federally derived jurisdiction requires it to have “regulatory jurisdiction over the standards and practices” established by the Federal Safety Act. See 49 U.S.C. § 60105(b). The Legislature enacted N.J.S.A. 48:10-11 and 48:9-33, and has amended N.J.S.A. 48:10-11, 48:9-33, and 48:2-86 in order to allow New Jersey, through the Board, to obtain and maintain jurisdiction over, and Federal funding related to, the regulation of intrastate gas pipelines

pursuant to the Federal Safety Act. See, for example, Statement, S. 882, 2 (P.L. 1971, c. 62), Statement, S. 2523/A. 2523, 4-10 (P.L. 1989, c. 80), and Senate Economic Growth Committee Statement, S. 2609, 5 (P.L. 2007 c. 118). The Federal Safety Act has long required, among other things, consideration of the environment in the regulation of gas pipelines. Prior to the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, P.L. 116-260, 49 U.S.C. §§ 60101 et seq., as amended (PIPES Act of 2020), the Federal Safety Act required that Federal standards prescribed pursuant to 49 U.S.C. § 60101(a) be designed, among other things, to meet the need for “protecting the environment” and that “environmental information” be considered in the adoption of any standard. 49 U.S.C. § 60102(b). The PIPES Act of 2020 included amendments to the Federal Safety Act that mandate consideration of environmental factors in pipeline safety and specifically, with respect to pipeline leak detection and repair. See for example, 49 U.S.C. § 60102(q)(2)(B) and 49 U.S.C. § 60108(a)(2); and 49 CFR 192.615(a)(6). Accordingly, the proposed new rule is not only consistent with the plain language of the enabling statutes, but also with the “standards and practices” of the Federal Safety Act and the Legislature’s intent that the Board maintain its Federally derived regulatory authority over those standards and practices.

15. COMMENT: The proposed criteria for determining when a threat or hazard to the environment exist are unreasonably vague and unworkable. The proposed rule does not quantify what volume of gas released by a leak creates an environmental hazard or threat. (NJRC)

RESPONSE: The intent of the proposed rule is not to quantify a specific volume of gas that creates an environmental hazard or threat. Nor is it meant to regulate or monitor the quantity of gas that is released to the atmosphere for the purposes of pursuing environmental damages or determining what quantity would be injurious to the environment. The rule states that the volume of gas can be estimated. This estimation could be based on a variety of factors or analogs, including, but not limited to, pipe material, operating pressures, or pipe diameter. That is, a specific quantity does not need to be established, only estimated, to determine the grade or severity of a pipeline leak and, thereby, how quickly the pipeline must be repaired. As stated in the Response to Comment 14, this grade is based upon various considerations, which include threats and hazards to the environment. Thus, the Board is directing operators to consider the estimated impacts when making that determination.

16. COMMENT: The proposed criteria for grading leaks and repair timeframes represent an undue expansion of the industry consensus guidelines in the GPTC Guide, “Leak Classification and Action Criteria,” Appendix G-192-11. The commenter specifically mentions that repairs of above-ground leaks that cannot be immediately repaired should not be classified as a Grade 1 leak per the GPTC Guide and that repairs of these types of leaks are often deferred until a piece of equipment is replaced or the leak becomes worse and easier to locate. In relation to the definition of a Grade 3 leak, the commenter states that, “The proposed new definition would, in effect, create a new category of leaks subject to an obligation to repair, for example leaks that are not a safety risk but pose a ‘potential environmental threat.’” And that, “... the scope of the proposed new category of leaks is unclear, and could conceivably encompass almost all leaks.” (NJRC)

RESPONSE: Based on information reported to the Board for 2021, the four largest operators in New Jersey (Elizabethtown Gas Company, New Jersey Natural Gas Company, Public Service Electric and Gas Company, and South Jersey Gas Company) carried a total of 2,634 leaks in inventory to 2022. Thus, allowing operators to utilize the GPTC Guide or their own criteria for leak classification and repair has resulted in the buildup of an unacceptable inventory of legacy leaks. Furthermore, the Board is aware of Grade 2 legacy leaks that have been open longer than the GPTC Guide recommended repair timeframe of 15 months. This represents an unacceptable danger to the public. The proposed recheck timeframe is also necessary to ensure that conditions have not deteriorated to pose an immediate hazard.

The commenter specifically mentions that repairs of above-ground leaks that cannot be immediately repaired should not be classified as a Grade 1 leak, per the GPTC Guide, and that repairs of these types of leaks are often deferred until a piece of equipment is replaced or the leak becomes worse and easier to locate. However, waiting for an above

ground leak to become worse, and possibly a hazard, or easier to locate is counter to the basic tenet of pipeline safety.

In relation to the definition of a Grade 3 leak, the commenter states that, “The proposed new definition would, in effect, create a new category of leaks subject to an obligation to repair, for example, leaks that are not a safety risk but pose a potential environmental threat” and that, “... the scope of the proposed new category of leaks is unclear, and could conceivably encompass almost all leaks.” However, the addition of “potential environmental threat” has no impact on the way Grade 3 leaks would be treated pursuant to the proposed rule. Currently, the GPTC Guide can be reasonably interpreted as defining a Grade 3 leak as one that is not classified as a Grade 1 or a Grade 2. Table 1 of proposed N.J.A.C. 14:7-1.19(b) explicitly states this and does not create a new category of leaks. However, the requirement to fix Grade 3 leaks within the specified timeframes is a new requirement for New Jersey. Given the correct set of conditions, any leak can become an immediate hazard and all leaks are a failure of the pipeline to perform its intended function. These conditions could include, but are not limited to, variations in soil conditions, variations in temperature, variations in ground cover (snow and ice), and the natural acceleration of corrosion in a galvanic cell. See also the Response to Comment 21.

17. COMMENT: The proposed grading criteria and repair timeframes for monitoring and repair of leaks would add substantial costs that the Board did not properly analyze. The cost of compliance with the proposed new rule could be considerable. Leak repair costs can typically range from approximately \$500.00 to \$1,500 or more, per meter/above ground repair, \$2,000 to \$7,000, per incremental service leak repair and \$20,000 to \$50,000 and more per main repair. Utilities would have to add staff and equipment to meet the increased repair and monitoring obligations and rigid timeframes. The resulting costs to ratepayers are likely to amount to millions of dollars. There is no quantification of the expected costs or benefits of the proposed new rule. The commenter contends that the “Board’s conclusory statements that it believes the costs of the proposed new rule are justified by the benefits do not satisfy the legal requirements of a rule proposal” with respect to an Economic Impact statement and a Federal standards analysis. The commenter asserts that “[a] statement that does not attempt to quantify costs or benefits is not a meaningful ‘description of the expected socio-economic impact’ of the rule proposal, and it is certainly not the cost-benefit analysis that is required when a New Jersey state agency proposed to impose standards or requirements that exceed those provided under Federal law.” The Board has stated that rates will increase because of this proposed rule and there is no attempt to quantify that rate increase. (NJRC)

