

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R4-48-103 | Reserved |
| R4-48-104 | New Section |
| Table A | New Table |
| Table B | New Table |
| R4-48-105 | Reserved |
| R4-48-106 | Reserved |
| R4-48-107 | Reserved |
| R4-48-108 | Reserved |
| R4-48-109 | Reserved |
| R4-48-110 | Reserved |
| R4-48-111 | Reserved |
| R4-48-112 | Reserved |
| R4-48-113 | Reserved |
| R4-48-114 | Reserved |
| R4-48-115 | Reserved |
| R4-48-116 | Reserved |
| R4-48-117 | Reserved |
| R4-48-118 | Reserved |
| R4-48-119 | Reserved |
| R4-48-120 | Reserved |
| R4-48-121 | Reserved |
| R4-48-122 | Reserved |
| R4-48-123 | Reserved |
| R4-48-124 | Reserved |
| R4-48-125 | Reserved |
| R4-48-126 | Reserved |
| R4-48-127 | Reserved |
| R4-48-128 | New Section |
| R4-48-129 | Reserved |
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. § 41-619
Implementing statute: A.R.S. § 41-619
3. A list of all previous notices appearing in the Register addressing the proposed rule:
Notice of Rulemaking Docket Opening: 5 A.A.R., April 16, 1999
4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: A. Hal Key, P.E., Chairperson

Arizona Administrative Register
Notices of Proposed Rulemaking

Address: Arizona Uniform Plumbing Code Commission
c/o Arizona Registrar of Contractors
800 West Washington, 6th Floor
Phoenix, Arizona 85007

Telephone: (602) 542-1525, Ext. 7105

Fax: (602) 542-1536

5. An explanation of the rule, including the agency's reasons for initiating the rule:

A. Cross-linked Polyethylene (PEX) Piping. The addition of PEX to the materials section for potable water will allow the use of a flexible nonmetallic piping material that has higher corrosion resistance than the currently allowed metallic piping materials. Because PEX is a flexible piping material, joints under slab are not necessary. The inclusion of PEX will provide the users of the code with a satisfactory method for dealing with "hot soils." PEX is a corrosion resistant material that provides the user of the code with a satisfactory method for dealing with "aggressive water" both above and below slab.

B. Appendix J of the 1994 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (I.A.P.M.O.), Reclaimed Water Systems. Changes to Appendix J clarify that the reclaimed water must originate from a treatment facility operating in accordance with the Arizona Department of Environmental Quality requirements. The changes also expand the type of treatment facilities the plumbing code currently allows under Appendix J from facilities operated only by public agencies, to all treatment facilities, as long as they meet ADEQ treatment, operating, and water quality requirements. Changes also reference standards ADEQ already has in rule for direct reuse. (A.A.C. R18-9-701, et seq.). In addition, changes in language strike plumbing code standards to defer to Arizona's reuse water quality standards. ADEQ uses reuse water quality standards found at A.A.C. R18-9-703, Table 1, Column H, as the basis for public health protection for plumbing fixtures within buildings as allowed by Appendix J.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

A. Cross-linked Polyethylene (PEX) Piping. The problems presented by what are referred to as "hot soils" and "aggressive water" have left the state of Arizona with performance deficiencies for potable water piping installations that have been difficult to mitigate until now. Metallic piping can be sleeved or wrapped when installed underground and under the slab, which can help in some installations, but metallic piping is susceptible to tearing and breaking when the back fill or slab are installed. The addition of PEX will allow the use of a flexible nonmetallic piping material with higher corrosion resistance than the currently allowed metallic piping materials. The resolution of both "hot soils" and "aggressive water" problems will resolve these performance deficiencies in the Arizona Uniform Plumbing Code.

B. Appendix J, Reclaimed Water Systems. Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

A. Cross-linked Polyethylene (PEX) Piping. Presumably consumers and businesses act in their own best interests and choose an available alternative, such as cross-linked polyethylene (PEX) piping, that best suits their individual purposes. Thus, as the range of alternatives available to consumers or businesses expands, they would presumably only choose 1 of the new alternatives because they deem it best suits their needs. Consequently, if the range of alternatives available to consumers and business increases, it cannot have a negative economic impact.

B. Appendix J, Reclaimed Water Systems. Since the changes made the this appendix coincide with current ADEQ requirements, there will not be an economic impact.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: A. Hal Key, P.E., Chairperson

Address: Arizona Uniform Plumbing Code Commission
c/o Arizona Registrar of Contractors
800 West Washington, 6th Floor
Phoenix, Arizona 85007

Telephone: (602) 542-1525, Ext. 7105

Fax: (602) 542-1536

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: Tuesday, May 25, 1999

Time: 9 a.m.

Arizona Administrative Register
Notices of Proposed Rulemaking

Location: Industrial Commission Building Auditorium
800 West Washington, First Floor
Phoenix, Arizona

Nature: Public Hearing

Date: Tuesday, May 25, 1999

Time: 9 a.m.

Location: State Office Complex
400 West Congress, Room 222
Tucson, Arizona

Nature: Public Hearing

Date: Tuesday, May 25, 1999

Time: 9 a.m.

Location: Registrar of Contractors
2708 North 4th Street, Suite C1
Flagstaff, Arizona

Nature: Public Hearing

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.

12. Incorporations by reference and their location in the rules:
Appendix J of the I.A.P.M.O. 1994 Uniform Plumbing Code R4-48-128(A)

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE R4-48-129. Reserved

Section
R4-48-103. Reserved
R4-48-104. Cross-linked Polyethylene (PEX) Piping
Table A. Materials and Types of Joints (Horizontal and Vertical)
Table B. Plumbing Material Standards
R4-48-105. Reserved
R4-48-106. Reserved
R4-48-107. Reserved
R4-48-108. Reserved
R4-48-109. Reserved
R4-48-110. Reserved
R4-48-111. Reserved
R4-48-112. Reserved
R4-48-113. Reserved
R4-48-114. Reserved
R4-48-115. Reserved
R4-48-116. Reserved
R4-48-117. Reserved
R4-48-118. Reserved
R4-48-119. Reserved
R4-48-120. Reserved
R4-48-121. Reserved
R4-48-122. Reserved
R4-48-123. Reserved
R4-48-124. Reserved
R4-48-125. Reserved
R4-48-126. Reserved
R4-48-127. Reserved
R4-48-128. Appendix J, Reclaimed Water Systems

ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE

R4-48-103. Reserved

R4-48-104. Cross-linked Polyethylene (PEX) Piping.

