UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Revisions to the Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations	**)** **)** **)**	**Docket No. RM12-11-000**

COMMENTS OF THE INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA

Pursuant to the Notice of Proposed Rulemaking ("NOPR") issued by the Federal Energy Regulatory Commission ("Commission" or "FERC") in the above-captioned proceeding,[1] the Interstate Natural Gas Association of America ("INGAA") submits these comments in opposition to FERC's proposal to introduce burdensome, formal landowner notification requirements for pipelines prior to performing maintenance activities, installing auxiliary installations, or building replacement facilities, and to amend the meaning of auxiliary installations by imposing right-of-way and workspace limitations on such installations.

I. SUMMARY OF COMMENTS

A. The Landowner Notification Proposals Should Not Be Adopted; If Adopted, The Proposals Should Be Modified Substantially And Exceptions Currently Applicable Under The Blanket Certificate Regulations Should Be Made Applicable To Any New Notification Requirements.

The NOPR imposes substantial burdens on pipelines through the landowner notification requirement for maintenance activities. This requirement is arbitrary and out of proportion to the maintenance activities that pipelines routinely undertake. The NOPR definition of affected landowner as applied to maintenance activities is arbitrarily broad. The only justification provided by the Commission for these new impediments to effective and efficient maintenance operations is that the Commission has received "numerous requests from landowners that [the

[1] *Revisions to the Auxiliary Installations, Replacement Facilities, and Siting and Maintenance Regulations*, FERC Stats. & Regs. ¶ 32,696 (2012) ("NOPR").

Commission] require companies to notify landowners in advance of any activity that will take place on their land."[2] Over the tens of thousands of miles of pipeline right-of-way stretching across the breadth of the United States and millions of maintenance activities that pipeline personnel perform each year, unidentified "numerous requests" is fragile support for the Commission's action. It will not outweigh the burdens that the Commission seeks to impose.

Pipelines do not require any additional property rights to engage in maintenance activities. The industry has maintained a good track record of providing advance notice of its activities in appropriate circumstances to those directly affected by such activities.[3] The far-reaching requirements proposed in the NOPR would be costly and difficult to administer, would significantly impair the industry's ability to maintain pipeline safety and reliability, would generate confusion among property owners, and would create a new area of potential liability for pipelines, thereby requiring pipelines to implement new systems to analyze, approve, track and monitor maintenance activities and requisite notifications. The relationship between pipelines and landowners is governed by the terms of right-of-way and easement agreements that were negotiated between private parties and that provide the pipeline with the right to perform certain activities on the landowner's property. Such agreements may or may not condition these activities on prior written landowner notification. The Commission has stated that it "possesses no jurisdiction over, or expertise in such matters[,]"[4] yet the proposed notification requirement would interfere with parties' private, contractual rights by imposing a one-size-fits-all notification condition on every easement and right-of-way agreement between a pipeline and

[2] NOPR at P 27.

[3] *See also* NOPR at P 35 (acknowledging that pipelines "routinely inform landowners prior to coming onto their property").

[4] *CAlifornians for Renewable Energy, Inc. (CARE) v. Williams Northwest Pipeline*, 133 FERC ¶ 61,194, at P 26 (2010) ("*CARE*"), *order denying reh'g*, 135 FERC ¶ 61,158 (2011).

landowner. The Commission has not justified this imposition with evidence, such as details of the nature and scope of landowner complaints. The reality is that INGAA member companies maintain cordial and respectful relationships with the individuals on whose property the pipelines have an obligation to maintain the right-of-way in a safe and presentable manner.

These same points about the burden and lack of justification apply to the proposed landowner notification requirements for Section 2.55(a) auxiliary installations and Section 2.55(b) replacements of facilities. The industry regularly provides advanced notice to people directly affected by such activities. A formal and formulaic landowner notification process will impose unjustified burdens on pipelines and will lead to confusion among landowners. For pipelines operating under easement and right-of-way agreements, the right to be on the property to undertake certain activities is exactly what such agreements grant. Adding a landowner notification requirement to the nonjurisdictional activities of auxiliary installations or replacements of facilities nullifies these negotiated and agreed-upon contract and property rights. The Commission is not in the business of negotiating property rights or easement agreements between pipelines and landowners.[5] It has rejected a similar proposal for notifications in the past,[6] and should not attempt to amend such rights or agreements now by attaching new federal regulations to routine pipeline activities that easement or right-of-way agreements already address.

If the Commission is convinced that additional communication is needed to inform landowners about the types of activities they should expect on their properties, the Commission

[5] *Id.*

[6] *See Landowner Notification, Expanded Categorical Exclusions, and Other Environmental Filing Requirements*, Order No. 609, FERC Stats. & Regs. ¶ 31,082 at 30,955 (1999), *on reh'g*, Order No. 609-A, FERC Stats. & Regs. ¶ 31,095 (2000), *reh'g rejected*, 91 FERC ¶ 61,278 (2000).

should work with the industry to develop reasonable notification procedures within existing obligations, thereby avoiding significant additional cost, disruption, and confusion. For example, under US Department of Transportation Pipeline and Hazardous Materials Safety Administration ("PHMSA") regulations, pipelines make biennial mailings to residents on or near pipeline corridors to educate them concerning the presence of natural gas facilities. The mailing could include a description of routine construction and maintenance activities that a pipeline may perform under its easement or right-of-way agreement. Any additional notification requirement should be modified to conform with the current industry practice of verbal notifications to on-site residents for non-routine activities. Such modifications should include: (1) limiting the "landowner" definition to on-site residents; (2) eliminating the reference to the Commission's dispute resolution procedures since pipelines are acting under preexisting easement rights and there is no "dispute" to negotiate; (3) eliminating the ten day prior notice period; and (4) including exceptions such as those that currently apply under the blanket certificate regulations and that are included in the Commission's "Guidance on Repairs to Interstate Natural Gas Pipelines Pursuant to FERC Regulations (July 2005)."[7]

B. Language Should Not Be Added To Section 2.55(a) To Impose Right-Of-Way And Workspace Limitations On Auxiliary Installations.