RESPONSE: As a result of the new rule, costs to repair leaks are expected to rise in the short term. Existing and newly found leaks will need to be repaired in an expedited manner and more frequent follow-up is required by the new rule. However, the costs should normalize once the legacy leak inventory is addressed. Taking the legacy leak inventory into account, these cost increases will be incremental. As of 2021, the most recent year of complete leak data at the time of this writing, the four largest pipeline operators in the State (Elizabethtown Gas Company, New Jersey Natural Gas Company, Public Service Electric and Gas Company, and South Jersey Gas Company) reported to the Board that they fixed a collective total of 11,219 leaks on their distribution systems. For 2021, there were a total of 2,634 leaks that were carried in inventory to 2022. Of these, 1,068 are classified as Grade 2 leaks and 1,548 are Grade 3. In the absence of the proposed new rule, based on the operators’ current maintenance standards, many of the Grade 2 leaks should have been scheduled for repair in 2022. With the proposed rule in effect, this leaves an incremental burden of 387 Grade 3 leaks per year to fix, if split evenly throughout the allotted timeframe in the proposed rule. Thus, to the extent that additional costs are involved, the Board considered ways to reduce rate impacts resulting from this rule proposal. This is one reason the Board specifically chose a phased approach to eliminating legacy leaks. The rules provide operators until June 30, 2025, to permanently repair Grade 2 legacy leaks and until June 30, 2027 to permanently repair Grade 3 legacy leaks. This distributes resulting operations and maintenance costs over multiple years. These costs are subject to the same prudence review as all other utility expenditures in future rate proceedings. Additionally, the Board has incorporated feedback from the stakeholder process in the

rulemaking to minimize the impacts of repair timeframes on cost. Grade 2 leaks are granted a six-month extension in repair timeframe if they are scheduled to be replaced in an infrastructure project and Grade 3 leaks are granted a one-year extension in repair timeframe if they are scheduled to be replaced in an infrastructure project. This allows time for the operator to remediate leaks with new infrastructure, where appropriate, to maximize the economy of funds spent.

The benefits of this rulemaking include a standardized approach to leak classification and repair across operators and increased public safety due to the mitigation of leaks that could potentially result in a hazardous situation. An additional benefit will be a reduction in lost and unaccounted for gas (LAUF). LAUF is gas that the operator must purchase and pay for but that has not been delivered to the customer due to losses in the system. It is ultimately the customer that must pay for this LAUF. Reducing LAUF will reduce costs to customers for gas that they did not utilize. For the 2021 reporting year, the most recent year of complete LAUF data at the time of this writing, the four largest pipeline operators in the State had LAUF values ranging from 0.77 to 2.79 percent of all gas consumed. Although LAUF can be partially attributed to errors in metering, reducing open leaks will reduce LAUF if all else is held equal.

In addition to the analysis in the rule proposal, the foregoing illustrates the Board's consideration and analysis of the costs and benefits of the proposed rule. The incremental approach reflected at N.J.A.C. 14:7-1.19 is based upon, and consistent with, the Board's extensive experience with utility infrastructure maintenance and repair, including pipeline leak repair, and with distributing potential increased costs over time to mitigate the impact upon ratepayers. Although costs such as those that may result from application of the proposed rule typically cannot be precisely quantified in advance, the Board's experience enables it to contextualize and project the number of leaks that will require repair pursuant to the rule. When the actual costs are known, the Board is prepared, as appropriate, to evaluate the prudence of utility expenditures attributed to conformance with the proposed rule.

Therefore, the Board also disagrees with the commenter to the extent it suggests that the Economic Impact statement and the Federal standards analysis do not satisfy the requirements at N.J.S.A. 52:14B-4, 22 through 24 and Executive Order No. 27 (1994), or that the Board has failed to perform any analysis required pursuant to N.J.S.A. 48:10-6. The Board is obligated to describe, not quantify, the socio-economic impact of a proposed rule, see N.J.S.A. 52:14B-4, and has done so above and in the notice of proposal. In addition, while proposed N.J.A.C. 14:7-1.19 is consistent with Federal law, as described in the Response to Comment 14, it does not exceed Federal standards. No Federal standards for classifying and repairing non-hazardous leaks are in place and, thus, no Federal standards analysis is required as to N.J.A.C. 14:7-1.19. See *In re Amendments and New Regulations at N.J.A.C. 7:27-27.1*, 392 N.J. Super. 117 (App Div. 2007) (no Federal standards analysis required where there is "a void and a complete absence of Federal standards to be otherwise distinguished"). Nonetheless, the Board has discussed and analyzed in its response here, in its Responses to Comments 14 through 21, and in its notice of proposal, the various considerations appropriate in a required Federal standards analysis, including costs and benefits of proposed N.J.A.C. 14:7-1.19. See N.J.S.A. 52:14B-23 and Executive Order No. 27 (1994). The Board has also considered the required factors described at N.J.S.A. 48:10-6 in determining the reasonableness of the proposed new rule. The Board is not required to identify precise numerical values or calculations, or "quantify," costs and benefits in order to satisfy any of the aforementioned requirements. See, for example, N.J.S.A. 48:10-6 and 52:14B-4 and 23.

18. COMMENT: The repair timeframes would hinder coordination between utilities and local governments for certain infrastructure projects that are the purview at N.J.S.A. 48:3-17.11 to 17.14 and recent revisions at N.J.A.C. 14:3, All Utilities. Under the strict timelines in the proposed new rule, it is likely some repairs that otherwise could have been included in a larger utility infrastructure project and coordinated with a local government's planned road improvement will require separate road openings, resulting in additional costs to the utilities and their ratepayers. (NJRC)

RESPONSE: The Board acknowledges the need for utilities and local governments to coordinate and to benefit from the efficiency enabled by

that coordination. The Board has crafted this rulemaking accordingly. However, the Board does not consider leak repair to be in the purview of the above-mentioned coordination requirements, which as the commenter notes, are the subject of a pending rulemaking proceeding, and, thus, are not yet final. The existing requirements for repair timeframes, which vary by pipeline operator, are clearly inadequate to manage open leak inventories. Please see the Response to Comment 16 with regards to repair timeframes and the Response to Comment 17 with respect to costs. After the stakeholder meeting in this proceeding, the Board revised the rulemaking to minimize the impacts of repair timeframes on utility and local government coordination. For instance, Grade 2 leaks are granted a six-month extension in repair timeframe if they are scheduled to be replaced in an infrastructure project and Grade 3 leaks are granted a one-year extension in repair timeframe if they are scheduled to be replaced in an infrastructure project.