The Uniform Plumbing Code incorporated in R4-48-102 (A) is modified as follows:

1. Sec.202.0. Add a definition for "PEX" which reads: "PEX means Crosslinked Polyethylene."
2. Add a new row to Table 3-1. Refer to Table A – Materials and Types of Joints (Horizontal and Vertical).
3. Sec. 604.1 is modified to read: "Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel, or other approved materials. Asbestos-cement, CPVC, PE, PEX, or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. CPVC or PEX water pipe and tubing may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices shall be of a like material, except where otherwise approved by the Administrative Authority."
4. Sec. 604.11 is added to read: "Cross-linked polyethylene (PEX) tubing shall be marked with appropriate designation or designations consistent with the fitting system or systems for which the tubing has been listed or approved. PEX tubing shall be installed with mechanical joints in compliance with the appropriate standards and the manufacturer's instructions."

Arizona Administrative Register
Notices of Proposed Rulemaking

5. Table 14-1. Add standards in alphabetical order listed under appropriate sections. Refer to Table B – Plumbing Material Standards.

Table A. Materials and Types of Joints (Horizontal and Vertical)

<u>PEX</u>	<u>Mechanical</u>	<u>1 inch (25.4mm) and smaller, 3 feet (0.9 m), 1 1/4 inch (31.8mm) and larger 4 feet (1.2m).</u>	<u>Base and each floor. Provide mid-story guides.</u>
------------	-------------------	---	---

Table B. Plumbing Material Standards

<u>Materials and Products</u>	<u>ANSI</u>	<u>ASTM</u>	<u>FS</u>	<u>IAPMO</u>	<u>Other Stan- dards</u>	<u>Footnote Remarks</u>
<u>NONMETALLIC PIPE: Metal insert fittings utilizing a copper crimp ring for SDR9 crosslinked polyethylene (PEX) tubing.</u>		<u>F1807-97</u>				

- R4-48-105. Reserved
- R4-48-106. Reserved
- R4-48-107. Reserved
- R4-48-108. Reserved
- R4-48-109. Reserved
- R4-48-110. Reserved
- R4-48-111. Reserved
- R4-48-112. Reserved
- R4-48-113. Reserved
- R4-48-114. Reserved
- R4-48-115. Reserved
- R4-48-116. Reserved
- R4-48-117. Reserved
- R4-48-118. Reserved
- R4-48-119. Reserved
- R4-48-120. Reserved
- R4-48-121. Reserved
- R4-48-122. Reserved
- R4-48-123. Reserved
- R4-48-124. Reserved
- R4-48-125. Reserved
- R4-48-126. Reserved
- R4-48-127. Reserved

R4-48-128. Appendix J. Reclaimed Water Systems.

- A. Appendix J of the International Association of Plumbing and Mechanical Officials' (I.A.P.M.O.) Uniform Plumbing Code (1994 Edition) is incorporated by reference. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available from I.A.P.M.O. at 20001 Walnut Drive South, Walnut, CA, 91789-2825 and are on file with Arizona Uniform Plumbing Code Commission and the Office of the Secretary of State.
- B. Appendix J, incorporated by subsection (A) is modified as follows:
 - 1. Appendix J2, paragraph 1, is modified to read: "Reclaimed water is water approved for specific uses after the water has been treated or processed by a wastewater treatment plant operated pursuant to statutes and rules of the Arizona Department of Environmental Quality. The level of treatment and quality of the reclaimed water for the uses specified in this appendix is established by the Arizona Department of Environmental Quality pursuant to Arizona Administrative Code R18-9-703 and amendments thereto."
 - 2. Appendix J2, paragraph 2, is deleted.

R4-48-129. Reserved

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

PREAMBLE

1. Sections Affected

- R7-3-401
- R7-3-402
- R7-3-403
- R7-3-404
- R7-3-405

Rulemaking Action

- Amend
- Amend
- Amend
- Amend
- New Section

Arizona Administrative Register
Notices of Proposed Rulemaking

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 15-1852(C)
Implementing statute: A.R.S. § 15-1854
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening (Sections R7-3-401-R7-3-404): 5 A.A.R. 709, March 5, 1999.
Notice of Rulemaking Docket Opening (Sections R7-3-401-R7-3-404): 5 A.A.R. 1172, April 23, 1999.
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Verna Allen, Executive Director
Address: Commission for Postsecondary Education
2020 North Central Avenue, Suite 275
Phoenix, Arizona 85004
Telephone: (602) 229-2595
Fax: (602) 229-2599
5. **An explanation of the rule, including the agency's reason's for initiating the rule:**