The NOPR is not a clarification; it is a change. The NOPR's new limitations on Section 2.55(a) auxiliary installations disregard Commission precedent, ignore relevant Executive Orders, and fail to meet the test of reasoned decision making under the Administrative Procedure Act. The requirement that the Commission provide reasoned explanation for its action demands

[7] *See* 18 C.F.R. § 157.203(d)(3) (2012); *see also*, Guidance on Repairs to Interstate Natural Gas Pipelines Pursuant to FERC Regulations (July 2005), http://www.ferc.gov/industries/gas/gen-info/guidance.pdf.

that it display awareness that it is changing position.[8] The right-of-way and workspace limitations proposed in the NOPR would increase the cost of auxiliary installations and the time it takes to make them. There are no benefits from the proposed changes to Section 2.55(a) that outweigh the burdens that would arise from such changes. As the Commission acknowledges in the NOPR, pipelines making auxiliary installations under Section 2.55(a) must obtain the necessary environmental approvals and construction permits from federal and state agencies.[9] Contrasted with the lack of benefit is the surplus of burden, including additional cost and delay.

C. The Commission's Cost Estimates For Implementing The Proposed Regulations Are Not Reasonable.

The NOPR vastly underestimates the cost of the proposed new landowner notification requirement. There are over 200,000 miles of interstate natural gas pipelines crisscrossing the United States that pipeline personnel must monitor and conduct maintenance activities on every day.[10] In order to comply with the millions of specific, formal notifications that the NOPR would require, the new notification regime would mean each pipeline would need to implement systems for identifying and tracking the fulfillment of the new requirements.

The NOPR fails completely to address the costs associated with the imposition of a right-of-way and workspace limitation for installations under Section 2.55(a). Such costs include the additional time and burden of blanket or Section 7 procedures instead of proceeding under Section 2.55(a) for out-of-right-of-way installations and the additional time and resources required to track and verify if, when and where the right-of-way is crossed. Federal laws and regulations require the Commission to identify and quantify such burdens and costs in its

[8] *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) ("*FCC v. Fox*").

[9] NOPR at P 22.

[10] *See* U.S. Energy Information Administration, Estimated Natural Gas Pipeline Mileage in the Lower 48 States, Close of 2008, http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/ngpipeline/mileage.html.

rulemaking and failure to do so is not reasoned decision-making.

D. If the Commission Persists In Amending Section 2.55(a), It Should Amend The Blanket Certificate Regulations To Make It Clear That Auxiliary Installations That Do Not Meet The Right-Of-Way And Workspace Limitations May Be Accomplished Under Blanket Certificate Authority.

When the Commission amended Section 2.55(b) in Order No. 603 to add right-of-way and workspace limitations for replacements, the Commission also amended the blanket certificate regulations to make it clear that replacements that did not meet these requirements would be included in the definition of Eligible Facility.[11] The Commission similarly should amend the definition of Eligible Facility to include auxiliary installations that do not meet the new limitations imposed on Section 2.55(a). The Commission also should clarify that certain matters will continue to remain outside of its certificate jurisdiction.

II. DISCUSSION

A. The Landowner Notification Proposals Should Not Be Adopted; If Adopted, The Proposals Should Be Modified Substantially And Exceptions Currently Applicable Under The Blanket Certificate Regulations Should Be Made Applicable To Any New Notification Requirements.

The landowner notification requirements proposed in the NOPR should not be adopted. As discussed below, these requirements would impose substantial burdens on pipelines and would impair their ability to protect the safety and reliability of their systems. They unduly restrict agreed upon property rights of pipelines. The relationship between pipelines and landowners is governed by the terms of right-of-way and easement agreements that were negotiated between private parties and that provide the pipeline with the right to perform certain activities on the landowners property. Such agreements may or may not condition these

[11] *Revision of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act*, Order No. 603, FERC Stats. & Regs. ¶ 31,073, at 30,791-92 (1999), *on reh'g*, Order No. 603-A, FERC Stats. & Regs. ¶ 31,081 (1999), *on reh'g*, Order No. 603-B, FERC Stats. & Regs. ¶ 31,094 (2000).

activities on prior written landowner notification. The regulation imposing this new formal and formulaic notification requirement interferes with contractual rights negotiated between private parties and memorialized in these easement and right-of-way agreements. Thus far, the Commission properly has refrained from exercising jurisdiction over easement or right-of-way agreements, and has appropriately deferred the formal resolution of disputes in such matters to the courts.[12]

The NOPR fails to explain the Commission's jurisdictional basis for the proposed new landowner notice requirements. Installations under Section 2.55 are by the text of that provision excluded from the meaning of "facilities" under Section 7(c) of the Natural Gas Act. As such, the Commission cannot rely on that statute to impose its proposed requirement. With regard to the proposal to amend Section 380.15 of the Commission's regulations to require advance landowner notice of maintenance activities, the Commission does not provide or explain any basis for regulating such activities that are not subject to its review and approval, or how prior landowner notice relates to the environmental impact of these activities.

1. The Commission should not impose a landowner notification requirement for maintenance.

The proposal to require at least ten days advance written notice to landowners for each individual maintenance activity would be costly, as further explained in Section II.D of these comments, and would significantly impair the ability of pipelines to preserve the safety and reliability of their systems.

[12] *See, e.g., CARE*, 133 FERC ¶ 61,194 at P 26. Indeed, the Commission's proposed requirement potentially is duplicative of established notice arrangements set forth in many of these contracts or otherwise agreed to and expected by the parties and could result in inconsistencies and errors in the daily administration of such contracts between pipelines and landowners.

On millions of occasions each year, across over 200,000 miles of interstate natural gas pipelines in the United States,[13] pipeline employees visit individual properties to perform maintenance activities. The examples set forth in Attachment A of this comment show the wide range of maintenance activities that pipelines perform to ensure the safety and reliability of their facilities. Many of these activities are periodic or otherwise routine and involve little or no disturbance to landowners or their properties. Pipelines must monitor their facilities and take immediate action to correct inadequate conditions, cut grass, clip, prune, and remove other vegetation established on rights-of-way, install proper cover and water bars on access and service roads, and maintain proper grades and slopes on those roads.[14] This maintenance is essential to avoid long-term damage (*e.g.*, painting an above ground installation to prevent corrosion), facilitate pipeline safety (*e.g.*, lubricating valves and patrolling the pipeline), or improve environmental protections (*e.g.*, installing a water bar on an access road and responding to an erosion issue).

Activities that pipelines regularly perform, such as line patrols, mowing, routine inspections and maintenance of equipment, and the use of agreed-upon access roads should not come as any surprise to the property owners who either have conveyed these property rights to the pipeline or purchased land that already is subject to such property rights. Pipelines have worked within their right-of-way and easement agreements with landowners to maintain their facilities and rights-of-way for as long as there have been natural gas pipelines crossing private lands, and the Commission has offered no rationale as to why this tried and well-functioning system should be disturbed. The Commission's regulations already require pipelines to take

[13] *See* U.S. Energy Information Administration, Estimated Natural Gas Pipeline Mileage in the Lower 48 States, Close of 2008, http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/ngpipeline/mileage.html.