19. COMMENT: With respect to N.J.A.C. 14:7-1.19(a)2, the commenters request that the proposed language eliminate the requirement to repair Grade 2 leaks within six months and to recheck every 30 days from the date of detection. The commenters have current leak management programs to manage and repair Grade 2 leaks effectively and efficiently. (GDC)

RESPONSE: Please see the Response to Comment 16. The Board declines to make the suggested revisions.

20. COMMENT: With respect to N.J.A.C. 14:7-1.19(a)3, the commenters request that the proposed language eliminate the requirement to repair Grade 3 leaks within two years and to recheck every six months. The commenters point to their current leak management programs, which have been able to effectively manage Grade 3 leaks. (GDC)

RESPONSE: Please see the Response to Comment 16. The Board declines to make the suggested revisions.

21. COMMENT: With respect to N.J.A.C. 14:7-1.19(b), the commenters are concerned with the leak classification criteria as proposed. The GPTC Guide, an American National Standards Institute accredited committee that writes guidance for complying with Parts 191 and 192 of the Code of Federal Regulations is just one of the resources that leak survey operators and responders follow in classifying leaks. The additional criteria in this rulemaking are inconsistent with the GPTC Guide and in some cases are less stringent than the criteria the commenters follow. Revising would not only lead to confusion, and contradicting knowledge and experience already learned, but would also require major revisions to forms, both paper and electronic, as well as the entire leak management system (LMS), which is already in the process of being converted to a new electronic platform. Furthermore, with respect to Table 1—Criteria for Determining Leak Classification, the commenters state that the requirements are generally more stringent than industry standards and will have significant impacts on resource requirements, particularly the requirements at iii, v, and viii. The commenters would like further clarification on the basis for iii, v, and viii, as well as the definition of an "enclosed space." (GDC)

RESPONSE: As the requirements for leak classification and repair are currently structured, an operator may choose not to implement all or parts of the GPTC Guide. The proposed criteria are necessary to provide a standard baseline for pipeline operators to establish a repeatable and consistent approach to leak classification and repair. Nothing in the rulemaking prevents a pipeline operator from establishing more stringent or additional criteria than those prescribed in the rulemaking. However, the operator must be able to reasonably show that their criteria will result in substantially similar repeatability and consistency and is, in fact, more stringent than required by the rulemaking. The Board has reviewed methods for leak classification and repair currently in use by operators within New Jersey and has identified best practices to incorporate into the criteria. These practices may have resulted in more stringent criteria than industry guidance, but the GPTC Guide is only provided for guidance and does not restrict alternative methods for compliance with pipeline safety regulations. Specifically, requirements iii, v, and viii in Table 1 for Grade 1 leaks were based on practices implemented by operators in New Jersey. Furthermore, aboveground leaks are easily accessible and should be fixed immediately, as any leak can result in a hazardous situation given the correct set of conditions. See also the Response to Comment 16.

With respect to the definition of an enclosed space, examples include, but are not limited to, manholes, vaults, sewers, conduit, casing, or other subsurface structures.

22. COMMENT: The commenters support the new leak severity ratings and reporting requirements, as well as training requirements for all personnel addressing leak issues. The commenter strongly agrees that, in addition to public safety, it is important to recognize and prevent incidents and ongoing leaks that release methane, a potent greenhouse gas with a global warming potential more than 80 times that of carbon dioxide in the first 20 years of its release. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.20 Monthly Inspection Patrols and Leak Detection Surveys

23. COMMENT: With respect to N.J.A.C. 14:7-1.20(b), the commenters request clarification on the meaning of the proposed language "population density." (GDC)

RESPONSE: The meaning of population density is the common language meaning of the term and as used in the existing rules at N.J.A.C. 14:7-1.10 and 49 CFR Part 192.

24. COMMENT: The commenters support new operator guidelines that require the addition of public reports, leak frequency, and population density as determiners in deciding additional frequency of pipeline inspections. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.21 Public Outreach

25. COMMENT: In order to make the amendments at N.J.A.C. 14:7-1.20(b), which require public input, more effective, the commenters propose an amendment at N.J.A.C. 14:7-1.21 that addresses public outreach. The commenters ask that the regulations require that pipeline operators include the telephone number of appropriate local safety officials and the BPU Bureau of Pipeline Safety, in addition to the already required operator contact information. This would support the newly proposed N.J.A.C. 14:7-1.20(b) that relies upon a history of public stakeholder reporting as a determination of required pipeline leak inspection frequency and would improve stakeholder engagement that promotes public safety. (ENV)

RESPONSE: The Board is concerned that making the requested changes would lead to confusion regarding who, among a number of options, the public should alert of any unusual odors or activities, including construction or dumping, around the pipeline. The purpose of the annual notice of the existence of the pipeline to the residents of properties abutting it is to make sure that residents are aware to report these items to the operator. The Board and, in most cases, local safety officials, are not the most appropriate entities to notify. Therefore, the Board declines to make the requested changes.

N.J.A.C. 14:7-1.24 Oversight of Construction, Operations, and Maintenance Activities

26. COMMENT: The commenters support broadening construction oversight to include operation and maintenance and clarification of qualified individuals to perform tasks. (ENV)

RESPONSE: The Board thanks the commenters for their support.

N.J.A.C. 14:7-1.25 Directional Drilling Operations

27. COMMENT: The commenters support N.J.A.C. 14:7-1.25, which sets forth requirements for horizontal directional drilling (HDD) operations, including operator development of HDD guidelines, plan, and profile drawings, test holes, and procedures for crossing other underground facilities. The commenters ask that the rule be amended to require the same guidelines required of pipelines crossing subsurface infrastructure be applied to HDD crossings of environmentally sensitive lands as well. In recent years, the commenters have too often seen the negative impacts to the environment and property from HDD failures. Pipeline planning must be done in such a manner as to be fully compliant and consistent with the requirements implemented pursuant to New Jersey's Freshwater Wetlands Protection Act, Coastal Zone Management Rules, and the Flood Hazard Area Protection Act. (ENV)

RESPONSE: The Board is concerned that applying these rules to HDD crossings of environmentally sensitive lands will have unintended

consequences. For example, requiring a test hole where no underground infrastructure exists because an HDD is in an environmentally sensitive area is counterintuitive. A test hole in this location would damage an otherwise undisturbed environment. These requirements are meant to protect existing subsurface utilities from damage. The rules proposed for readoption with amendments and new rule do not preclude the operator from adhering to the relevant requirements of the New Jersey Freshwater Wetlands Protection Act, Coastal Management Rules, or the Flood Hazard Area Protection Act while conducting HDD operations in environmentally sensitive areas. Therefore, the Board declines to make the proposed revisions.

N.J.A.C. 14:7-1.26 Operator Reporting Requirements

28. COMMENT: The commenters support additional reporting requirements requiring notification prior to excavating pipelines for direct examination of integrity and notification of over-pressure events. (ENV)

RESPONSE: The Board thanks the commenters for their support.