On May 29, 1998, Governor Jane D. Hull signed HB 2193 renaming the Arizona Postsecondary Education Voucher Program to the Arizona Private Postsecondary Education Student Financial Assistance Program ("PFAP"). The heading for Article 4 will be changing to reflect the new name of the program. The other changes provide a definition for "financial need" and provide authority to the Commission to grant temporarily ineligible students awards to new eligible students on a waiting list.
6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
8. **The preliminary summary of the economic, small business, and consumer impact:**
 - a. An identification of the proposed rulemaking: Arizona Private Postsecondary Education Student Financial Assistance Program, R7-3-401 through R7-3-404, adopted pursuant to A.R.S. § 15-1854.
 - b. An identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking: There will be no significant impact to anyone or any institution. The rules simply reflect a name change.
 - c. An analysis of the probable costs and benefits from the implementation and enforcement of the proposed rulemaking on the Commission, and on any political subdivision or business directly affected by the proposed rulemaking: There may be minor costs in changing letterhead, envelopes, etc.
 - d. The probable impact of the proposed rulemaking on employment in business, agencies, and political subdivisions of this state affected by the proposed rulemaking: None.
 - e. A statement of the probable impact of the proposed rulemaking on small business: None are anticipated as the Program remains unchanged.
 - f. A statement of the probable effect on state revenues: None are anticipated as the Program remains unchanged.
 - g. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking: Due to the nature of the various statutory requirements, less intrusive or less costly alternatives are not available.
9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Verna Allen, Executive Director
Address: Commission for Postsecondary Education
2020 North Central Avenue, Suite 275
Phoenix, Arizona 85004
Telephone: (602) 229-2595
Fax: (602) 229-2599
10. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: May 24, 1999

Arizona Administrative Register
Notices of Proposed Rulemaking

Time: 10 a.m.
Location: Commission for Postsecondary Education
2020 North Central Avenue, Suite 230, Conference Room via conference call
Phoenix, Arizona 85004
Nature: Oral Proceeding and Adoption of Rules

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporation by reference and their location in the rules:**
Not applicable.
13. **The full text of the rules follows:**

TITLE 7. EDUCATION

CHAPTER 3. COMMISSION FOR POSTSECONDARY EDUCATION

**ARTICLE 4. ARIZONA PRIVATE POSTSECONDARY
EDUCATION VOUCHER STUDENT FINANCIAL
ASSISTANCE PROGRAM**

Section	Purpose
R7-3-401.	Purpose
R7-3-402.	Definitions
R7-3-403.	Administration and Allocation of Funds
R7-3-404.	Student Eligibility
R7-3-405.	Ineligible Student

**ARTICLE 4. ARIZONA PRIVATE POSTSECONDARY
EDUCATION VOUCHER STUDENT FINANCIAL
ASSISTANCE PROGRAM**

R7-3-401. Purpose

The purpose of the Arizona Private Postsecondary Education Voucher Student Financial Assistance Program is to enhance the educational opportunities of citizens wishing to attend Arizona private postsecondary colleges or universities by providing financial assistance to eligible students attending eligible postsecondary institutions.

R7-3-402. Definitions

- A. "Award year" ~~shall~~ means the period from July 1st of 1 year through June 30th of the succeeding year.
- B. "Commission" ~~shall~~ means the Commission for Postsecondary Education.
- C. "Eligible postsecondary institution" ~~shall~~ means any private postsecondary institution:
 1. Licensed to provide baccalaureate degrees in Arizona by the Arizona State Board for Private Postsecondary Education; and
 2. Accredited by an accrediting body recognized by the United States Department of Education.
- D. "Eligible student" ~~shall~~ means an individual who:
 1. Has obtained an associate degree from a community college under the jurisdiction of the Arizona State Board of Directors for Community Colleges; and
 2. Enrolls as a full-time undergraduate student at an eligible postsecondary institution.
- E. "Enrollment" ~~shall~~ means the establishment and maintenance of an individual's status as a student in an eligible postsecondary institution, regardless of the definition used at that institution.
- F. "FAFSA" means Free Application for Federal Student Aid.
- G. "Financial need" means the cost of attendance less expected family contribution, determined from the student's FAFSA form, minus any grant or scholarship aid.

FH. "Full-time student" ~~shall~~ means an individual who is enrolled in at least 12 credit hours per semester or an equivalent calculation.

GI. "Undergraduate student" ~~shall~~ means an individual who has not earned a baccalaureate or professional degree and who is enrolled in a postsecondary educational program which leads to, or is creditable toward, a baccalaureate degree.

HJ. "~~Voucher~~ Student financial assistance" ~~shall~~ means ~~an instrument~~ awarding a grant of money to an eligible, undergraduate student for payment of tuition and fees, as defined and allowed under United States Department of Education Title IV student assistance analysis, at an eligible postsecondary institution.

R7-3-403. Administration and Allocation of Funds

- A. The Commission shall administer the Arizona Private Postsecondary Education Voucher Student Financial Assistance Program in accordance with A.R.S. 15-1854 and the rules promulgated thereunder. Administration shall include but not be limited to the award of vouchers to eligible students approved by the Commission.
- B. The Commission shall maintain financial records of all disbursements made under the Program. These records shall include the amount of each student grant and the award year for which it was disbursed.
- C. The Commission shall allocate private postsecondary education ~~voucher~~ student financial assistance grant funds to eligible students based on methodology approved by the Commission under these rules.
- D. Any funds which have been allocated to a student, but are not used by that student, shall be reallocated by the Commission in a subsequent award year.
- E. ~~Vouchers~~ Student financial assistance will be awarded to renewal students as 1st priority and then to new students in the order of receipt of completed applications. In the event that there are more new eligible students in an award year than available vouchers for new students, awards shall be made in the following priority:
 1. ~~Date of receipt of a completed application,~~
 2. ~~Highest grade point averages for the associate degree.~~
- F. ~~A voucher~~ Student financial assistance in the amount of up to \$1,500 may be disbursed to an eligible student for an award year. An amount representing the ~~voucher~~ student financial assistance award shall be paid to the eligible institution towards tuition and fee charges following:
 1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and

Notices of Proposed Rulemaking

2. The initial expiration of the institution's refund time period for United States Department of Education Title IV student assistance during the award year. The institution shall then repay the Commission the applicable proportion of the annual award if the eligible student is not enrolled full-time on the date of the expiration of the institution's refund policy during any subsequent portion of the award year.

G. A ~~voucher~~ Student financial assistance in the amount of up to \$750 may be awarded to an eligible student for 1/2 of an award year. An amount representing the ~~voucher~~ student financial assistance award shall be paid to the eligible institution towards tuition and fee charges following:

- 1. Receipt by the Commission of an institutional certification of full-time attendance by the eligible student; and
2. The expiration of the institution's refund time period for United States Department of Education Title IV student financial assistance.

