AB 1420 PIPELINE TESTING

FINAL STATEMENT OF REASONS

UPDATE TO THE INITIAL STATEMENT OF REASONS

As authorized by Government Code section 11346.9, subdivision (d), the Department of Conservation (Department) incorporates by reference the Initial Statement of Reasons prepared for this rulemaking.

In addition, the Department has the following updates to the Initial Statement of Reasons:

Changes to the Regulations

After the 45-day public comment period held from September 20, 2017 to November 10, 2017, the Department modified Section 1774.1, subdivision (g), to exempt vapor recovery lines from mechanical integrity testing if they are equipped with certain safeguards and inspected annually, rather than quarterly. This modification avoids unnecessary duplication of regulation as air quality management districts generally require operators to perform leak tests annually on these pipelines. Moreover, the oxygen detectors on vapor recovery pipelines already provide a significant leak detection safeguard.

Nonsubstantial Changes to the Regulations

The following nonsubstantial changes have been made in the final text of the regulations that are not included in the originally proposed regulations or the modifications to the proposed regulations when they were made available for public comment:

- Section 1760, subdivision (r)(4), has been deleted. Subdivision (r)(4) stated that the definition in subdivision (r) does not affect or limit the Division's statutory authorities, but that statement is unnecessary and lacks regulatory effect.

- Section 1774 has been modified to remove the references to the standards found in American Society of Mechanical Engineers B31.3, B31.4, and B31.8, and American Petroleum Institute Recommended Practice 570. Those standards are all incorporated by reference in California Code of Regulations, title 8, section 6533, which is cross referenced in Section 1774, and therefore removal of those reference is a change without regulatory effect.

- Section 1774.1, subdivision (b), has been modified to correct grammatical errors. The first sentence of subdivision (b) was corrected to ensure that it is understood that subdivision (b) applies only to pipelines that are both in a sensitive area and 10 or more years old, as reflected in the Informative Digest in the Notice of Proposed Rulemaking Action. The second sentence of subdivision (b) was corrected to ensure that it is understood that operators must comply with applicable regulatory standards, as required under existing law.

- Section 1774.1, subdivision (h)(3), and Section 1774.2, subdivision (b)(2), were modified to remove language in the proposed regulations that was not underlined and therefore not adopted.

- Section 1774.2, subdivision (a), has been modified to replace "within one year or the effective date of this regulation" with the actual effective date of these regulations and resulting deadline for submission.

Inspection and Testing Requirements for All Active Gas Pipelines in Sensitive Areas

Public Resources Code section 3270.5 requires the Division to review, evaluate, and update, where appropriate, its existing regulations concerning all active gas pipelines that are located in sensitive areas, less than four inches in diameter and 10 or more years old. However, consistent with the Division's broader mandate under to Public Resources Code section 3106 to prevent damage to life, health, property, and natural resources, these regulations require operators to test and inspect all active gas pipelines in sensitive areas that are 10 or more years old, regardless of diameter.

Although existing regulations already require operators to test all urban pipelines over four inches in diameter, larger gas pipelines in non-urban areas are not addressed by existing regulation. (See Cal. Code Regs., tit. 14, § 1774.1, subd. (e).) If the Division's new inspection and testing requirements for active gas pipelines in sensitive areas were to only apply to pipelines that are less than four inches in diameter, then larger pipelines in non-urban sensitive areas, such as communities like Arvin, would not be subject to the Division's testing and inspection requirements. These larger active gas pipelines pose at least the same, and arguably greater, risk to the public because they carry greater volumes of gas that can be released. Therefore, in order to for the Division to address its broader mandate under Public Resources Code section 3106, it is necessary for the requirements to apply to active gas pipelines in sensitive areas that are 10 or more years old, regardless of diameter. This is consistent with the statutory definition of an "active gas pipeline," which includes gas pipelines within the Division's jurisdiction "regardless of diameter." (Pub. Resources Code, § 3270.5, subd. (c)(2).)

LOCAL MANDATE DETERMINATION

The adoption of this rulemaking does not impose a mandate on local agencies or school districts.

DETERMINATION REGARDING ALTERNATIVES CONSIDERED

In June 2017, the Department released an initial set of draft regulations for discussion purposes and, thereafter, conducted an informal workshop to solicit input on the draft regulations. Throughout this rulemaking process, the Department has been meeting and discussing the regulations with the regulated industry, environmental groups, and members of the Legislature. The Department worked to ensure that the proposed regulations accomplish each of the testing mandates of AB 1420.