Summary of Agency-Initiated Changes Upon Adoption:

At N.J.A.C. 14:7-1.26(c), the BPU is making technical changes to the subsection for grammatical reasons and to update document names.

Federal Standards Analysis

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The Federal law that corresponds to these rules is found in the regulations of the United States Department of Transportation at 49 CFR 190, 191, 192, 193, 198, and 199. The rules readopted with amendments and a new rule are comparable with the corresponding Federal law in all but the areas discussed below.

The State system for designing pipelines, based on the class location in relation to population density, found at N.J.A.C. 14:7-1.3, requires all pipelines installed after the effective date of the adopted amendments to be designed to Class 4 pipeline location standards, the highest standard for similar pipelines designed pursuant to the Federal classification system at 49 CFR 192.5. This may result in some costs for pipeline operators, although most have voluntarily chosen to meet higher standards than Federally required. To the extent that pipeline operators may incur additional costs, the Board has determined that these costs are justified in order to ensure safety. This adopted rulemaking readopts the existing requirements.

The Board's rules governing the quality control of field welding, found at N.J.A.C. 14:7-1.6(a) and (b), are more stringent than corresponding Federal regulations at 49 CFR 192.225 and 192.241. N.J.A.C. 14:7-1.6(a) and (b) require oversight of field welding by qualified welding inspectors and require that a copy of the applicable welding procedure be readily available at the job site for natural gas pipelines with a maximum operating pressure in excess of 250 psig. These requirements are not part of the Federal regulations; however, the Board believes they are necessary to ensure safety. This adopted rulemaking readopts the existing requirements.

The Board's rules governing fabrication details, found at N.J.A.C. 14:7-1.7(c) and (d), are more stringent than corresponding Federal regulations at 49 CFR 192.155 and 192.151. N.J.A.C. 14:7-1.7(c) requires that branch connections for transmission pipelines fabricated by welding be of the reinforced type, whereas, the Federal regulations at 49 CFR 192.155 do not require reinforced type branch connections. However, the Board believes that reinforced type branch connections significantly increase the level of pipeline safety. N.J.A.C. 14:7-1.7(d) states that line taps may be made under pressure in the sizes and at the pressure at which the line manufacturer recommends using the tapping equipment. The Federal regulations do not address line tapping equipment. This adopted rulemaking readopts the existing requirements.

The Board's rules governing the spacing of sectionalizing distribution valves, found at N.J.A.C. 14:7-1.9(a) and (b), are more stringent than corresponding Federal regulations at 49 CFR 192.181. Sectionalizing valves allow a pipeline operator to stop the flow of gas through a section of pipeline in cases of pipeline failure or emergency. The Federal regulation for high-pressure distribution systems requires valves to be spaced "so as to reduce the time to shut down a section of main in an

emergency” and states that the spacing shall be determined by operating pressure, pipe size, and local physical conditions. N.J.A.C. 14:7-1.9(b) requires that, in determining the number and spacing of sectionalizing valves, a pipeline operator shall consider, in addition to the Federal requirements, the: 1) operating pressure of the system; 2) diameter of the pipe; 3) volume of gas that could be released to the atmosphere; 4) accessibility of the valve location; 5) response time capabilities of the operator; and 6) number of customers affected by an emergency shutdown. Also, N.J.A.C. 14:7-1.9(c) requires the operator to evaluate the number and spacing of all its sectionalizing valves. To the extent that this rule requires an operator to install and maintain more valves, the operator will incur additional costs. This adopted rulemaking readopts the existing requirements.

N.J.A.C. 14:7-1.9(f) and (g) require operators to conduct emergency response drills simulating a significant incident at least once every 24 months in each operator district or division. To the extent that an operator does not already conduct emergency response drills, the operator may incur some costs. However, as with the more stringent valve requirements, the Board has determined that any such costs are necessary to ensure the protection of people, property, and the environment in the event of pipeline failure or emergency, especially in densely populated areas.

The requirements governing the installation of pipe at N.J.A.C. 14:7-1.11 are more stringent than corresponding Federal regulations at 49 CFR 192.325. N.J.A.C. 14:7-1.11(a) requires all gas pipelines to be installed with at least 12 inches separation from any other subsurface structure or facility, whereas, the corresponding Federal regulations require 12 inches separation only for the installation of transmission pipelines. N.J.A.C. 14:7-1.11(g)1 and 2, codified as paragraphs (d)1 and 2 in the existing rules, specify the size and type of wire required for tracer wire on plastic pipe installations. These specifications are more stringent than the corresponding Federal regulations at 49 CFR 192.321, which do not govern the size and type of wire. Additionally, adopted N.J.A.C. 14:7-1.11(e) requires a minimum of 24 inches of separation between pipelines and flowable fill when it is used as a backfill material. Adopted N.J.A.C. 14:7-1.11(h) requires that the operator install one 24-inch-wide warning tape or multiple, smaller tapes above pipelines that are 20 inches to 30 inches in diameter. Federal regulations are silent on warning tape requirements and using flowable fill as a backfill material; however, warning tape has historically been required in New Jersey and is useful as an additional safety mechanism for damage prevention.

The Board’s rules governing minimum cover of mains and service lines found at N.J.A.C. 14:7-1.12 are more stringent than corresponding Federal regulations at 49 CFR 192.327 and 192.361. N.J.A.C. 14:7-1.12(a) and (b) require 30 inches cover over distribution mains and 48 inches cover over transmission pipelines, respectively, in comparison with Federal regulation requirements of 24 inches cover over distribution mains and 36 cover over transmission pipelines. In addition, N.J.A.C. 14:7-1.12(d) requires 18 inches cover over gas service lines, whereas, Federal regulations at 49 CFR 192.361 require 12 inches of cover in private property and 18 inches of cover in streets and roads. To the extent that this rule requires an operator to install pipelines at increased depths of cover, the operator may incur some costs. However, the Board has determined that these costs are justified as a measure of damage prevention and to ensure the protection of people, property, and the environment, especially in densely populated areas. This adopted rulemaking readopts the existing requirements.

N.J.A.C. 14:7-1.16 provides odorization requirements for pipelines. N.J.A.C. 14:7-1.16(c) requires a pipeline operator to make periodic tests, on at least a monthly basis, to determine the adequacy of the odorization of the gas. Federal regulations at 49 CFR 192.625 require only periodic sampling but do not specify a time interval. To the extent that operators incur additional costs by requiring monthly tests, the Board has determined that these costs are justified in order to ensure the safety of the public. This adopted rulemaking would readopt the existing requirements.

