RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Natural Gas Pipelines

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

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

Authorized By: New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Zenon Christodoulou, and Robert M. Gordon, Commissioners.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: GX22020048.
Proposal Number: PRN 2022-136.

The deadline for comments on this matter is 5:00 P.M. on December 16, 2022. While all comments will be given equal consideration and will be made part of the final record of this proceeding, the preferred method of transmittal is through the New Jersey Board of Public Utilities' (Board) Public Document Search tool, by searching for the specific docket number listed above and using the "Post Comments" button. Written comments may also be submitted. Please include subject matter and docket number and submit to:

Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave., 1st Floor
PO Box 350
Trenton, NJ 08625-0350
Attn: BPU Docket No. GX22020048
Phone: 609-292-1599
Email: board.secretary@bpu.nj.gov

All comments are considered "public documents" for purposes of the State's Open Public Records Act. Commenters may identify information that they seek to keep confidential by submitting it in accordance with the confidentiality procedures set forth at N.J.A.C. 14:1-12.3.

The agency proposal is as follows:

Summary

The Board is proposing to readopt with amendments and a new rule, its rules regarding various aspects of natural gas pipelines, found at N.J.A.C. 14:7, which address the construction, operation, and maintenance of natural gas transmission and distribution pipelines. Pursuant to N.J.S.A. 52:14B-5.1.c, these rules were scheduled to expire on December 16, 2022. As the Board filed this notice of readoption prior to December 16, 2022, that date is extended 180 days to June 14, 2023, pursuant to N.J.S.A. 52:14B-5.1.c(2). These rules describe where pipelines may be constructed and set requirements for ensuring that the pipelines remain safe both during and after installation. The rules also set specifications that pipeline operators must follow when installing, inspecting, operating, and maintaining natural gas pipelines. The primary goal of the proposed amendments and new rule is to enhance the safety standards associated with pipeline installation, operation, and maintenance.

Although the Federal government has prescribed safety standards for pipeline transportation and for pipeline facilities pursuant to 49 U.S.C. § 60101 et seq., enforcement authority over intrastate lines may be assumed by the states. Pursuant to a certification submitted annually to the Federal Department of Transportation, New Jersey must enforce the Federal standards at Title 49 of the Code of Federal Regulations and may adopt more stringent standards, where warranted. The Board is the State agency with delegated Federal authority and State statutory jurisdiction over all intrastate gas pipelines. The Board is readopting these rules and proposing a new rule to ensure the safe, adequate, and proper installation, operation, and maintenance of pipelines by New Jersey gas pipeline operators.

As the Board has provided for a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.3(a)5.

Following is a section-by-section summary of the rules proposed for readoption with amendments and a new rule.

Subchapter 1. Construction, Operation, and Maintenance of Transmission and Distribution Natural Gas Pipelines

N.J.A.C. 14:7-1.1 sets forth the purpose and applicability of the subchapter. The proposed amendment would add a cross-reference to definitions in the Code of Federal Regulations. At subsection (a), "intrastate natural gas operators" is proposed be amended to "intrastate operators."

N.J.A.C. 14:7-1.1A provides definitions for key words and terms used in the subchapter. The proposed amendments would add definitions for "covered task," "flowable fill," "gas," and "lower explosive limit."

N.J.A.C. 14:7-1.2 requires compliance with the Federal natural gas pipeline requirements.

N.J.A.C. 14:7-1.3 details requirements for the classification of pipeline locations.

N.J.A.C. 14:7-1.4 prohibits the installation of certain natural gas pipelines near buildings intended for human occupation without prior Board approval.

N.J.A.C. 14:7-1.5 is reserved.

N.J.A.C. 14:7-1.6 ensures quality control of field welding and requires oversight by qualified welding inspectors and that a copy of the applicable welding procedures be available at the job site.

N.J.A.C. 14:7-1.7 provides requirements, supplemental to the Federal Code standards, for the construction of gas pipelines.

N.J.A.C. 14:7-1.8 requires compliance with State transportation agency standards for pipelines that cross railroads or highways and sets forth requirements for gas pipelines located under or adjacent to railroads or highways.

N.J.A.C. 14:7-1.9 governs the spacing of sectionalizing distribution valves. The proposed amendments would amend the section to also govern "emergency response drills." These drills are necessary to test and validate existing plans and procedures in a realistic setting. The conduct of emergency response drills for distribution system incidents provides an opportunity to train operator and local emergency response personnel for real-world incidents and can improve community resilience and reduce loss of life and property damage. Many operators already conduct distribution emergency response drills, and the proposed amendments would standardize the frequency of these drills and require an operator to conduct a drill during normal business hours at least once every four years. This provides an opportunity for Board staff to observe these drills during normal business hours.