[14] *See, e.g.*, 18 C.F.R. § 380.15 (2012).

landowners into account when performing maintenance activities.[15] Where significant disturbance is expected—for example, in the case of a significant dig or slope repair—pipelines, to the extent practical, already provide advance notice to residents that may be affected to the extent practical.

Current practices allow for companies to immediately respond to unplanned maintenance needs such as repair of erosion control measures that have been damaged by third parties or weather. For such work, pipelines currently inform directly affected residents by verbal or other forms of communication such as door hangers. These practices are consistent with practices used by utility companies when performing maintenance activities in residential areas, and have functioned well over time. Under the proposed ten-day notice requirements, INGAA's member pipelines estimate that pipelines' response times would extend to 13 days or more, and the resulting delay would not enhance landowner protections.

The practical effect of a ten-day advance written notification requirement would be to hamper the ability of interstate pipelines to perform the critical task of maintaining the safety and reliability of their facilities. The proposed regulatory text makes no allowance for the need for immediate access to respond to emergency gas leaks, acts of God, investigations of problems related to gas pressure or flow or SCADA signals, or to respond to One Call notifications on an emergency or routine basis, and therefore, prohibits pipelines from promptly responding to such circumstances. The operation of an interstate pipeline is a dynamic process. Work schedules are developed, but at times must be adjusted due to the weather, equipment availability, the permitting process, changes to the schedules of contractors or other third parties, the need to redeploy manpower to more pressing activities, or other causes. When some work is delayed,

[15] *See* 18 C.F.R. § 380.15(b).

pipelines are often able to move to other maintenance activities that were scheduled for a later time. An advance notification requirement would prevent these time- and money-saving business practices, and will undoubtedly cause additional confusion for landowners, especially where the work is delayed.

If the Commission expects pipelines to follow the same procedures used to compile landowner lists for certificate applications when a pipeline simply needs to access to a property to inspect equipment, patrol for leaks, or even cut grass along its right-of-way, the Commission must consider and weigh the burdens. As noted, maintenance activities entail hundreds of thousands of property visits by pipeline employees engaged in millions of activities across thousands of miles of pipelines, thus involving countless landowners, many of whom would be affected only tangentially, if at all, by the maintenance activities.

To track these activities, operations personnel would have to write up descriptions of work to be performed for each activity and identify any access roads that would be used. This could involve maps, perhaps GPS coordinates, and in some instances, a visit to the site to determine if there are any residences within 50 feet since structure databases generally are updated on an annual basis and may not reflect new residences installed since the last patrol. A land agent would need to identify all affected and abutting landowners and owner of any residences within 50 feet, and obtain current mailing addresses. The agent would either have to check online tax rolls, if available, or in many instances drive to the courthouse to check the records. Pipeline personnel would need to craft formal communication letters and mail them to each affected landowner, abutting landowner and residence within 50 feet. Given all of these additional steps to be taken by the pipeline, the proposal will potentially increase the need for additional staffing.

The company also would need to wait the obligatory ten days after mailing the notification or seek to get a written waiver from the landowner. Only then could the maintenance activity begin. As noted, the total estimated time would be at least 13 days or more from the time the maintenance issue was identified and significantly more additional man-hours of work. Such delay is unacceptable for maintenance to address safety or reliability issues, and absurd for benign, routine maintenance such as cutting the grass.

2. The Commission should not impose a landowner notification requirement for auxiliary installations or replacements of facilities.

The proposal to require landowner notification for Section 2.55 also should not be adopted. As with maintenance activities, the definition of affected landowner is arbitrarily broad as applied to auxiliary installations and replacements of facilities. The burden imposed on pipelines to research tax records to identify and provide notice to this broad class of landowners will result in unnecessary delays. These requirements would increase the costs and time it will take to construct auxiliary installations and replacements of facilities. For the same reasons stated above for maintenance activities, adding a landowner notification requirement that references dispute resolution at the Commission will create confusion and misunderstanding, and has the potential to result unnecessarily in greater landowner dissatisfaction with both the pipeline and the Commission. Pipelines already provide appropriate notice to affected landowners and/or residents for auxiliary installations and replacement facilities.

The Commission should not adopt the proposed landowner notification requirement, but if it decides to do so, it first must explain what facts and circumstances have changed since 1999 when the Commission considered and expressly found that such a regulation was not

necessary.[16] In Order No. 609, the Commission recognized that a pipeline performs auxiliary installations and replacements of facilities pursuant to existing easement agreements that dictate the pipeline's right to obtain access. It noted that pipelines should give the landowner as much advance warning as possible to avoid misunderstandings and ill-will—a concern that pipelines take seriously—but determined that "there is no need for this Commission to require advance notification to landowners for replacement conducted under § 2.55."[17] The Commission has not explained why, after exploring and determining that there was no need for formal landowner notification, it now proposes to change course and create a burdensome and unnecessary landowner notification requirement. The Commission's lack of explanation is arbitrary and capricious.[18]

A pipeline must own the property or have an easement or lease to perform maintenance, and the same is true for a pipeline to install, modify, replace, improve, alter, operate, maintain, access, inspect, patrol, protect, abandon, etc. auxiliary installations and replacement facilities. If extra workspace or additional permanent rights-of-way are needed to perform these activities, the company must negotiate with landowners to obtain the appropriate rights and often pay compensation. Pipelines also have formal agreements that allow for the use of privately owned access roads needed to operate their facilities. These legal contracts have unique and specific requirements that are the result of landowner negotiations to protect both the pipeline and the landowner. Pipelines strive to be good neighbors, and therefore, have informal notification practices to notify residents that significant work is going to take place on their property. Implementing a formal notification requirement would eliminate the informal, often face-to-face

[16] *See* Order No. 609 at 30,954-55.

[17] Order No. 609 at 39,955.

[18] *See FCC v. Fox*, 556 U.S. at 515.

communication that is more in line with the "good neighbor" culture that INGAA's member pipelines strive to maintain.

If pipelines have to adjust the communications so that they define which landowners are directly affected, which are abutting and which have access roads, it significantly increases the chances of miscommunication and confusion. Each pipeline company performs hundreds of Section 2.55 activities each year, and as with a notice requirement for maintenance activities, the management of this notification process would require significant resources. Pipelines may not enter on another property owner's land without authority either through a preexisting easement agreement or through some other arrangement with the landowner. A formal landowner notification does not provide any additional protection for the landowner; as noted above, the proposed reference to the Commission dispute resolution group is an empty gesture. If a landowner contacted Commission Staff with a property interest dispute, the landowner would be told that such disputes are for a court to decide, not the Commission.[19] This is a waste of time and resources not only for the pipeline forced to provide the notice, but also for the landowner who receives the notice and for the Commission that receives the complaint only to refer it to a court of competent jurisdiction. The current procedures employed by pipelines have worked well and have allowed for prompt and efficient auxiliary installations without this additional layer of bureaucracy.