Adopted N.J.A.C. 14:7-1.19(a), (b), (c), and (d) require operators to uniformly classify and complete repairs of all leaks by a certain date according to the severity of the leak. The sections are intended to address the existing uncertainty and inconsistency in assigning a priority level and time interval for completing leak repairs. To this end, N.J.A.C. 14:7-1.19(a) requires operators to assign, upon discovery of a leak, a leak grade

classification according to the severity of the leak, which prescribes a timeframe for completing repairs based upon the severity of the leak. These requirements for classifying and repairing non-hazardous leaks are not found in the United States Department of Transportation regulations, located at Title 49 of the Federal Code, but are consistent with the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, P.L. 116-260, 49 U.S.C. §§ 60101 et seq., as amended (PIPES Act of 2020). Pursuant to the PIPES Act of 2020, the degree to which operators’ inspection and maintenance plans address the elimination of hazardous leaks and minimization of releases of natural gas are now criteria for the evaluation of the adequacy of such plans. 49 U.S.C. § 60108. The requirements at adopted N.J.A.C. 14:7-1.19 are also consistent with the ANSI/GPTC Z380.1 Guide for Gas Transmission, Distribution, and Gathering Piping Systems (2022) published by the Gas Piping Technology Committee (GPTC) and accredited by the American National Standards Institute (ANSI). The GPTC Guide recommends repair within 15 months of leak discovery for Grade 2 leaks and reevaluation once every six months until fixed. Accordingly, there is a growing agreement as to the need for leak grading and repair timing requirements even if there is not currently a uniform Federal standard. The specific notification, classification, and requirements set forth at adopted N.J.A.C. 14:7-1.19 establish standards consistent with the PIPES Act of 2020 and industry standards. Additionally, the Board’s experience with leaks indicates that the requirements are necessary for both public safety and reducing Statewide methane emissions, which mitigates the potential hazard that leaks pose to the environment. These requirements will result in increased costs, which the Board has determined are justified in order to ensure public safety and to limit harm to the environment.

N.J.A.C. 14:7-1.20(b) requires leak detection surveys on bare and cathodically unprotected steel distribution lines consistent with the requirements of Federal regulations at 49 CFR 192.723. In addition, N.J.A.C. 14:7-1.20(b) requires an operator to perform more frequent surveys, as the operator deems necessary, based on leak history, leaks discovered by the public, and operating pressure. This provides an extra measure of safety in the densely populated areas that typify New Jersey.

N.J.A.C. 14:7-1.22 requires damage prevention efforts consistent with the requirements of Federal regulations at 49 CFR 192.614. In addition, N.J.A.C. 14:7-1.22(c) requires an operator to take additional measures when the operator becomes aware of potential high-risk excavations, such as performing on-site inspection, coordinating with the excavator, continuing surveillance, and verifying clear access to gas valves that may be operated in an emergency. Also, an operator must provide training for operator personnel in preparation for potential high-risk excavations around underground natural gas facilities. These stringent requirements reflect the importance of careful supervision of excavation around natural gas facilities in consideration of the highly developed and densely populated nature of New Jersey.

N.J.A.C. 14:7-1.23 provides an administrative procedure for pipeline operators to obtain approval from the Board of additions and revisions to their operation and maintenance procedures. The Federal standards do not require this procedure. This section enables the Board to review such adopted changes before they become operator policy and to ensure that any cost-cutting measures do not compromise the safety of a natural gas pipeline.

N.J.A.C. 14:7-1.24 provides for oversight of construction activity. N.J.A.C. 14:7-1.24(c), (d), and (e) contain requirements for quality assurance and quality control inspection; inspection and calibration of all equipment used on construction, operations, and maintenance activities; and joint trench pipe inspections, respectively. These requirements exceed the Federal regulation requirements, although quality assurance and quality control measures are implied by various Federal regulations. The incremental cost of careful quality assurance and quality control is justified by the dense population of New Jersey, as well as heavy development, which results in a large number of underground facilities.

N.J.A.C. 14:7-1.25 requires a pipeline operator to develop guidelines for horizontal directional drilling (HDD) operations, including establishing minimum clearances when drilling in proximity to existing subsurface facilities, requirements for test hole excavations, verification of drilling/reaming head location during HDD operations, ensuring the integrity of plastic pipe installed by HDD, supporting pipe during HDD

operations, and on-site inspection for HDD installations. These requirements are not found in the Federal regulations, but the Board's experience with HDD, including several recent incidents involving inadvertent return, indicates that they are necessary for safety in New Jersey.

N.J.A.C. 14:7-1.26 requires pipeline operators to submit several types of reports regularly to the Board. Adopted N.J.A.C. 14:7-1.26(f) and (g) are two additional types of reports that require operators to notify the Board prior to excavating a pipeline to perform a direct assessment or direct examination of its integrity and notify the Board when overpressure events occur on any pipeline system. This exceeds the Federal requirements that only require notifications of overpressure events on transmission systems. These two reports will enable the Board to achieve greater visibility of transmission integrity issues and overpressure events in New Jersey.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 14:7.

Full text of the adopted amendments and new rule follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. CONSTRUCTION, OPERATION, AND MAINTENANCE OF TRANSMISSION AND DISTRIBUTION NATURAL GAS PIPELINES

14:7-1.1 Scope and applicability

(a) This chapter sets forth requirements that govern the construction, operation, and maintenance of transmission and distribution pipelines for the transportation of natural gas by intrastate operators within the State of New Jersey.

(b) Unless specified otherwise, all provisions of this chapter apply to natural gas pipelines used in both distribution and transmission of natural gas, as these terms are defined in the Federal Code.

(c)-(d) (No change.)

14:7-1.1A Definitions

For the purposes of this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1 and at 49 CFR 190.3, 191.3, 192.3, 193.3, 198.3, and 199.3, which are incorporated by reference herein.

...
 "Covered task" means an activity, identified by the operator, that is performed on a pipeline facility and affects the operation, safety, or integrity of the pipeline.

...
 "Flowable fill" means a self-compacting cementitious slurry or controlled low strength material used as a fill or backfill in lieu of compacted clean soil backfill.

"Gas" means the same as that term is defined at 49 CFR 192.3.

"Lower explosive limit" or "LEL" means the lower limit of the combustible range of gas concentration in the air that will burn in the presence of an ignition source. LEL is expressed as a percentage of the minimum concentration for the gas to ignite as measured by the operator's leak detection device.

...

14:7-1.9 Distribution system valve requirements and emergency response drills

(a)-(e) (No change.)

(f) Effective July 1, 2023, an operator shall perform a distribution system emergency response drill simulating a reportable incident, as set forth at N.J.A.C. 14:7-1.17, in each operator district or division at least once every two years. Each call center and dispatch operation center shall participate in at least one emergency response drill every two years. An operator shall not conduct a district or division emergency response drill within two weeks of another district or division emergency response drill. Each operator shall conduct a site-specific emergency response drill at a training center facility or field site within two years of July 1, 2023. At least once every four years thereafter, each operator shall conduct a site-

specific emergency response drill at a field site between Monday and Friday during normal business hours. After the first site-specific emergency response drill, an operator may conduct a tabletop emergency response drill to meet this requirement for no more than one out of two consecutive emergency response drills for each district or division.