N.J.A.C. 14:7-1.10 sets forth the requirements for valve assessments and emergency closure plans for transmission pipelines. The proposed amendments would amend subsection (f) to require that emergency closure drills take place during normal business hours at least once every four years. This provides an opportunity for Board staff to observe these drills during normal business hours.

N.J.A.C. 14:7-1.11 details requirements for pipe installation. The proposed amendments would amend the section to include requirements for the use of flowable fill and clarify the use and size of tracer wire and warning tape.

N.J.A.C. 14:7-1.12 sets forth the standards for the depths at which natural gas pipelines must be installed.

N.J.A.C. 14:7-1.13 requires that any portion of a natural gas pipeline that protrudes above-ground be conspicuously marked or protected against damage.

N.J.A.C. 14:7-1.14 details pressure testing requirements for natural gas transmission and distribution pipelines.

N.J.A.C. 14:7-1.15 requires that all electric equipment and wiring in meter, regulator, and gate stations be designed and installed in accordance with all applicable provisions of the National Electrical Code and ANSI/NFPA 70.

N.J.A.C. 14:7-1.16 provides odorization requirements for natural gas pipelines.

N.J.A.C. 14:7-1.17 requires service interruption reporting by gas pipeline operators. This proposed rulemaking would change the word "accidents" to "incidents" in the heading and would revise the reporting requirements for incidents, accidents, and service interruptions. This section is amended to incorporate requirements at N.J.A.C. 14:3 into this section with revisions. Generally, the changes reduce reporting timeframes from the requirements previously located at N.J.A.C. 14:3 because of the potentially dangerous nature of gas incidents and interruptions and the need to prepare to dispatch Board staff to investigate incidents, where appropriate.

N.J.A.C. 14:7-1.18 requires 45 calendar days' notice to the Board prior to construction or reconstruction of a high-pressure natural gas pipeline.

N.J.A.C. 14:7-1.19 is proposed to require pipeline operators to classify the severity of natural gas leaks in a standardized manner and to conduct leak repairs within a prescribed time period. The Board's experience with leaks indicates that these requirements are necessary for both public safety and reducing Statewide methane emissions, which mitigates the potential hazard that leaks pose to the environment.

N.J.A.C. 14:7-1.20 requires monthly patrols of pipelines in Class 3 and 4 locations. This is proposed for amendment to clarify the factors that the operator must consider in determining when more frequent leak surveys are necessary.

N.J.A.C. 14:7-1.21 requires that each transmission pipeline operator establish and maintain a liaison, including offering annual meetings, with fire and police officials and other appropriate emergency services personnel.

N.J.A.C. 14:7-1.22 requires operator efforts to provide on-site inspection during excavations related to the One-Call system.

N.J.A.C. 14:7-1.23 requires approval of operating and maintenance standards and revisions.

N.J.A.C. 14:7-1.24 requires operator oversight of construction, including inspections of pipe installations, and daily inspections of contractor crews. This proposed amendment would change the section heading to include operations and maintenance activities, and would clarify those individuals who may perform an activity that is a covered task.

N.J.A.C. 14:7-1.25 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.

N.J.A.C. 14:7-1.26 sets forth various reporting requirements. This proposed amendment would add new reporting and notification requirements for LNG facilities, transmission pipeline integrity digs, and maximum allowable operating pressure exceedances.

N.J.A.C. 14:7-1.27 through 1.37 are reserved.

Subchapter 2. Violations, Informal Conferences, Civil Administrative Penalties, and Adjudicatory Hearings

N.J.A.C. 14:7-2.1 sets forth the scope of the subchapter.

N.J.A.C. 14:7-2.2 establishes the procedure by which the Board will issue a notice of probable violation (NOPV).

N.J.A.C. 14:7-2.3 details the response procedures for alleged violators to NOPVs.

N.J.A.C. 14:7-2.4 sets forth the procedure the Board will follow if the alleged violator fails to submit the Answering Certification included in the NOPV.

N.J.A.C. 14:7-2.5 provides for Board issuance of an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) and allows for adjudicatory hearing requests.

N.J.A.C. 14:7-2.6 details the requirements for the request and grant or denial of adjudicatory hearings to contest an AONOCAPA.

N.J.A.C. 14:7-2.7 establishes standards for the Board's calculation of the amount of civil administrative penalties within statutory ranges. This proposed amendment would revise the penalty amount from a dollar figure to a reference to the Code of Federal Regulations.