3. Any notification requirement for maintenance and Section 2.55 activities must build on existing process and include flexibility and exceptions.

If the Commission is convinced that additional communication is needed to inform landowners about the types of activities they should expect on their properties, the Commission

[19] *See CARE* at P 26.

should work with the industry to build on processes that already exist for maintenance and Section 2.55 activities. For example, pipelines already make biennial mailings to residents to educate them concerning the presence of natural gas facilities pursuant to PHMSA regulations. Pipelines could include in this notification the types of maintenance activities that they routinely perform along their rights-of-way. The Commission should modify any additional notification requirement to conform with current industry practice of verbal or other communications such as door hangers to on-site residents for non-routine maintenance or Section 2.55 activities.

If the Commission insists on including regulatory text establishing a notification requirement, the Commission must modify significantly the text proposed in the NOPR. As noted above, where a pipeline is doing work under Section 2.55 or performing maintenance activities in its existing right-of-way, it makes no sense for that pipeline to provide landowners a written reference to the Commission's dispute resolution procedures. Pipelines are acting under preexisting easement rights and there can be no "dispute" to negotiate before the Commission. Thus, this reference should be removed from the regulation.

In addition, the scope of "[a]ll affected landowners" in both the proposed 2.55(c)(2) amendment and Section 380.15(c)(2) is drawn from the Commission's blanket authorization regulations and is not properly tailored to projects done under Section 2.55 or to maintenance activities. References to landowners of abutting property, residences within 50 feet of the proposed work area, and access roads should be eliminated. Any required notification should focus on those directly affected by pipeline activities.

The ten day prior notice period also should be eliminated. The Commission has not explained why it chose 10 days. It does not provide any factual reason why a ten day period is

appropriate and it does not describe any rationale based on prior experiences or business practices. Moreover, the inflexible ten-day timing does not take into account that different notice periods may make sense for different activities or circumstances. In sharp contrast to current practices, pipelines under the proposed regulation would not have any flexibility to adjust based on the nature and urgency of the activities. Where pipeline employees believe that they need to respond to a reliability or safety issue expeditiously, they should be allowed to do so without exposing the pipeline to frivolous complaints and potential civil penalties for violating a seemingly random and unjustified ten-day waiting period.

Any final notice language for maintenance and Section 2.55 activities also must include exceptions such as those that currently apply under the blanket certificate regulations and are referenced in the "Guidance on Repairs to Interstate Natural Gas Pipelines Pursuant to FERC Regulations (July 2005)."[20] Such exceptions should include: (1) No landowner notice is required for any replacements of facilities or auxiliary installations done for safety, U.S. Department of Transportation compliance, environmental, or unplanned maintenance reasons that are not foreseen and that require immediate attention by the certificate holder; (2) No landowner notice is required if there is only one landowner and that landowner has requested the service or facilities; (3) No landowner notice is required for activities that do not involve ground disturbance or changes to operational air and noise emissions.[21]

[20] *See* 18 C.F.R. § 157.203(d)(3); *See also*, Guidance on Repairs to Interstate Natural Gas Pipelines Pursuant to FERC Regulations (July 2005), http://www.ferc.gov/industries/gas/gen-info/guidance.pdf.

[21] It is worth noting that the Commission has created an inconsistency with its proposed change. The changes to Section 2.55 would require a 10 day landowner notice, but Section 157.203(d)(3)(i) states that no landowner notice is required for replacement projects that would have been performed under Section 2.55 if not for an increase in capacity. Accordingly, a landowner notice would be required if authorized under Section 2.55, but would not be required if authorized under the blanket certificate. This underscores INGAA's position that no notice requirement should be required under Section 2.55 at all.

B. Language Should Not Be Added To Section 2.55(a) To Impose Right-Of-Way And Workspace Limitations On Auxiliary Installations.

1. The NOPR is not a clarification; it converts nonjurisdictional auxiliary installations into jurisdictional facilities in a manner that is arbitrary and capricious.

Section 2.55 provides that the Commission will interpret the word "facilities" under Section 7(c) of the Natural Gas Act to exclude "auxiliary installations" and certain "replacement[s] of facilities."[22] Section 2.55(b) of the Commission's regulations defines the meaning of "replacement of facilities," and states that such replacements "will be located in the same right-of-way or on the same site as the facilities being replaced, and will be constructed using the temporary workspace used to construct the original facility."[23] In contrast, Section 2.55(a) does not limit auxiliary installations to the existing right-of-way or the same workspace used to construct the facilities to which the installations are appurtenant.[24] As INGAA stated in its petition[25] and request for rehearing,[26] since 1949 when the Federal Power Commission ("FPC") first promulgated Section 2.55, the Commission has revisited conditions applicable to both Section 2.55(a) and (b) in regulatory proceedings. While the Commission added a right-of-way limitation to Section 2.55(b)—first through adjudicatory proceedings[27] and then by formal

[22] 18 C.F.R. § 2.55 (2012).

[23] 18 C.F.R. § 2.55(b)(1)(ii).

[24] 18 C.F.R. § 2.55(a).

[25] Petition Requesting the Commission Adhere to Its Existing Rules, Regulations and Procedures, at 5-12, Docket No. RM12-11-000 (Apr. 2, 2012).

[26] Request for Rehearing of Interstate Natural Gas Association of America, at 17-24, Docket No. RM12-11-001 (Jan. 22, 2013) ("INGAA Request for Rehearing"). The INGAA Request for Rehearing is hereby incorporated by reference and made a part of this Comment.

[27] *See Arkla Energy Resources Co.*, 67 FERC ¶ 61,173 (1994), *reh'g denied*, *NorAm Gas Transmission Co.*, 70 FERC ¶ 61,030 (1995) ("*NorAm*").

rulemaking with notice and comment[28]—the Commission has never so limited auxiliary installations constructed pursuant to Section 2.55(a) even when it has had an opportunity to do so.