(g) An operator shall notify Board staff at least five business days prior to performing any emergency response drill pursuant to (f) above. Notwithstanding this requirement, an operator may schedule an emergency response drill on a rainy day (or similar weather event), upon notice to Board staff as soon as possible prior to the drill, but no later than two hours before the drill is to occur. Each operator shall submit a final audit report of each emergency response drill to Board staff within two months after the emergency response drill.

14:7-1.10 Valve assessment and emergency closure plan— transmission pipelines

(a)-(e) (No change.)

(f) An emergency closure drill that simulates shutting down a selected section of transmission line shall be performed at least once in a calendar year, but within an interval not to exceed 15 months. At least once every three years, the emergency closure drill shall take place between Monday and Friday during normal business hours. The operator may conduct a table-top emergency closure drill to meet this requirement for no more than two out of each three calendar years. The operator shall conduct a site-specific emergency closure drill at a field site at least once every three calendar years.

(g)-(k) (No change.)

14:7-1.11 Installation of pipe

(a)-(d) (No change.)

(e) Where a pipeline operator uses flowable fill as a backfill material in lieu of clean soil, the flowable fill shall not come in direct contact with the pipe and must maintain a minimum of 24 inches of separation from the pipe.

(f) (No change in text.)

(g) Effective July 1, 2023, a pipeline operator shall install tracer wire on all uncased portions of new or replacement plastic pipe installations. Tracer wire shall be electrically continuous with any casings. If the installation of tracer wire is impractical, the operator must obtain prior approval from the Board's Bureau of Pipeline Safety to use an alternative means of locating plastic pipes. All pipelines installed with tracer wire shall meet the following requirements, as applicable:

1. Where tracer wire is installed by direct burial, the tracer wire shall be a minimum of #12 AWG solid copper wire with a polyethylene coating, or another coating approved by the operator, or other type of tracer wire that has been demonstrated to provide an equivalent or superior level of service;

2. Where tracer wire is installed by boring or drilling, the tracer wire shall be #10 AWG solid copper wire with a polyethylene coating, or another coating approved by the operator, or other type of tracer wire that has been demonstrated to provide an equivalent or superior level of service; and

3. Tracer wire installed on new or replacement plastic pipes may not be wrapped around the pipe, and direct contact with the pipe must be minimized.

(h) An operator shall place a yellow subsurface marking or warning tape in the backfill material above a transmission or distribution pipeline whenever the pipeline is installed, repaired, or replaced, except that this requirement shall not apply to a transmission or distribution pipeline that is being installed, repaired, or replaced using techniques that do not disturb the backfill above the pipeline, such as directional drilling, insertion, or boring. For pipes of less than 12 inches in diameter, the operator shall install one six-inch-wide tape. For pipes of 12 inches to 18 inches in diameter, the operator shall install one 12-inch-wide tape or two six-inch-wide tapes installed side-by-side. For pipes of 20 inches to 30 inches in diameter, the operator shall install one 24-inch-wide tape, two 12-inch-wide tapes installed side-by-side, or four six-inch-wide tapes installed side-by-side. For pipe diameter larger than 30 inches, the operator shall obtain prior approval from the Board's Bureau of Pipeline Safety on the size and type of subsurface marking or warning tape to be used.

14:7-1.17 Incidents and service interruptions—reporting

(a) Notwithstanding any other rule to the contrary, this section applies to, and governs, the conduct of pipeline operators.

(b) Each gas pipeline operator shall notify the Board's Division of Reliability and Security of any reportable incident immediately, and in no event, later than one hour after the operator learns of the incident.

(c) A reportable incident is an incident that either:

1. Meets the definition of "incident," as that term is defined at 49 CFR 191.3; or

2. Is related to equipment or operations, other than a motor vehicle accident that does not create a service interruption, which results in one or more of the following circumstances:

- i. Death of a person;
- ii. Serious disabling or incapacitating injuries to persons, including employees of the operator or its contractors;
- iii. Damage to the property of the operator, which materially affects its service to the public;
- iv. Damage to the property of others amounting to more than \$5,000;

or

v. Any accidental ignition of natural gas.

(d) The initial notice required pursuant to (b) above shall include all relevant facts that are known to the operator about the location and cause of the incident, and the extent of damage and injuries, if any.

(e) The initial notice required pursuant to (b) above shall be followed by additional notices providing any further information about the incident that the operator obtains. These additional notices shall be provided to Board staff as soon as practicable after the information becomes available, by any feasible means, and shall contain all available information that may enable Board staff to assist the operator in minimizing the impact of the incident.

(f) If an operator does not give the initial notification required pursuant to (b) above because the operator does not initially consider the incident a reportable incident, but circumstances change such that the incident later meets the definition of a reportable incident, the operator shall notify the Board's Division of Reliability and Security immediately after the operator becomes aware that the incident is a reportable incident. Failure to demonstrate that it was not possible to have provided timely, complete, and accurate notice to the Board may subject the operator to enforcement action by the Board.

(g) After the initial incident reporting required pursuant to (b) above, the operator shall provide a follow-up report of each reportable incident within 15 days after the incident.

(h) The follow-up incident report shall include all of the information required by the sample incident reporting form made available by the Board's Bureau of Pipeline Safety. The form shall require basic identifying and descriptive information concerning the incident, its causes, and consequences; the extent of damage and injuries, if any, and persons involved; and shall require descriptions of corrective and preventative measures the operator plans to take or has taken to avoid similar incidents in the future.

(i) If, at the time of the submission of the follow-up incident report, the operator is unable to state the corrective measures taken or make recommendations to avoid a recurrence of the incident, the operator shall, within 30 days of the date of the incident, file an amended report, which shall set forth any corrective measures and recommendations.

(j) Service interruptions affecting customers of gas pipeline operators in New Jersey shall be reported to the Board no later than 30 minutes from the time that the operator becomes aware that service has been interrupted for 30 minutes to:

- 1. A group of 100 or more customers interrupted during the heating season period between November 15 and March 15;
- 2. A hospital, as defined at N.J.A.C. 8:43G-1.2; or
- 3. An airport that is designated as a Class I, II, or IV airport pursuant to 14 CFR Part 139 and that holds Airport Operating Certification from the Federal Aviation Administration pursuant to 14 CFR Part 139.