R7-3-404. Student Eligibility

A. To be considered for an initial private postsecondary education ~~voucher~~ student financial assistance, an eligible student shall submit a complete private postsecondary education ~~voucher~~ student financial assistance program application to the Commission. The application shall contain:

- 1. Assurance of acceptance at an eligible institution;
2. Assurance of attendance as a full-time student;
3. Written authorization to inspect any of the academic or financial records of the student which are in the possession or under the control of the institution, which records are necessary to the proper administration of the

provision of the Program and the regulations promulgated thereunder;

- 4. A signed statement certifying the student's understanding that the award will be used for tuition and fee expenses only; and
5. Agreement to reimburse the Commission the total amount of Program awards in the event the student fails to receive a baccalaureate degree within a 3-year period of the receipt of the initial ~~voucher~~ student financial assistance award.

B. To be eligible for a renewal of a private postsecondary education ~~voucher~~ student financial assistance, a student shall:

- 1. Meet the conditions of R7-3-402(D);
2. Provide verification of full-time enrollment and satisfactory academic progress as determined by the institution for the previous award year; and
3. Not have exceeded a cumulative total of \$3,000 in awards.

R7-3-405. Termination of Award

Student financial assistance shall be terminated if:

- 1. A student has withdrawn from the PFAP program; or
2. A student has been dismissed from the institution for academic or other reasons; or
3. A student is not in attendance for more than 12 consecutive months.

The remaining student financial assistance award money designated for that student shall no longer be available to that student. This money shall be available for awards to other eligible students.

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 5. CORPORATION COMMISSION

TRANSPORTATION

PREAMBLE

1. Sections Affected

- R14-5-201
R14-5-202
R14-5-203
R14-5-204
R14-5-205

Rulemaking Action

- Amend
Amend
Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 40-202, 40-203, 40-321, 40-441 and 40-442 et seq.

Constitutional authority: Arizona Constitution, Article XV

Implementing statute: Not applicable

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 1124, April 16, 1999.

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Peter Breen, Staff Attorney, Legal Division

Address: Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Telephone: (602) 542-3402

Arizona Administrative Register
Notices of Proposed Rulemaking

Fax: (602) 542-4870
Name: Terry L. Fronterhouse, Acting Chief, Office of Pipeline Safety
Address: Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
Telephone: (602) 542-3316
Fax: (602) 542-3071

5. An explanation of the rule, including the agency's reasons for initiating the rule:

R14-5-201, R14-5-202, R14-5-203, R14-5-204, and R14-5-205 pertain to the transportation of natural gas, other gas and hazardous liquids by pipeline and are being amended to recognize changes to Title 49, Code of Federal Regulations (CFR), Parts 40, 191, 192, except I(2) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199. Amendments are also being made in the requirement to file changes to a pipeline operator's existing operation and maintenance plans and placement of new construction on top of natural gas pipelines.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

These amendments will amend already existing rules. (R14-5-201, R14-5-202, R14-5-203, R14-5-204, and R14-5-205) under Chapter 5 entitled "Transportation." The proposed amendments to the existing rules are designed to update the Arizona Corporation Commission Pipeline Safety rules to recognize the amendments to Title 49, Code of Federal Regulations (CFR) Parts 40, 191, 192, except I(2) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199, as of November 4, 1998 (minimum safety standards for construction, operation and maintenance of natural gas, other gases and hazardous liquid pipeline facilities). The amendments will create no additional cost to political subdivisions, small businesses or consumers.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Peter Breen, Commission Counsel, Legal Division
Address: Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
Telephone: (602) 542-3402
Fax: (602) 542-4870
Name: Terry L. Fronterhouse, Acting Chief, Office of Pipeline Safety
Address: Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
Telephone: (602) 542-3316
Fax: (602) 542-3071

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The amendments will be adopted by the Arizona Corporation Commission at a regularly scheduled or a special Open Meeting. The notice and agenda will be posted in accordance with state law and will be mailed to those entities/individuals on the service list accompanying the Commission Decision authorizing the filing of the Notice of Proposed Rulemaking with the Secretary of State.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rules:

Title 49, Code of Federal Regulations (CFR), Parts 40, 191, 192, except I(2) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199. These regulations cover the minimum safety standards for the construction and operation of gas and hazardous liquid pipelines. These regulations may be found at the Arizona Corporation Commission, Utilities Division, Pipeline Safety Section, 1200 West Washington St., Phoenix, Arizona 85007. These regulations are incorporated by reference in

Arizona Administrative Register
Notices of Proposed Rulemaking

the amended rules at R14-5-202 B., C., E.1., E.2., J., K., L., Q., R., S., R14-5-203 C.2., C.3., C.5., R14-5-204 A.1., and R14-5-205, B., G., J., P., Q.

13. The full text of the rules follows:

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

**CHAPTER 5. CORPORATION COMMISSION
TRANSPORTATION**

ARTICLE 2. PIPELINE SAFETY

Section

- R14-5-201. Definitions
- R14-5-202. Construction and Safety Standards
- R14-5-203. Pipeline Incident Reports and Investigations
- R14-5-204. Annual Reports
- R14-5-205. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-201. Definitions

As used in this Article:

1. "Abandon" means disconnecting the pipeline from all sources and supplies of gas, purging the gas within the pipeline being disconnected and capping all ends.
2. "Building" means any structure intended for supporting or sheltering any occupancy.
3. "Business District" means an area where the public congregate for economic, industrial, religious, education, health or recreational purposes and 2 or more buildings used for these purposes are located within 100 yards of each other.
- 4.3. "Commission" means the Arizona Corporation Commission.
- 5.4. "Intrastate pipeline" means all pipeline facilities included in the definition of "pipeline system" that are used by public service corporations to transport natural gas, other gas or hazardous liquids within Arizona, that are not used to transport gas or hazardous liquids in interstate or foreign commerce. This includes, without limitation, any equipment, facility, building or other property used or intended for use in transporting gas or hazardous liquids.
- 6.5. "Master meter system" means physical facilities for distributing gas within a definable area where the operator purchases metered gas from a public service corporation to provide gas service to ~~2~~ two or more buildings other than at a single family residence.
- 7.6. "Operator" means a person that owns or operates a pipeline system or master meter system.
- 8.7. "Person" means any individual, firm, joint venture, partnership, corporation, association, cooperative association, joint stock association, trustee, receiver, assignee, personal representative, the state or any political subdivision thereof.
- 9.8. "Pipeline system" means all parts of those physical facilities that are used by public service corporations through which natural gas, liquefied natural gas ("LNG"), other gases or hazardous liquids move in transportation including, but not limited to, pipes, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.