Many facilities described in Section 2.55(a) were never initially constructed within the pipeline's right-of-way, thus making the Commission's newly proposed "right-of-way" restriction impossible to meet. For instance, there are valid technical reasons for installing the ground beds associated with cathodic protection, an auxiliary installation described in 2.55(a), at least 300 feet away from the physical pipeline, which is well outside a typical pipeline right-of-way. By locating surface groundbeds away from the pipeline in remote earth, the anodes can be located in a low resistance environment providing optimum current distribution. The Commission in its NOPR offers no justification for the additional burden of now requiring that facilities installed for cathodic protection be certificated under Section 7, other than to suggest an "alternative method" of utilizing deep well anode bed installations, which the Commission states ". . . may not require disturbance outside of the right-of-way, . . . and may offer other benefits such as greater reliability of corrosion protection."[29] While a conventional ground bed installed for cathodic protection can cost from $25,000 to $40,000 , a deep well anode bed can cost anywhere from $55,000 up to $100,000 to install. Also, most deep well anode bed installations carry with them the obligation and additional expense, after the anodes are depleted, to go back in and properly plug the well. Surface beds carry no such additional costs once the anodes are depleted.

[28] *Revision of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act*, Order No. 603, FERC Stats. & Regs. ¶ 31,073 (1999), *on reh'g*, Order No. 603-A, FERC Stats. & Regs. ¶ 31,081 (1999), *on reh'g*, Order No. 603-B, FERC Stats. & Regs. ¶ 31,094 (2000).

[29] NOPR at P 20.

The auxiliary facilities listed in 2.55(a) also include "electrical and communication equipment" and "buildings." The Commission in its NOPR fails to recognize any distinction in the types of installations that may be covered by these terms. While certain communication equipment such as that necessary to provide SCADA information may well be located in close proximity to facilities such as meter stations that already require certification under Section 7 of the Natural Gas Act ("Section 7 certification"), and thus are more likely to be located on the same site as those facilities; other communication equipment, such as a microwave tower, may not be in close proximity to any other pipeline facilities, and would, under the clarification in the NOPR, now require Section 7 certification.

As stated in the request for rehearing, to support its action in this docket the Commission must: (1) ignore its prior, express, contrary holding in Order Nos. 148 and 603; (2) invent an argument for interpreting the meaning behind the promulgation of Section 2.55(a) based on NEPA considerations, a statute enacted approximately 20 years after Section 2.55(a) was promulgated; (3) ignore a series of formal rulemaking proceedings where it treated Section 2.55(a) differently from Section 2.55(b), which has an express right-of-way limitation; and (4) cavalierly characterize as wrong long-standing Staff guidance contrary to the position the Commission now wants to adopt. The right-of-way and workspace limitation for auxiliary installations represents a change in how the industry will address such installations, thereby raising costs, limiting efficiencies, and threatening expedited enhancement of pipeline integrity by making such installations more difficult to effectuate. The requirement that the Commission provide reasoned explanation for its action demands that it display awareness that it is changing position.[30] Since 1949, Section 2.55(a) has not had a right-of-way or workspace limitation and

[30] *See FCC v. Fox*, 556 U.S. at 515.

the industry has relied on the regulation as promulgated when performing auxiliary installations. This serious reliance interest requires the Commission to provide a more detailed justification.[31] Failure to recognize or acknowledge that the right-of-way and workspace limitation proposed is a change is, itself, evidence of arbitrariness.[32]

2. The NOPR does not address the need for this change.

The Commission not only has failed to recognize or acknowledge that the right-of-way limitation proposal is a change, it has not identified a need for such proposed change.[33] Instead, the Commission suggests that the right-of-way limitation "ensures that the environmental and landowner impacts attributable to auxiliary" activities "remain within the scope of impacts studied and addressed in [the] review and authorization of the underlying facilities."[34] This justification fails on several fronts. First, impacts attributable to subsequent auxiliary installations are not studied and addressed in the review and authorization of the underlying facilities. In addition, unspecified environmental and landowner impacts do not constitute the required factual basis for this new right-of-way and workspace requirement.[35] Nor does the Commission explain how potential dangers to the environment or landowners, unsupported by a record of abuse, justify this costly limitation.[36]

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[31] *See* INGAA Request for Rehearing at 35-40.

[32] *FCC v. Fox* at 515.

[33] *See National Fuel Gas Supply Corporation v. FERC*, 468 F.3d 831, 844 (D.C. Cir. 2006) (indicating that FERC must supply a factual basis for its administrative actions or, in the absence of such a basis, explain how potential dangers, unsupported by a record of abuse, justifies costly rules); *see also* 5 U.S.C. § 553(c) ("After consideration of the relevant matter presented [through notice and comment], the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose"); *Motor Vehicle Mfrs. Ass'n of U.S, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 56 (1983); *St. James Hosp. v. Heckler*, 760 F.2d 1460, 1469 (7th Cir. 1985).

[34] NOPR at P 7.

[35] *See National Fuel* at 844.

[36] *Id*.

The NOPR right-of-way and workspace limitation cannot ensure that the environmental and landowner impacts attributable to auxiliary installations remain within the scope of impacts studied and addressed in the review and authorization of the underlying facilities because auxiliary installations built on existing pipelines are not subject to the Commission's review and authorization of the underlying facilities. When the Commission grants a certificate for a new pipeline, it does not study and address the environmental or landowner impacts of future auxiliary installations. Consistent with the Commission's duty to conduct an environmental review of nonjurisdictional facilities when they are an integral part of a jurisdictional project,[37] pipelines seeking a certificate for new construction must include a description of auxiliary installations that it will install at the same time as it builds the new jurisdictional facility. But auxiliary installations installed later are not studied during the initial certification process of the underlying facilities. Subsequent auxiliary installations are studied when they are installed and pipelines abide, as they must, with the state and federal laws applicable at the time of installation, laws that already are quite effective in preventing damage to environmental and historic resources. Auxiliary installations are not certificated by the Commission because they are not jurisdictional and not done under the Natural Gas Act. Accordingly, there is no merit in the Commission's statement that environmental and landowner considerations justify a right-of-way and workspace limitation.

The NOPR does not address the fact that the methods adopted by pipelines for making auxiliary installations under Section 2.55(a) work well without a right-of-way limitation or

[37] *See Regulations Implementing the National Environmental Policy Act of 1969*, Order No. 486-A, 53 Fed. Reg. 8176 (Mar. 14, 1988) (While the Commission must consider the environmental impact of nonjurisdictional facilities when they are an "integral part of an entire project," the Commission "does not intend to use the environmental review process to exercise jurisdiction over nonjurisdictional facilities"), *corrected*, Order No. 486-B, 53 Fed. Reg. 26,436 (July 13, 1988).

required landowner notice. As the Commission acknowledges in the NOPR, pipelines making auxiliary installations under Section 2.55(a) must obtain the necessary environmental approvals and construction permits from federal and state agencies.[38] The Commission also found in the NOPR that without any notification requirement in the regulations pipelines "routinely inform landowners prior to coming onto their property[.]"[39] Indeed, the Commission does not identify a single example of a negative environmental or landowner impact for which auxiliary installations beyond the right-of-way have been responsible.