(k) In addition to the reporting required at (j) above, the operator shall report the service interruption to the Board no later than 30 minutes from the time that the utility becomes aware that service has been interrupted for one hour or more:

1. To a group of 100 or more customers interrupted during the non-heating season period;

2. If the service interruption causes the closure of one or more lanes of an interstate highway, State highway, the New Jersey Turnpike, the Atlantic City Expressway, or the Garden State Parkway; or

3. To any of the following critical customers:

i. A public or non-public school facility, including a college or university;

ii. A facility that provides vocational-technical education, or a facility subject to the jurisdiction of a district board of education, as defined at N.J.A.C. 6A:9-2.1; or

iii. A State correctional facility.

(l) Interruptions to service made in accordance with provisions set forth in contracts between gas pipeline operators and their customers need not be reported.

(m) The operator shall promptly follow up the reporting required at (j) or (k) above with a detailed written report that includes all pertinent facts, including the cause of the interruption, the number and locations of customers affected, the duration of the interruption, operator actions to correct the interruption, and to minimize and remedy its effects.

(n) An operator shall provide reasonable notice of a planned interruption to all affected customers, and the work shall be planned so as to minimize customer inconvenience.

(o) Whenever the New Jersey Department of Transportation serves an operator with a notice prohibiting street openings pursuant to N.J.S.A. 27:7-26, the operator receives a New Jersey Executive Branch department directive, or is otherwise notified of any facts, actual or threatened, that may adversely affect its ability to render safe, adequate, and proper service, the operator shall report the pertinent facts to the Board, in writing.

(p) Each operator shall perform all reporting required pursuant to this section using the forms and procedures prescribed by Board staff.

(q) Each operator shall keep a record of each reported interruption of service for a period of one year after the interruption ends.

(r) Records of the major interruptions of service shall be kept in a manner suitable for analysis for the purpose of minimizing possible future interruptions and shall include the time, cause, and duration of the interruptions, as well as the remedial action taken.

14:7-1.19 Gas leak classification and repair

(a) An operator shall investigate each gas leak and assign a grade classification upon discovery based on the severity of the leak. Operators who repair all leaks when found, meaning they treat all leaks as Grade 1 leaks, are exempt from the grading requirements of this section. Effective July 1, 2023, leaks shall be graded and prioritized for repair as follows:

1. Grade 1: Grade 1 leaks represent an existing or probable hazard to persons, property, or the environment that shall be repaired immediately or require continuous action until the hazard is eliminated. The operator shall take all measures necessary, consistent with established safety practices and procedures, to eliminate the hazard. The existence of an environmental hazard shall be determined by the operator based upon the estimated volume of gas released to the atmosphere over a period of time. All Grade 1 leaks must be permanently repaired immediately, not to exceed one week from the date of detection, unless prevented by extenuating circumstances that shall be reported to Board staff.

2. Grade 2: Grade 2 leaks are determined by the operator to be non-hazardous at the time of detection, but pose an environmental threat and have the potential to become a future hazard to persons or property. Grade 2 leaks shall be repaired within six months from the date of detection. The existence of an environmental threat shall be determined by the operator based upon the estimated volume of gas released to the atmosphere over a period of time. The operator shall reevaluate all Grade 2 leaks at least once every 30 days until the leak is eliminated. Grade 2 leaks detected on pipelines scheduled for replacement within one year of detection may have their scheduled repair extended for an additional six months, provided the leaks continue to be reevaluated every 30 days. Grade 2 leaks detected before July 1, 2023, shall be considered legacy leaks. All Grade 2 legacy leaks shall be permanently repaired within two years of July 1, 2023, with at least 50 percent of the legacy leaks permanently repaired by

July 1, 2024. Grade 2 legacy leaks shall be reevaluated based on the operator’s maintenance practices in effect at the time of leak detection.

3. Grade 3: Grade 3 leaks are determined by the operator to be non-hazardous at the time of detection and are expected to remain non-hazardous to persons and property, but pose a potential environmental threat. The existence of a potential environmental threat shall be determined by the operator based upon the estimated volume of gas released to the atmosphere over a period of time. Grade 3 leaks shall be reevaluated every six months from the date the leak was detected until the leak is eliminated. All Grade 3 leaks must be eliminated within two years of detection. Grade 3 leaks detected on pipelines scheduled for replacement within three years of detection may have their scheduled

repair extended for an additional year, provided the leaks continue to be reevaluated every six months. Grade 3 leaks discovered before July 1, 2023, shall be considered legacy leaks. All Grade 3 legacy leaks shall be permanently repaired within four years of July 1, 2023, with at least 25 percent of the total legacy leaks repaired in each 12-month interval. Grade 3 legacy leaks shall be reevaluated based on the operator’s maintenance practices in effect at the time of leak discovery.

(b) Leak grade classifications at (a) above shall be determined using the criteria and conditions listed at Table 1 below. Where one or more of the criteria identified below are present, the operator shall assign to the leak the grade of the greatest severity for which any criteria are present:

Table 1

<u>Criteria for Determining Leak Classification</u>	<u>Leak Grade Classification</u>	<u>Required Action</u>
i. Escaping gas resulting in unintentional ignition. ii. Any leak that can be seen, heard, or felt and is in a location that may endanger the general public or property. iii. Any leak within 10 feet of an exterior wall of a building or where gas would likely migrate to an exterior wall of a building. iv. Any reading of gas, which has migrated into or under a building, or into a tunnel. v. Any leak on a pipeline operating at or above 125 psig. vi. Any leak with a 20 percent or greater LEL reading in any enclosed space. vii. Any leak that in the judgment of operator personnel at the scene, is considered an immediate hazard. viii. Any above ground leak that is not able to be permanently fixed immediately upon discovery by lubrication, adjustment, or tightening.	Grade 1—Most Severe	N.J.A.C. 14:7-1.19(a)1
i. Any leak with a reading below 20 percent of the LEL in any enclosed space. ii. Any leak detected in a continuously paved area from the inside curb to the exterior wall of a building with a 10 percent or greater LEL reading taken at a distance greater than 10 feet but no greater than 20 feet from the wall. iii. Any leak detected in a continuously paved area from the inside curb to the exterior wall of a building with a 30 percent or greater LEL reading taken at a distance greater than 20 feet but no greater than 40 feet from the wall. iv. Any leak detected in an unpaved area from the inside curb to the exterior wall of a building with a 20 percent or greater LEL reading taken at a distance greater than 10 feet but no greater than 20 feet from the wall. v. Any leak detected in an unpaved area from the inside curb to the exterior wall of a building with a 40 percent or greater LEL reading taken at a distance greater than 20 feet but no greater than 40 feet from the wall.	Grade 2	N.J.A.C. 14:7-1.19(a)2
Any leak that is not classified as a Grade 1 or Grade 2.	Grade 3—Least Severe	N.J.A.C. 14:7-1.19(a)3

(c) The operator shall ensure that every person with job duties or responsibilities that include the classification of gas leaks is trained and qualified pursuant to 49 CFR Part 192.805 to ensure proper leak classification.