Social Impact

The rules proposed for readoption with amendments and a new rule will have a significant positive social impact on the residents of New Jersey. The rules govern all aspects of the siting, construction, installation, and operation of natural gas pipelines. Natural gas (which is mostly composed of methane) is a commonly used energy source, but is extremely dangerous if handled improperly. In addition, methane gas is a potent greenhouse gas with a global warming potential more than 25 times that of carbon dioxide. Therefore, the rules provide a social benefit in that residents are afforded safe, adequate, and proper natural gas service. The rules also provide a social benefit by ensuring avoidance and appropriate control of leaks that pose a threat to the environment in the form of significant methane emissions. Ensuring the safety of New Jersey's natural gas pipelines is an ongoing process that demands the highest level of attention from the Board, as well as the pipeline operators that control the pipelines. The Board constantly looks for ways to improve both the reliability and safety of natural gas pipelines and the Board will, after notice and an opportunity for comment, amend the rules, when necessary, to effectuate positive benefits to the residents of New Jersey, as is being done by the proposed amendments and new rule.

Economic Impact

The rules proposed for readoption with amendments and a new rule will require natural gas pipeline operators, as they have in the past, to incur incremental safety-related expenses in the installation, operation, and maintenance of natural gas pipelines. See the Federal Standards Analysis below for a further description of likely compliance costs. These costs are justified by the benefits generated by increased safety to the public and property, protection of the environment, and mitigation of climate change through the reduction in leak-related methane emissions. Finally, pipeline operators subject to the jurisdiction of the Board will be allowed to recover all reasonable, prudent, and supportable levels of costs through rates charged to customers.

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 proposed for readoption with amendments and a new rule is 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 proposed 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 proposed rulemaking would readopt 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 proposed rulemaking would readopt 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 proposed rulemaking would readopt 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 proposed rulemaking would readopt the existing requirements.

Proposed 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, proposed 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. Proposed 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 proposed rulemaking would readopt 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 proposed rulemaking would readopt the existing requirements.

Proposed 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 section is 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 proposed 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 proposed 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 proposed 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. Proposed 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.

Jobs Impact

The rules proposed for readoption with amendments and a new rule are likely to have a negligible impact on jobs in New Jersey. The rules set forth safety practices that must be followed in the siting, construction, installation, and maintenance of natural gas pipelines. Most of these practices are required pursuant to existing Federal law, and these rules primarily implement these Federal requirements. Therefore, any impact on jobs caused by these safety requirements will already have been felt as natural gas pipeline companies moved into compliance with the underlying Federal requirements. While there are some areas in which these rules are more stringent than Federal requirements (see the Federal Standards Analysis above), the Board expects that this will have only an incremental impact on jobs. To the extent that jobs are affected, the rules are likely to increase employment of inspectors and other natural gas company employees and/or consultants.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a new rule will have no impact on the agriculture industry in New Jersey. While many natural gas pipelines cross agricultural areas, these rules apply to construction practices, installation, inspection, and similar safety related activities, and do not affect the location of the pipelines within New Jersey.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. (the Act), the Board has determined that the rules proposed for readoption with amendments and a new rule will not impose reporting, recordkeeping, or other compliance requirements on any small businesses as that term is defined in the Act. Most intrastate pipelines located in New Jersey are operated by the four local distribution companies (LDCs) currently subject to the jurisdiction of the Board, which all have more than 100 full-time employees. Other pipelines may be operated by large industrial businesses, such as power plants, which are also not small businesses pursuant to the Act. The Board is not aware of any pipeline operators, as defined at N.J.A.C. 14:7-1.1A, in New Jersey that are small businesses.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and a new rule will have an insignificant impact on the affordability of housing in New Jersey because the scope of the rules is limited to safety requirements for natural gas transmission and distribution pipelines. There is an extreme unlikelihood that the safety requirements in the rules proposed for readoption with amendments and a new rule would evoke a change in the average costs associated with housing, because the cost of constructing, operating, and maintaining natural gas transmission and distribution infrastructure is so small a component of housing prices, as to have virtually no effect on the housing market.

Smart Growth Development Impact

The Board anticipates that the rules proposed for readoption with amendments and a new rule will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations." N.J.S.A. 52:18A-199a. "Smart growth is based on the concepts of focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing." While the location of infrastructure, such as natural gas pipelines can significantly affect the location of new development, these rules apply to construction practices, installation, inspection, and similar safety related activities, and do not affect the location of the pipelines within New Jersey. There is an extreme unlikelihood that this rulemaking would evoke a change in housing production in Planning Areas 1 or 2, or within the designated centers, under the State Development and Redevelopment Plan. Thus, the rules do not affect the location of future development, and the rules proposed for

readoption with amendments and a new rule will not impact smart growth or the State Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board has evaluated the rules proposed for readoption with amendments and new rule and determined that they will not have an impact on pretrial, detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:7.