For over six decades, the interstate pipeline industry has never applied a right-of-way distinction among auxiliary installations. Over that same time period, the Commission has never enforced a right-of-way limitation on the industry or issued any orders or initiated any rulemakings to restrict auxiliary installations to existing rights-of-way. The fact that the Commission has provided no evidence nor any examples of harm over this long period of time is compelling evidence that no change to the Commission's auxiliary installation regulation is required. Having never promulgated nor enforced a right-of-way requirement for auxiliary installations, the Commission cannot do so now without sufficient justification and an explanation as to why it has changed its position and what harm it is intending to prevent. But the Commission provides no basis that supports the changes proposed for Section 2.55(a).

3. The NOPR does not address the burdens of this change.

At the same time the Commission fails to identify specific benefits from its proposed limitation on auxiliary installation, it ignores the burdens that such limitations would impose on the pipeline industry, and ultimately, on ratepayers. In practice, pipelines typically review and

[38] NOPR at P 22.

[39] NOPR at P 35.

address environmental and cultural landmark concerns connected to auxiliary installation projects through streamlined processes and informal consultation with relevant local, state, and federal agencies. This approach enables pipelines to work closely with the pertinent state and federal agencies to accomplish the installations promptly but in an environmentally and culturally sensitive manner. In many cases there are memorandums of understanding and/or blanket clearances in place that permit pipelines to apply informed judgment as to the nature of the consultation with a particular agency. The NOPR would convert all auxiliary installations outside of existing rights of way and historical workspaces into Natural Gas Act jurisdictional facility construction that would require certificate authorization and formal agency consultation. The Commission does not address this significant new burden on pipelines and on the agencies that would be inundated with new formal requests for action.

Pipelines currently have internal processes for scoping auxiliary installations and working with agencies and those directly affected by these projects. In some instances, a pipeline may negotiate with a landowner for additional rights or access to complete an auxiliary installation. Pipelines make internal environmental assessments to determine the potential impact of a project and have longstanding relationships with local, state and federal agencies that protect environmental and historic resources. Often an internal review coupled with an informal consultation with an outside agency is sufficient for a conclusion to be reached that a routine auxiliary installation would not have a significant impact on such resources.

Imposing a right-of-way and workspace limitation on auxiliary installations would transform an informal process which has worked well for decades for auxiliary installations to a formal review and approval process that would require significantly more time and resources from pipeline land personnel, environmental, health and safety ("EHS") personnel, regulatory

personnel, and legal personnel. For example, land personnel would need to verify the easement, make on/off right-of-way determinations, and track and report such decisions. EHS personnel would have additional obligations to scope workspace verification, draft letters, and track work and compliance reporting. Regulatory and legal personnel also would have additional monitoring, tracking, compliance reporting, and documentation obligations. To the extent the exact right-of-way was unclear, mapping employees might be required. In addition to these associated costs and additional time, the burdens from the ten-day notification proposal discussed above would increase under automatic authorization since pipelines would be required to provide a 45-day notice period.

Moreover, formal environmental review and approval of the process would commence, with internal environmental compliance staff assessing the project for permitting requirements and developing resource agency consultation letters. Although some Fish and Wildlife Service ("FWS") and State Historic Preservation ("SHP") offices issue "blanket clearance" letters that authorize routine and recurring work that is unlikely to result in significant environmental effects, issuance of such letters is becoming increasingly rare in the experience of INGAA member companies. Failing such a streamlined approach to obtaining applicable clearances, pipeline environmental compliance staff would need to develop and submit detailed resource agency consultation letters requesting resource agency concurrence that the proposed auxiliary installation would result in "no adverse effect" on federally listed species and "no effect" on properties listed in or eligible for listing in the National Register of Historic Places. In some instances, completion of field environmental resource surveys may be necessary to support development of such concurrence requests. Contracting and completing such environmental

surveys may take 15 to 30 days or more, and subsequent receipt of resource agency responses generally takes 30 to 60 days or more.

In addition to the burden that such additional formal activity would place on pipelines, the local, state and federal agencies responsible for providing "no adverse effect" or "no effect" determinations currently are not staffed to handle the additional requests and paperwork that the more formal notification requirements will create. As noted, these agencies currently rely on informal communications and monitoring in order to prioritize their valuable resources. Rather than focusing exclusively on projects that might have a significant impact on environmental or cultural resources, under the NOPR these agencies will be forced to divert precious staff time and attention to review requests involving low impact auxiliary installations and formally responding to such requests. Only following receipt of applicable resource agency concurrences and expiration of the landowner notification period would the auxiliary installation be released to commence construction. The Commission does not address this issue in the NOPR and makes no attempt to justify the additional burden on these agencies. Nor does it factor in the additional costs of delay associated with such burden.

In the event that the FWS or SHP offices are unable to issue a timely "no adverse effect" or "no effect" determination for a project due to staff limitations or other priorities, the auxiliary installation would be unable to be authorized pursuant to the blanket certificate regulations. The company would be forced to develop and file a Section 7(c) application for the project, seeking project-specific certificate authorization. This would be a much more expensive and time consuming endeavor for the companies, as would be the associated Commission review and proceedings, without any explained or proven environmental or historic preservation benefit over the current process.

The Commission neither addresses nor weighs any of these significant increases in cost and time. These additional burdens on pipelines and agencies will adversely affect pipelines' ability to address quickly, efficiently, and effectively the important policy priorities of safety, security, and gas-electric coordination. Such activities include replacement of ground beds, rectifiers, communication devices, installation of pig traps needed for in-line inspection or pipeline cleaning, and installation of valves. The right-of-way and workspace limitations proposed in the NOPR would have an even greater burdensome effect on pipelines' ability to make auxiliary installations promptly and efficiently on older lines. These lines typically have narrower rights of way and historical workspace areas. The NOPR limitations will fall most heavily on these lines, which can be the focus for installations directed specifically at safety and security considerations.

C. The NOPR ignores the Executive Orders exhorting federal agencies to avoid burdensome regulations that provide only modest benefits, requiring rejection of the NOPR proposals.