(d) An operator shall implement and train, all employees who may respond to a gas leak emergency on incident command procedures. Incident command procedures shall include notifying, identifying, and leveraging 911, police, and firefighters for local emergency response mutual assistance and specify procedures for evacuations, when necessary.

14:7-1.20 Monthly inspection patrols and leak detection surveys

(a) (No change.)

(b) An operator shall perform leak detection surveys on all bare and coated cathodically unprotected steel distribution lines, at intervals that are, at a minimum, consistent with 49 CFR 192.723. In addition, the operator shall perform more frequent surveys as the operator deems necessary based on leak history, number of leaks reported by the public, population density, and operating pressure.

(c)-(f) (No change.)

14:7-1.24 Oversight of construction, operations, and maintenance activities

(a) (No change.)

(b) A pipeline operator shall ensure that each operator crew performing construction and contractor crew performing construction on behalf of the operator is inspected by the operator’s inspectors at least once each work

day; or as often as the operator deems necessary to ensure the quality and safety of the construction being performed.

(c) (No change.)

(d) Each pipeline operator shall perform quality assurance/quality control audits of construction of natural gas pipelines and shall maintain the audit records for construction performed by both operator employees and contractors. At a minimum, each audit shall document the following for each crew:

1.-13. (No change.)

(e)-(f) (No change.)

(g) Each pipeline operator shall ensure that only individuals who meet the operator’s qualification program requirements may perform an activity that is a covered task.

14:7-1.26 Operator reporting requirements

(a)-(b) (No change.)

(c) A pipeline operator shall provide a copy of the following to the Board’s Bureau of Pipeline Safety each year, not later than March 15, covering the preceding calendar year:

1. The Distribution System Annual Report required *[under]* ***pursuant to*** 49 CFR 191.11. This report shall be submitted to the Board on U.S. Department of Transportation Form *[RSPA]* ***PHMSA*** F 7100.1-1;

2. The Transmission System Annual Report required pursuant to 49 CFR 191.13 and 191.17. This report shall be submitted to the Board on

U.S. Department of Transportation Form *[RSPA]* *PHMSA* F7100.2-1;

3. The following year-end inventories, submitted in a format provided by the Bureau of Pipeline Safety:

- i. (No change.)
- ii. Total number of cast iron breaks, listed by pipe diameter and system operating pressure; and

4. The Liquefied Natural Gas (LNG) Facilities Annual Report required pursuant to 49 CFR 191.17. This report shall be submitted to the Board on U.S. Department of Transportation Form *[RSPA]* *PHMSA* F7100.3-1.

(d) A pipeline operator shall provide a copy of the following to the Board's Bureau of Pipeline Safety within the applicable deadlines:

1. Leak classification status report indicating the number of open, unrepaired leaks by grade classification, district or division, and municipality, submitted by January 31 of each year, for the preceding calendar year, in a format provided by the Bureau of Pipeline Safety;

2. (No change.)

3. The operator's Transmission Pipeline Integrity Management Performance Measures Report, required pursuant to 49 CFR 192.945. This report shall be submitted to the Board as part of the Transmission System Annual Report required pursuant to (c) above.

4.-7. (No change.)

8. Pressure test records for all gas transmission pipelines, submitted within one month after the test date, and including all of the following:

i. Pressure and temperature recording charts, digital or analog;

ii.-iv. (No change.)

(e) (No change.)

(f) A transmission pipeline operator shall notify the Board's Bureau of Pipeline Safety at least five business days prior to excavating a pipeline to perform a direct assessment or direct examination of its integrity and report the location of the excavation.

(g) A pipeline operator shall notify the Board's Bureau of Pipeline Safety immediately upon discovery of each exceedance of the maximum allowable operating pressure that exceeds the margin (build-up) allowed for operation of pressure-limiting or control devices, as specified in the applicable requirements at 49 CFR 192.201, 192.620(e), and 192.739. The operator shall submit a formal report to the Bureau of Pipeline Safety pursuant to the requirements at 49 CFR 191.25, which shall be entitled "Maximum Allowable Operating Pressure Exceedances."

SUBCHAPTER 2. VIOLATIONS, INFORMAL CONFERENCES, CIVIL ADMINISTRATIVE PENALTIES, AND ADJUDICATORY HEARINGS

14:7-2.7 Civil administrative penalty determination

(a) The Board may assess a civil administrative penalty in accordance with the amounts specified in the Federal Code, up to the relevant maximum amounts set forth at N.J.S.A. 48:10-11, 48:2-86, or 48:9-33, against each person who violates the provisions of any law, rule, regulation, or order relating to natural gas pipeline safety, including violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq., pertaining to natural gas pipeline safety, gas pipeline distribution facilities, hazardous liquid underground pipelines, or hazardous liquid distribution facilities.

(b)-(c) (No change.)

TRANSPORTATION

(a)

DIVISION OF CAPITAL PROGRAM SUPPORT BUREAU OF LANDSCAPE ARCHITECTURE AND ENVIRONMENTAL SOLUTIONS

Notice of Readoption Soil Erosion and Sediment Control Standards Readoption with Technical Changes: N.J.A.C. 16:25A

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 4:24-39 et seq. (the Soil Erosion and Sediment Control Act), specifically 4:24-43.

Authorized By: Diane Gutierrez-Scaccetti, Commissioner, Department of Transportation.

Effective Dates: May 4, 2023, Readoption; June 5, 2023, Technical Changes.

New Expiration Date: May 4, 2030.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 16:25A were scheduled to expire on July 26, 2023. The Department of Transportation (Department) has reviewed the rules and determined that they should be readopted with technical changes to update telephone numbers. The rules are necessary, reasonable, adequate, and responsive for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

The rules implement P.L. 1975, c. 251, Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., to establish soil erosion and sediment control standards for Department certification of its projects to the Soil Conservation Districts. The standards in this chapter were promulgated by the Department in consultation with the State Soil Conservation Committee and the Department of Environmental Protection.

Full text of the technical changes follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 2. STANDARDS

16:25A-2.1 Standards for soil erosion and sediment control

The Department's standards are published in the New Jersey Department of Transportation Soil Erosion and Sediment Control Standards, 2008 edition, incorporated herein by reference, as amended and supplemented, and are the technical basis for Department certification of soil erosion and sediment control plans for Department construction projects. Copies of the standards may be obtained on the Department's website at: <http://www.state.nj.us/transportation/eng/documents/SESC/> or reviewed in person at:

New Jersey Department of Transportation Engineering Documents Unit 1035 Parkway Avenue Trenton, NJ 08625-0600 [(609) 530-5587] 609-963-1465

For technical questions:

New Jersey Department of Transportation Bureau of Landscape Architecture and Environmental Solutions 1035 Parkway Avenue Trenton, NJ 08625 [(609) 530-5670] or (609) 530-5673] 609-963-1149