~~10.9:~~ "Office of Pipeline Safety Group" means the Section of Pipeline Safety personnel for the Commission.

~~11.40:~~ "Sandy type soil" means sand no larger than "coarse" as defined by ASTM D-2487-83 (1993 Edition), incorporated herein by reference and on file with the Office of the Secretary of State.

~~12.44:~~ "State" means the State of Arizona and all lands within its boundaries.

~~13.42:~~ "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner.

~~14.43:~~ "Transport" or "transportation" of gas, LNG or hazardous liquids is the gathering, transmission, distribution and storage of gas, LNG or hazardous liquids by pipeline within the State.

R14-5-202. Construction and Safety Standards

- A. Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas and hazardous liquid pipeline systems.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192 ~~except I (2) of Appendix D to Part 192~~, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of ~~November 4, 1998~~ February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- C. The above mentioned incorporated Parts of 49 CFR, except Parts 191 and 195, Subpart B, are revised as follows:
 1. Substitute "Commission" where "Office of Pipeline Safety, Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
 2. Substitute "~~Office of Pipeline Safety Section~~, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Systems Manager, Materials Transportation Bureau, Department of Transportation or Office of Chief Counsel appear.
- D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, 30 days prior to placing a pipeline system into operation, ~~within 120 days of the effective date of this rule~~. Any changes in existing plans will be filed within 30 days of the effective date of the change.
- E. Operators of an intrastate pipeline transporting sour gas or oil are subject to industry standards addressing facilities handling hydrogen sulfide (H₂S). Standards adopted are:
 1. NACE standard MR-01-75 (1980 Revision); materials equipment-sulfide stress cracking resistant metallic material for oil field equipment, incorporated by reference and on file with the Office of the Secretary of State.

Arizona Administrative Register
Notices of Proposed Rulemaking

2. API RP55 (1981 Edition); API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference and on file with the Office of the Secretary of State.
- F.** Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system will not construct any part of a hazardous liquid, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline natural gas system piping, the operator may require the property owner to resolve the encroachment (that is, moving the building or reimbursing the operator for relocating the pipeline system gas piping). The operator will discontinue service within 180 days of discovery, to properties for which encroachment issues are not resolved.
- G.** Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system will not construct any part of a pipeline system main or service line of a natural gas system closer than 8 inches to any other underground structure. ~~If the 8 inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding may be used upon verification by the Pipeline Safety Section.~~
- H.** Operators of an intrastate pipeline transporting natural gas or other gas pipeline system, that have regulators, meters, or regulation meter sets that have been out of service for 36 months will abandon those lines and cap all ends.
- I.** Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than 3 feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe.
- J.** ~~Operators of an intrastate pipeline system transporting natural gas, or other gases or hazardous liquid gas pipeline system will utilize a cathodic protection system designed to protect the metallic pipeline pipe, when used, in its entirety, in accordance with 49 CFR 192, Subpart I, November 4, 1998 February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975. Such a cathodic protection will be in operation within 1 year after completion of construction except I (2) and (3) of Appendix D to Part 192 shall not be utilized.~~
- K.** A negative (cathodic) voltage of at least 0.85 volt, shall be applied and measured with reference to a saturated copper-copper sulfate half cell. Determination of this voltage shall be made with the protective current applied and in accordance with 49 CFR 192 Sections II and IV of Appendix D.
- L.** Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, November 4, 1998 February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- M.** Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their systems.
- N.** Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline systems will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing and approved by the Office of Pipeline Safety.
- O.** ~~Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas pipeline system that construct a pipeline or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. The trace wire shall not be taped to or wrapped around the plastic pipe.~~
- P.** Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches ~~inch~~ of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety Section.
- Q.** Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c90e (1995c 1990e Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.
- R.** Operators of an intrastate pipeline system transporting hazardous liquid, natural gas or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104.
- S.** Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and will grade all detected leakage by the following standard: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision), Leak Classification and Action Criteria, incorporated by reference and on file with the Office of the Secretary of State. (“Should” as referenced in the standards will be interpreted to mean “shall”). Leakage survey records shall identify in some manner each pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.
- T.** All repair work performed on existing intrastate pipeline transporting natural gas or other gas pipeline system will comply with the provisions of this Article.
- U.** The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public and pipeline safety.
- V.** To ensure compliance with provisions of this rule the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the pipeline system operation.
- W.** All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.
- R14-5-203. Pipeline Incident Reports and Investigations**
- A.** Applicability. This rule applies to all intrastate pipeline systems.
- B.** Required incident reports by telephone:
- Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will notify by telephone the Office of Pipeline Safety Section upon discovery of the occurrence of any of the following:

Arizona Administrative Register
Notices of Proposed Rulemaking

- a. The release of natural gas, other gas or liquefied natural gas (LNG) from a pipeline or LNG facility, when any of the following results:
 - i. Death or personal injury requiring hospitalization.
 - ii. An explosion or fire not intentionally set by the operator.
 - iii. Property damage, including the value of the gas lost, estimated in excess of \$5,000.
 - b. Emergency transmission pipeline shutdown.
 - c. News media inquiry.
 - d. Overpressure of a pipeline system in excess of 10% of the established MAOP of the pipeline.
 - e. Permanent or temporary discontinuance of gas service to a master meter system or when assisting with the isolation of any portion of a gas master meter system.
 - f. Emergency shutdown of a LNG process or storage facility.
2. Operators of an intrastate pipeline transporting hazardous liquid will notify by telephone the Office of Pipeline Safety Section upon discovery of the occurrence of any of the following:
- a. Death or personal injury requiring hospitalization.
 - b. An explosion or fire not intentionally set by the operator.
 - c. Property damage estimated in excess of \$5,000.
 - d. Pollution of any land, stream, river, lake, reservoir, or other body of water that violates applicable environmental quality, water quality standards, causes a discoloration of the surface of the water or adjoining shoreline, or deposits sludge or emulsion beneath the surface of the water or upon adjoining shorelines.
 - e. News media inquiry.
3. Telephone incident reports will include the following information:
- a. Name of the pipeline system operator,
 - b. Name of the reporting party,
 - c. Job title of the reporting party,
 - d. The reporting party's telephone number,
 - e. Location of the incident,
 - f. Time of the incident, and
 - g. Fatalities and injuries, if any.
- C. Require written incident report:
1. Operators of an intrastate pipeline transporting natural gas, LNG or other gases gas pipeline system will file a written incident report when an incident occurs involving a natural gas or other gas pipeline that results in any of the following:
 - a. An explosion or fire not intentionally set by the operator.
 - b. Injury to a person that results in 1 or more of the following:
 - i. Death.
 - ii. Loss of consciousness.
 - iii. Need for medical treatment requiring hospitalization.
 - c. Property damage, including the value of the lost gas, estimated in excess of \$5,000.
 - d. Emergency transmission pipeline shutdown.
 - e. Overpressure of a pipeline system in excess of 10% of the established MAOP of the pipeline.
 - f. Emergency shutdown of a LNG process or storage facility.
 2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:
 - a. RSPA F7100.1 - Distribution System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
 - b. RSPA F7100.2 - Transmission and Gathering System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
 3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on DOT Form 7000-1, incorporated by reference and on file with the Office of the Secretary of State, when there is a release of hazardous liquid which results in any of the following:
 - a. An explosion or fire not intentionally set by the operator.
 - b. Injury to a person that results in 1 or more of the following:
 - i. Death.
 - ii. Loss of consciousness.
 - iii. Inability to leave the scene of the incident unassisted.
 - iv. Need for medical treatment.
 - v. Disability which interferes with a person's normal daily activities beyond the date of the incident.
 - c. The loss of 50 or more barrels of hazardous liquid.
 - d. The escape of more than 5 barrels ~~each day~~, of highly volatile liquids, into the atmosphere.
 - e. Property damage estimated in excess of \$5,000.
 - f. News media inquiry.
 4. Written incident reports as required in this Section will be filed, ~~in duplicate~~, with the Office of Pipeline Safety Section, within the time specified below:
 - a. Natural gas, LNG or other gas - within 20 days after detection.
 - b. Hazardous liquids - within 15 days after detection.
 5. The Operators shall also file Commission will forward a copy of all DOT required written incident reports with ~~within 10 days of receipt to~~ the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.
 6. Operators of a natural gas or other gas system will request a clearance from the Office of Pipeline Safety prior to turning on or reinstating service to a master meter operator.
- D. Investigations by the Commission:
1. The Office of Pipeline Safety Section will investigate the cause of incidents resulting in death or serious injury.
 2. Pursuant to an investigation under this rule, the Commission, or an authorized agent thereof, may:
 - a. Inspect all plant and facilities of a pipeline system.
 - b. Inspect all other property, books, papers, business methods, and affairs of a pipeline system.
 - c. Make inquiries and interview persons having knowledge of facts surrounding an incident.
 - d. Attend, as an observer, hearings and formal investigations concerning pipeline system operators.
 - e. Schedule and conduct a public hearing into an incident.
 3. The Commission may issue subpoenas to compel the production of records and the taking of testimony.

Arizona Administrative Register
Notices of Proposed Rulemaking

4. Incidents not ~~reported~~ reports in accordance with the provisions of this rule will be investigated by the Office of Pipeline Safety Section.
5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Office of Pipeline Safety Section.
6. Late filed incident reports will be accompanied by a letter of explanation. Incidents referred to in late filed reports may be investigated by the Office of Pipeline Safety Section.
7. ~~Operators of an intrastate pipeline transporting natural gas and other gas pipeline system will grade and report all detected leakage by the following standard—ASME Guide for Gas Transmission and Distribution Pipeline Systems Material, Appendix G-11-1983 (1983 Revision), Leak Classification and Action Criteria, incorporated by reference and on file with the Office of the Secretary of State.~~

R14-5-204. Annual Reports

- A. Except for operators of an intrastate pipeline transporting LNG or hazardous liquid, all other intrastate pipeline operators will file ~~in duplicate~~, with the Office of Pipeline Safety Section, not later than March 1, for the preceding calendar year, the following appropriate report(s):
 1. RSPA F7100.1-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year 19____, Gas Distribution System" and "Instructions for Completing RSPA Form F7100.1-1, Annual Report for Calendar Year 19____, Gas Distribution System", incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.
 2. RSPA F7100.2-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year 19____, Gas Transmission and Gathering Systems" and "Instructions for Completing Form RSPA F7100.2-1, Annual Report for Calendar Year 19____, Gas Transmission and Gathering Systems", incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.
- B. ~~The operator will also file~~ Commission will forward a copy of all required annual reports by March 15 to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590.