On July 11, 2011, the President issued Executive Order No. 13579, requesting independent regulatory agencies follow the key principles of Executive Order No. 13563.[40] These principles were designed to promote public participation, improve integration and innovation, promote flexibility and freedom of choice, and ensure scientific integrity during the rulemaking process. The expressed policy of the order is that "[w]ise regulatory decisions depend on public participation and on careful analysis of the likely consequences of

[40] *See* Exec. Order No. 13,563, 76 Fed. Reg. 3821 (Jan. 21, 2011); Exec. Order No. 13,579, 76 Fed. Reg. 41,587 (July 14, 2011).

regulation."[41] Such decisions "should be made only after consideration of their costs and benefits (both quantitative and qualitative)."[42]

In light of Executive Order Nos. 13579 and 13563, the Commission must explain how its proposed landowner notification and right-of-way and workspace limitation are consistent with these Executive Orders.[43] The 1949 rulemaking promulgated Section 2.55(a) to avoid the burden of unnecessary applications for certificates. In Order No. 603, the Commission reiterated its position that auxiliary installations were nonjurisdictional and did not impose a right-of-way or workspace limitation even though it imposed just such limitation for replacement facilities. In Order No. 609 the Commission considered and expressly rejected a landowner notification requirement for replacement facilities within the right-of-way and did not even consider such notification for auxiliary installations. The Commission's NOPR now seeks to impose these previously rejected burdens on auxiliary installations in the form of landowner notifications and right-of-way and workspace limitations, and on maintenance activities and replacements of facilities in the form of landowner notifications. The Commission's failure to consider the President's Executive Orders provides further support that the NOPR proposals are arbitrary, capricious and not reasoned decision making.

D. The Commission's Cost Estimates Are Too Low And The Commission Failed Completely To Address The Costs Associated With The Imposition Of A Right-Of-Way Limitation.

The Commission argues that because natural gas companies subject to its jurisdiction already notify landowners in conjunction with Section 3 projects and Section 7 applications and

[41] Exec. Order No. 13579 § 1(a).

[42] *Id*.

[43] *See Bldg. & Const. Trades Dept. v. Allbaugh*, 295 F.3d 28, 32-33 (D.C. Cir. 2002); *Sierra Club v. Costle*, 657 F.2d 298, 406 n.524 (D.C. Cir. 1981); *Sherley v. Sebelius*, 689 F.3d 776 (D.C. Cir. 2012).

when conducting activities under the Commission's blanket authorization regulations, "no new technology would be needed and no start-up costs would be incurred."[44] The Commission continues that "the proposed notification is expected to be consistent with some companies current practices, and consequently to impose little or no additional obligation on such companies."[45] This is not an accurate description of the current state of affairs in the industry and should not be used as a starting point for estimating the cost to implement the Commission's proposed landowner notification requirements and auxiliary installation limitations, which costs will be substantial.

The NOPR introduces landowner notifications for all maintenance activities no matter how minor and all activities under Section 2.55. As referenced above, every year a typical interstate pipeline performs many thousands of routine maintenance activities, 400 to 900 auxiliary installations, and 100 to 200 replacements of facilities. The notification requirements, alone, will require each pipeline to implement new systems to process, track, and document activities, requiring hundreds if not thousands of additional employee hours to implement on an ongoing basis. As discussed, these requirements will increase costs across several divisions of labor, including land, EHS, regulatory, and mapping employees. INGAA's member pipelines estimate that the notification requirement will add $525 - $900 to each of the millions of routine maintenance and Section 2.55 activities performed within the right-of-way plus substantial "set up" costs at the outset of the change. There will be additional costs such as wear and tear that inevitably will result from the maintenance delays and omission that will be attributable directly to the notification waiting period. There also will be opportunity costs as pipelines are forced to

[44] NOPR at P 35.

[45] *Id*.

devote more time to providing, tracking, and documenting notices and less time to the substantive jobs such employees were hired to perform.

The Commission does not consider any of these costs. Instead, its cost estimates hinge on the number of Section 2.55(a) activities that the Commission "extrapolated" based on informal and nonpublic consultations with an unidentified "small representative sample (less than ten) of jurisdictional companies."[46] The resulting numbers are flawed for several reasons. The first and most problematic flaw is the small sample size and informal methodology that the Commission used. Moreover, the Commission has not identified the questions that it posed to various pipelines or the answers of the pipelines or the methodology that the Commission used to extrapolate its estimates from those answers. Accordingly, there is no way to evaluate or correct the Commission's assessment of overall costs. Similarly, the Commission does not identify the pipelines or their location so there is no way to evaluate whether the answers provided were representative of the larger industry and captured geographic or weather related characteristics unique to a particular region that would change the numbers.

The Commission then uses its flawed estimate of the number of 2.55(a) activities to further extrapolate the total number of maintenance activities that pipelines perform annually. The Commission states that "for all companies nationwide, there will be a total of approximately three times as many activities as take place under section 2.55(a) which would require a landowner notification."[47] This is arbitrary and has no relationship to the number of maintenance activities actually performed by pipelines across the entire country over the course of a year. As noted above, the Commission's 2.55(a) estimates are based on informal responses

[46] NOPR at P 37.

[47] NOPR at 39.

to unidentified questions posed to fewer than 10 pipelines. The Commission further identifies no basis for assuming that maintenance activities have any correlation to the number of 2.55(a) activities. There is no nexus. Moreover, the Commission does not explain why it picked a multiplier of three. Why not five or eight or four-score-and-forty? The resulting estimate of 19,500 does not begin to capture the millions of activities that pipeline personnel perform to maintain thousands of miles of interstate pipelines in a given year, and that would require notifications under the Commission's current proposal.

In addition, the Commission failed completely to address the costs associated with the imposition of a right-of-way and workspace limitation beyond the landowner notification requirement. In order to comply with this arbitrary requirement to treat auxiliary installations outside of the right-of-way differently from those within the right-of-way, pipelines would need to devote significantly more employee hours to verify and document rights-of-way and workspace limitations, and plan for and/or analyze the location of each proposed auxiliary installation vis-à-vis those limitations. This review process typically would take 60 to 90 days to accomplish per auxiliary installation. If determined that the auxiliary installation would be, or potentially could be, outside of the right-of-way, the project would be removed from a routine Section 2.55(a) project and become a more costly automatic authorization or Section 7 procedure. With associated landowner notifications and agency clearances, the costs for auxiliary installations could increase to $20,000 per project or more if legal advice and environmental surveys are required.