In the course of developing the originally proposed regulations, the Department considered and rejected various alternative approaches, and Section 1774.1, subdivision (g), was revised in response to feedback received in public comment hearings and in written format.

No alternative considered by the Department to the final regulations would be more effective in carrying out the purpose for which the regulations are proposed; as effective or less burdensome to affected private persons that the adopted regulations; or more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Following is supporting information for this determination and explanation setting forth reasons for rejecting proposed and considered alternatives, including alternatives that might lessen the adverse economic impact on small businesses:

- The Department considered, but rejected, exempting pipelines within a processing facility from mechanical integrity testing and inspection. The statutory definitions of “active gas pipeline” and “sensitive area” do not exclude pipeline facilities; therefore, the Department did not exclude them from regulation. However, the Division does intend to work with the regulated community, where appropriate, to accept testing protocols that meet existing requirements imposed by other regulatory agencies.
- The Department considered, but rejected, exempting pipelines that also fall under the jurisdiction of the U.S. Department of Transportation and Cal/OSHA. While the Department recognizes that there is some overlapping jurisdiction, the Department will not abdicate jurisdictional authority that has been mandated by the Legislature of the State of California. However, the Department does intend to work with the

regulated community, where appropriate, to accept testing protocols that meet existing requirements imposed by other regulatory agencies.

- The Department considered, but rejected clarifying the definition of an “active gas pipeline” to include a single-phase gas line and exclude those that are multi-phase. Most production from a well contains multiple phases and must be processed to meet sales specifications. The definition was written to include multiphase pipelines that predominantly carry gas but may contain entrained liquid and solid impurities.
- The Department considered, but rejected, striking Section 1760, subdivision (r)(2), from the regulations. This language was copied from Public Resources Code section 3270.5, subdivision (c)(2)(B), to create a single resource for operators and eliminate the need for unnecessary cross referencing between the Public Resources Code and California Code of Regulations. Regardless of whether the Department strikes this language, it still exists in statute and applies to operators with pipelines in sensitive areas.
- The Department considered, but rejected, clarifying Section 1760, subdivision (r)(3), to include chronic reportable leaks. In defining a sensitive area, Public Resources Code section 3270.5, subdivision (c)(2)(C), includes “[a]n area determined by the supervisor to have active gas pipelines that has a history of chronic leaks.” The Department agrees with this definition and included it in the regulations without modification.
- The Department considered, but rejected, including Leak Detection and Repair (LDAR) technology as an acceptable means of pipeline testing. While LDAR is useful technology to detect a leak in its infancy, it cannot be used for preventative maintenance.
- The Department considered, but rejected, requiring operators to perform a mechanical integrity test on all active gas pipelines in sensitive areas, including those that are less than 10 years old. The associated costs of testing newer pipelines are not only burdensome; they are unnecessary because newer pipelines are equipped with cathodic protection systems when installed. Based on this, the value of the testing for active gas pipelines that are less than 10 years old is of limited benefit.
- The Department considered, but rejected, requiring operators to perform a mechanical integrity test only on active gas pipelines in sensitive areas that are less than 4 inches in diameter and more than 10 years old. The Department determined that there would be a subset of pipelines in sensitive areas that were greater than 4 inches in diameter but would not be required to be tested. These pipelines carry greater volumes of gas and, therefore, pose a greater risk if they lack mechanical integrity. Requiring the testing of these pipelines is more protective of public health and the environment.