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [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 [natural gas pipeline] 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 [in] **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 [in] 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.

[(e)] **(f)** (No change in text.)

[(f)] **(g)** [Any] **Effective July 1, 2023, a pipeline operator shall install** tracer wire [installed for locating] **on all uncased portions of new or replacement** plastic pipe [in accordance with 49 CFR 192.321] **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**; [and/or]

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.

[(g)] **(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 16 inches in diameter, the operator shall install one six-inch wide tape. For pipes of 16 inches or more in diameter, the operator shall install one 12-inch wide tape, or two six-inch wide tapes installed side by side.] **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 [Accidents] **Incidents** and service interruptions—reporting

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

[(a)] **(b)** Each gas pipeline operator shall [comply with the procedures for reporting accidents, set forth at N.J.A.C. 14:2-4.4, and 14:3-6.4, 6.5 and 6.6.] **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.

[(b)] **(j)** Service interruptions affecting customers of gas pipeline operators in New Jersey shall be reported to the Board [in accordance with N.J.A.C. 14:3-3.7.] **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) [However, interruptions] **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 [(Reserved)] **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

Criteria for Determining Leak Classification	Leak Grade Classification	Required Action
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 [discovered] **reported** by the public, **population density,** and operating pressure.

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

14:7-1.24 Oversight of construction [activity]**, operations, and maintenance activities**

(a) (No change.)

(b) A pipeline operator shall ensure that each **operator crew performing construction and** contractor crew performing [work] **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 [work] **construction** being performed.

(c) (No change.)

(d) Each pipeline operator shall perform quality assurance/quality control audits of [work on] **construction of** natural gas pipelines and shall maintain the audit records for [work] **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. (No change.)

2. The Transmission System Annual Report required [under] **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 F7100.2-1; [and]

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 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 [under] **pursuant to** 49 CFR 192.945. [These] **This** report[s] shall be submitted to the Board as [follows:

i. The report covering January 1 through June 30th shall be submitted no later than August 31st of the same year; and

ii. The report covering January 1 through December 31st shall be submitted no later than February 28th of the following year;] **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 [of not more than $200,000 for each violation, for each day the violation persists, up to a maximum of $2,000,000 for any related series of violations,] **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)

NEW JERSEY TRANSIT CORPORATION

Ferry Capital Improvement Program

Proposed Readoption with Amendments: N.J.A.C. 16:89

Authorized By: New Jersey Transit Corporation, Kevin S. Corbett, President and Chief Executive Officer.

Authority: N.J.S.A. 27:25-5.e, h, and k and 27:25-6.b.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2022-129.

Submit comments by December 16, 2022, to:

Compliance Department
New Jersey Transit Corporation
One Penn Plaza East, 8th Floor
Newark, NJ 07105-2246
Email: commentsferryprogramrule@njtransit.com

The agency proposal follows:

Summary

New Jersey Transit Corporation ("NJ TRANSIT" or "Corporation") was established by the New Jersey Public Transportation Act of 1979 (Act), N.J.S.A. 27:25-1 et seq., as the instrumentality of the State of New Jersey that establishes and provides for the operation and improvement of a coherent public transportation system in the most efficient manner. Pursuant to the Act, NJ TRANSIT is authorized to operate ferry passenger service (N.J.S.A. 27:25-5(h)). However, the Corporation also recognizes the important contribution that private ferry systems make to the State's transportation network. As a result, the Corporation believes that it is prudent public policy to implement a program whereby State funds are invested in certain capital acquisitions and infrastructure improvements. The Ferry Capital Improvement Program (FCIP) accomplishes this objective.

NJ TRANSIT has reviewed these rules, which were scheduled to expire on October 19, 2022, and seeks to readopt N.J.A.C. 16:89 with amendments. As NJ TRANSIT submitted this notice of proposal to the Office of Administrative Law prior to October 19, 2022, the expiration date was extended 180 days to April 20, 2023, pursuant to N.J.S.A. 52:14B-5.1.c(2).The rulemaking proposes two amendments to the rules proposed for readoption. First, NJ TRANSIT has updated the title of the Agency's President and Chief Executive Officer. Second, NJ TRANSIT has clarified that it has discretion to determine the ways in which it will use unallocated funds to the private ferry systems, which will be utilized on a case-by-case basis. All other provisions are readopted without change.

A summary review of each of the subchapters follows:

Subchapter 1, General Provisions, states the purpose of the program and provides definitions for key terms.

Subchapter 2, Eligibility and Ineligibility, outlines the eligibility requirements for the program.

Subchapter 3, Ferry Capital Improvement Program Funding, identifies the sources of funding and describes the proper use of allocated funds.