As with the notification requirement, these costs do not include opportunity costs as pipeline employees are forced to devote more time to providing, tracking, and documenting rights-of-way and certificate issues, and less time to the substantive jobs they were hired to

perform. In addition, there would be significant costs to ensure certain auxiliary installation could fit within an existing right-of-way. For example, the Commission argues that pipelines simply can resort to deep well ground bed installations rather than the traditional ground beds that typically extend beyond the existing right-of-way. As previously noted, where a conventional "surface" ground bed costs approximately $25,000 to $40,000, a deep-well ground bed will cost anywhere from $55,000 up to $100,000 depending on many variables. There are circumstances in which deep well protections, even at their additional costs, make sense from an economic and operational standpoint. A pipeline should deploy these high-cost and long-term installations based on such considerations, not on an arbitrary regulation limiting such protections to existing rights-of-way. The Commission must reconsider its cost estimates and factor more realistic estimates into its overall analysis on the burdens that its notification and right-of-way limitations will impose on pipelines and ultimately on ratepayers.

E. If the Commission Persists In Amending Section 2.55(a), It Should Clarify That Certain Matters Remain Outside of Its Certificate Jurisdiction, And Amend The Blanket Certificate Regulations To Make It Clear That Auxiliary Installations That Do Not Meet The Right-Of-Way Or Workspace Limitations May Be Accomplished Under Blanket Certificate Authority.

1. The Commission should clarify that certain matters will continue to remain outside of its certificate jurisdiction.

Pipelines, like many companies in many lines of business, from time to time will construct or acquire buildings, roads, parking lots and other improvements for central offices, field and other offices, warehouses, equipment yards, and for access to company facilities. Historically, while improvements directly related to a pipeline project have been included in the Commission's environmental review process, such as access roads and pipe yards used for construction, a pipeline seeking to construct or acquire a building, road or lot not in connection with the construction of pipeline facilities would not need certificate authorization from the

Commission. Section 2.55(a) includes the term "building" within the scope of "auxiliary installations," but the Commission now proposes to exclude off right-of-way installations from that scope. This creates confusion and possible unintended consequences. The improvements identified above would not generally be constructed within an existing right-of-way or facility. To avoid confusion, the Commission should clarify that improvements of the type identified above remain outside its certificate jurisdiction.

2. The Commission also should amend the blanket certificate regulations to make it clear that off-the-right-of-way or out-of-workspace auxiliary installations may be accomplished under blanket certificate authority.

When the Commission amended Section 2.55(b) in Order No. 603 to add right-of-way and workspace limitations for replacements, the Commission also amended the blanket certificate regulations to make it clear that replacements that did not meet these requirements would be included in the definition of Eligible Facility.[48] The Commission similarly should amend the definition of Eligible Facility in Section 157.202 (b)(2)(i) to include auxiliary installations that do not meet the new limitations imposed on Section 2.55(a).[49]

III. CONCLUSION

For the reasons stated above, the Commission should withdraw its proposed landowner notification procedures and right-of-way and workspace limitations. Any regulations that

[48] Order No. 603 at 30,791-92.

[49] For example, Commission has ruled that storage observation wells qualify as exempt Section 2.55(a) facilities, Order No. 609 at 30,959 (citing *Natural Gas Pipeline Company of America*, 32 FERC ¶ 61,287, at 61,663 n.1 (1985)), but a new observation well by its nature will rarely if ever be located within an "existing, certificated permanent right-of-way or authorized facility site" and would therefore be effectively disqualified from the scope of this section. The NOPR should make the new location restriction inapplicable to observation wells, or, in the alternative, explicitly include observation wells within the blanket certificate regulation's definition of "eligible facilities."

formalize landowner notifications should follow current industry practices and should provide pipelines with the flexibility to maintain their systems in a safe, reliable, cost-effective manner.

Respectfully submitted,

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Attachment A
Maintenance Examples

1. Pipe repair using a repair sleeve (composite, bolt on, weld on, etc) or clamp, does not include cutouts
2. Regulator rebuild (with no capacity change)
3. Valve operator/actuator maintenance
4. Valve lubrication and maintenance
5. Valve inspection and maintenance
    a. Each vault cover must be inspected to assure that it does not present a hazard to public safety.
    b. The ventilating equipment must also be inspected to determine that it is functioning properly.
    c. Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.
    d. Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve.
    e. Each vault housing pressure regulating and pressure limiting equipment, and having a volumetric internal content of 200 cubic feet (5.66 cubic meters) or more, must be inspected at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is in good physical condition and adequately ventilated.
    f. If gas is found in the vault, the equipment in the vault must be inspected for leaks, and any leaks found must be repaired.
6. Relief valve testing and maintenance
7. Pipe to soil readings
8. Rectifier check and maintenance
9. Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding $2\frac{1}{2}$ months, to insure that it is operating. Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding $2\frac{1}{2}$ months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months
10. Cathodic protection surveys (Close interval survey, etc.)
11. Leak surveys
12. Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with § 192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted—
    a. In Class 3 locations, at intervals not exceeding $7\frac{1}{2}$ months, but at least twice each calendar year; and
    b. In Class 4 locations, at intervals not exceeding $4\frac{1}{2}$ months, but at least four times each calendar year.
13. Pigging (maintenance, In-line inspection)
14. Routine compressor maintenance (spark plug change, oil change, oil sampling, balancing, emission testing, etc. maintenance required by air permits) not resulting in a capacity change
15. Emergency generator maintenance (required by air permits)
16. Engine overhauls
17. Installing or maintaining fences and gates

18. Installing or maintaining signs or markers
19. Maintaining concrete pads in ROW or existing footprint
20. Painting
21. Jack stand installation & maintenance
22. Replacing flange bolts, gaskets, filters
23. Erosion and erosion control devise repair inside existing ROW
24. Line lowering inside existing ROW
25. Pipeline inspection (DA digs inside existing ROW, IM digs inside existing ROW, coating inspection, pipe inspection post ground movement, electrical storm, etc.)
26. Casing inspection
27. Casing repairs
28. One call response
29. Line patrols (foot, aerial)
30. SCADA repair
31. ROW vegetative maintenance
32. Ground movement surveys
33. Encroachment surveys
34. Test lead maintenance
35. Tower light monitoring, inspection, change out/repair at towers
36. Pressure testing
37. Emission monitoring
38. Liquid removal, handling and storage
39. Tank inspection
40. Storm water monitoring
41. Population density survey
42. HCA survey
43. Maintenance and filling of odorization equipment
44. Maintenance of chemical injection equipment
45. Periodic inspections and maintenance of storage wells and related facilities
46. Snowplowing and other maintenance of access roads
47. Use of access roads for the above activities