- The Department considered, but rejected, requiring operators to annually inspect only those pipelines in sensitive areas that are less than 4 inches in diameter and more than 10 years old. The Department determined that there would be a subset of pipelines in sensitive areas that were greater than 4 inches in diameter but would not be required to be inspected. These pipelines carry greater volumes of gas and, therefore, pose a greater risk if defects go unnoticed. Requiring the inspection of these pipelines is more protective of the public health and environment.
- The Department considered, but rejected, requiring mechanical testing less frequently than every 2 years. There are other categories of pipelines that must be tested every 2 years, and the Department included active gas pipelines in sensitive areas within this testing window because it more protective of the public health and environment in these sensitive areas and it is consistent with those other categories of pipelines. Further, operators do have the ability to have an alternative testing frequency approved based on a demonstration of wall thickness and remaining service life over a period of at least two years.
- The Department considered, but rejected, limiting the Supervisor's discretion to approve alternate inspection frequencies under Section 1774.1, subdivision (b), by requiring that the operator demonstrate the wall thickness and remaining service life of the pipeline over a period of at least two years. The Supervisor acknowledges that many circumstances may cause an operator to request an alternate inspection frequency. The existing language of the proposed regulation allows for this flexibility.
- The Department considered, but rejected, requiring hydrostatic pressure testing for active gas pipelines in sensitive areas. This would provide a simplified testing regime, allowing operators to conduct the testing in a routine, consistent manner. However, this method was rejected because there are circumstances in which hydrostatic testing is inadvisable. Any water remaining in the line after testing can cause corrosion. Additionally, there could be higher costs associated with the purchase of water for testing and its disposal upon completion. Providing alternate means of testing allows operators to choose the most effective and affordable method based on individual operations and circumstances.
- The Department considered, but rejected, requiring pipelines in section 1774.1, subdivision (d), to be verified by the Division prior to being returned to service. Operators were concerned that this could cause unreasonable delay in operations, particularly during weekends and holidays. The Division requires the operator to submit the mechanical integrity test results within 7 days so that Division personnel can verify that the pipeline was tested.
- The Department considered, but rejected, deleting the requirement that operators notify the Division in writing of any pipeline taken out of service due to a test failure. In these cases, the Division will want to ensure that appropriate steps are taken

before a pipeline is placed back into service, such as repairing or replacing that portion of the pipeline. Further, in the event of a leak, it is import for the Division to have records of inservice and out-of-service pipelines for the purposes of investigation.

- The Department considered, but rejected, eliminating the PMP requirement in the proposed regulations that would require submission of the planned testing frequency and methodology for all pipelines. Operators suggested that the requirement was redundant because existing regulations already include testing frequency and methodologies. This was rejected for several reasons. First, the proposed regulations provide discretion for the Supervisor to approve different testing frequencies and methodologies outside of the existing regulatory scheme. Second, there are no additional costs or burdens associated with the requirements. Third, the inclusion of the information would provide clarity for Division personnel when auditing operator compliance.
- The Department considered, but rejected, exempting tank facilities in sensitive areas, environmentally sensitive areas, urban areas, and designated waterways from the mapping requirements of the PMP. Maps of production facilities are already required as part of the operator's spill contingency plan. (Cal. Code of Regs., tit. 14, § 1722.9, subd. (f).) Plot plans, piping drawings, and facility maps may be submitted to meet the requirements.
- The Department considered, but rejected, exempting vapor recovery systems with safeguards, such as O_2 sensors, from the mapping requirements of the PMP. Although the Department has exempted these systems from mechanical integrity testing requirements, it had no intent to exempt them from the mapping requirements found in Section 1774.2, subdivision (b)(4). Mapping is required where the public or environment may be at risk in sensitive areas.
- The Department considered, but rejected, requiring operators to submit PMPs only upon request. AB 1420 requires operators of active gas pipelines in sensitive areas to submit an up-to-date and accurate map identifying the location of their pipelines and other up-to-date locational information of the pipeline as determined and in a format specified by the Division as part of their PMPs. (See Pub. Resources Code, § 3270.5, subd. (b).) Based on this and the fact that operators are already required to have PMPs, Section 1774.2, subdivision (a) now required operators to submit these plans to the Division. Operators may export reports from their data management software and/or propose alternative arrangement to provide the PMP which may be more efficient for both the operator and the Division.
- The Department considered, but rejected, defining the term "mechanical integrity testing." Mechanical integrity testing has been required for other types of pipelines. It is explained in industry standards and is common practice in pipeline

management. Moreover, mechanical integrity testing may mean something different depending upon the equipment being tested.

SUMMARY OF AND RESPONSE TO PUBLIC COMMENTS RECEIVED

Public comment summaries and responses for the 45-day public comment period held from September 22, 2017 to November 10, 2017 can be found under Tab “O” in the rulemaking file. Public comment summaries and responses for the 15-day public comment periods held from December 5, 2017 to December 20, 2017 and February 5, 2018 to February 20, 2018 can be found under Tab “P” in the rulemaking file. These separate documents are all hereby incorporated by reference into this document.