R14-5-205. Master Meter System Operators

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

- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of ~~November 4, 1998~~ February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:
 1. Substitute "Commission" where "Office of Pipeline Safety, Research and Special Programs Administration", or "Office of Pipeline Safety" (OPS) appear.
 2. Substitute Office of "Pipeline Safety ~~Section~~, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation or Office of Chief Counsel appear.
- D. Operators of a master meter will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter location.
- E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building or permit a building to be placed over a pipeline. Within 180 days of discovery of a building being located over a pipeline, the operator shall remove the building from over the pipeline, relocate the pipeline or discontinue the service to the pipeline located under the building.
- F. Operators of a master meter system will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their systems.
- G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, August 14, 1995 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. The trace wire shall not be taped to or wrapped around the plastic pipe.
- I. Operators of a master meter system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety Section.
- J. Operators of a master meter system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-~~95c~~ 90e (~~1995c~~ 1990e Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.
- K. Operators of a master meter gas system shall qualify welding procedures and shall perform welding of steel pipelines in

Arizona Administrative Register
Notices of Proposed Rulemaking

accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104.

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

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

N. Operators of a master meter gas system will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing and approved by the Office of Pipeline Safety.

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

1. The dates of construction,
2. The size and type of pipe to be used,
3. The location of construction, and
4. The Maximum Allowable Operating Pressure (MAOP).

P.N. Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following standard -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision), except 4.4(c), and no future amendments), Leak Classification and Action Criteria, incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASME,

United Engineering Center, 345 East 47th Street, New York, New York 10017. ("Should" as referenced in the standards will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety Section.

O.O. Operators of a master meter system will file an annual report with the Commission on Commission Form 1-90/15M (1990 Edition and no future editions), "Annual Report for Calendar Year 19___, Small Operators of Gas Distribution System," incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Arizona Corporation Commission, Office of Pipeline Safety Group, 1200 West Washington, Phoenix, Arizona 85007. This report will be filed with the Office of Pipeline Safety Section not later than April 15 for the preceding calendar year.

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

S.Q. To ensure compliance with provisions of this rule, the Commission or an authorized representative thereof, may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the operation of the master meter system.

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

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 3. DEPARTMENT OF REVENUE

LUXURY TAX SECTION

PREAMBLE

1. Sections Affected

R15-3-401	Amend
R15-3-402	Amend
R15-3-403	Repeal
R15-3-403	New Section
R15-3-404	Repeal
R15-3-405	Repeal
R15-3-406	Amend
R15-3-407	Amend
R15-3-408	Amend
R15-3-409	Repeal
R15-3-410	Amend

Rulemaking Action

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 42-1005 and 42-3004.

Implementing statutes: A.R.S. §§ 1-218, 4-243.01, 42-2003, 42-3008, 42-3052, 42-3153, and 42-3351 through 42-3355.

3. List of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 4 A.A.R. 1412, June 19, 1998.

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Jaimie Lee, Tax Analyst
Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe

Arizona Administrative Register
Notices of Proposed Rulemaking

Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

5. An explanation of the rule, including the agency's reasons for initiating the rule:

These rules deal with the tax return filing requirements by liquor manufacturers and sellers for luxury tax purposes. As a result of legislative changes and the 5-year review of Title 15, Chapter 3, the department is proposing to amend or repeal these rules because they are obsolete, repetitive, or contrary to current statute. The department also proposes to amend these rules to conform with current rulemaking guidelines.

6. Reference to any study that the agency proposes to rely on and its evaluation of or justification for proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

It is expected that the benefits of the rules will be greater than the costs. The repeal of R15-3-403 through R15-3-405 and R15-3-409 will benefit the public by eliminating repetitive or obsolete rules that no longer serve their intended purpose. The amendment of R15-3-401, R15-3-402, R15-3-406, and the addition of R15-3-403 will benefit the public by providing additional guidance regarding tax return filings. In addition, the amendment of R15-3-407, R15-3-408, and R15-3-410 will benefit the public by providing clearer and more concise information regarding the filing of tax returns. The department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the amendment of these rules.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Jaimie Lee, Tax Analyst

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed in question #9. Pursuant to A.R.S. § 41-1023(C), the department will schedule oral proceedings if 1 or more people file written requests for oral proceedings within 30 days after the publication of this notice.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rules:

None.

13. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 3. DEPARTMENT OF REVENUE

ARTICLE 4. LIQUOR

		<u>R15-3-403.</u>	<u>Tax Return Filing Requirements – Domestic Microbrewery, Domestic Farm Winery, Domestic Cider Producer, or Beer Manufacturer</u>
Section			
R15-3-401.	<u>Tax Return Filing Requirements – Vinous or Malt Liquor Wholesaler</u> Wholesaler's return of vinous and malt liquor purchased	R15-3-404.	Wholesaler's claims for credit or refunds on unsaleable liquor <u>Repealed</u>
R15-3-402.	<u>Tax Return Filing Requirements – Spirituous Liquor Wholesaler</u> Wholesaler's return of spirituous liquor sold	R15-3-405.	Powdered distilled spirits <u>Repealed</u>
		R15-3-406.	Metric Conversion <u>conversion</u>
R15-3-403.	Distiller's and manufacturer's report <u>Repealed</u>	R15-3-407.	Primary Source source of Supply – Failure failure to Report report Sales to Arizona Wholesalers by primary source

Arizona Administrative Register
Notices of Proposed Rulemaking

- R15-3-408. ~~Arizona Wholesaler Primary sourcee – Failure fail-
ure to Report report Purchases from a Primary
Source of Supply by Arizona wholesalers~~
R15-3-409. ~~Common bond Repealed~~
R15-3-410. ~~Failure to File make a Return return, or failure to
Pay pay Tax tax~~

ARTICLE 4. LIQUOR

- R15-3-401. ~~Tax Return Filing Requirements – Vinous or Malt
Liquor Wholesaler Wholesaler's return of vinous
and malt liquor purchased~~

~~On or before the statutory deadline each month, each wholesaler
of vinous or malt liquor shall file a return on a form prescribed by
the Department. The return shall show the following:~~

- ~~1. Taxpayer's name, mailing address, business address,
liquor license number, and identification number;~~
- ~~2. The quantity of vinous and malt liquors purchased or
received during the month the tax accrued listed by sup-
plier and invoice number;~~
- ~~3. The quantity of tax-free sales during the month listed by
purchaser and invoice number;~~
- ~~4. The quantity of out-of-state sales during the month
listed by purchaser and invoice number;~~
- ~~5. The quantity of vinous and malt liquors purchased from
other licensed Arizona wholesalers during the month
listed by supplier and invoice number;~~
- ~~6. The amount of luxury tax accrued during the month; and~~
- ~~7. Supporting documentation for the information provided
in the return.~~

~~A "Wholesaler's Return of Vinous and Malt Liquor Purchased"
must be filed, together, with a remittance of tax due, pursuant to
A.R.S. § 42-1205. The date of filing by mail is determined pursu-
ant to A.R.S. § 1-218. Supporting schedules must accompany this
return to provide the following detailed information:~~

- ~~1. Schedule of all purchases made during month on which
Luxury Tax was not paid prior to receipt;~~
- ~~2. Schedule of all purchases on which Arizona Luxury Tax
was paid prior to receipt including returns from retailers
on which luxury tax was paid;~~
- ~~3. Schedule of out of state sales and returns to vendors
outside the state;~~
- ~~4. Schedule of tax free sales in Arizona.~~

- R15-3-402. ~~Tax Return Filing Requirements – Spirituous
Liquor Wholesaler Wholesaler's return of spiri-
tuous liquor sold~~

~~On or before the statutory deadline each month, each spirituous
liquor wholesaler shall file a return on a form prescribed by the
Department. The return shall show the following:~~

- ~~1. Taxpayer's name, mailing address, business address,
liquor license number, and identification number;~~
- ~~2. The quantity of spirituous liquors sold during the month
the tax accrued listed by supplier and invoice number;~~
- ~~3. The quantity of spirituous liquors available at the begin-
ning and at the end of the month;~~
- ~~4. The quantity of tax-free sales during the month listed by
purchaser and invoice number;~~
- ~~5. The quantity of out-of-state sales during the month
listed by purchaser and invoice number;~~
- ~~6. The quantity of spirituous liquors sold to other licensed
Arizona wholesalers during the month listed by pur-
chaser and invoice number;~~
- ~~7. The quantity of spirituous liquors sold in Arizona during
the month;~~
- ~~8. The amount of luxury tax accrued during the month; and~~

- ~~9. Supporting documentation for the information provided
in the return.~~

~~A "Wholesaler's Return of Spirituous Liquor Sold" must be filed,
together with remittance for tax due, pursuant to A.R.S. § 42-
1205. The date of filing by mail is determined pursuant to A.R.S. §
1-218. Supporting schedules must accompany this return to pro-
vide the following detailed information:~~

- ~~1. Schedule of spirituous liquors imported into the state;~~
- ~~2. Schedule of spirituous liquors purchased from Arizona
wholesale licensees;~~
- ~~3. Schedule of sales of spirituous liquor to Arizona whole-
sale licensees;~~
- ~~4. Claim for luxury tax exemption on spirituous liquor
exported from the state.~~

~~R15-3-403. **Distiller's and manufacturer's report Repealed**
Every distiller, brewer, winery and/or supplier or manufacturer of
alcoholic beverage who sells any of such beverages to wholesalers
within the state, shall at the time of making such sale, file with the
Department a copy of the invoice of such sale, showing in detail
the kind of liquor or beverage sold, the quantities of each, the size
of the container and the weight of the contents, the alcoholic con-
tent, and the name of the person, firm or corporation to whom
sold.~~

- ~~R15-3-403. **Tax Return Filing Requirements – Domestic
Microbrewery, Domestic Farm Winery, Domes-
tic Cider Producer, or Beer Manufacturer**~~

~~On or before the statutory deadline each month, each domestic
microbrewery, domestic farm winery including domestic cider
producers, or beer manufacturer subject to A.R.S. § 42-3355 shall
file a return on a form prescribed by the Department. The return
shall show the following:~~

- ~~1. Taxpayer's name, mailing address, business address,
liquor license number, and identification number;~~
- ~~2. The quantity of tax-free sales during the month the tax
accrued listed by purchaser and invoice number;~~
- ~~3. The quantity of out-of-state sales during the month
listed by purchaser and invoice number;~~
- ~~4. The quantity of liquors or beer sold to other licensed
Arizona wholesalers during the month listed by pur-
chaser and invoice number;~~
- ~~5. The quantity of liquors or beer sold in Arizona during
the month;~~
- ~~6. The amount of luxury tax accrued during the month; and~~
- ~~7. Supporting documentation for the information provided
in the return.~~

- ~~R15-3-404. **Wholesaler's claims for credit or refunds on
unsaleable liquor Repealed**~~

~~All claims by wholesalers for credits or refunds against the
Department on unsaleable liquor damaged through breakage,
spoilage or turning stale by climatic conditions within the state
shall be submitted in writing on the prescribed forms or other
acceptable forms describing all particulars together with computa-
tions. The basis for claims or credits, exemptions or refunds for
luxuries is as follows:~~

- ~~1. Exports and shipments from the state of Arizona shall be
verified by copy of invoice, bill of lading or acknowl-
edgment from a department of the state to which
shipped responsible for acknowledging receipt of such
exports.~~
- ~~2. Unsaleable malt liquors and vinous liquors spoiled at the
time received and returned by wholesaler or destroyed
when instructed by brewery, firm or winery; a credit
memorandum from brewery, firm or winery and instruc-
tions to destroy, and an inspection by an agent of the
Department prior to returning or destruction.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

3. Spirituous liquors damaged by fire or smoke or unsaleable due to short fills, improper or damaged labels.

R15-3-405. Powdered distilled spirits Repealed

- A.** The Luxury Tax Law and Regulations apply with respect to any alcoholic mixture or preparation in the same manner and to the same extent as with respect to other distilled spirits. The tax will be paid at the same rate per gallon, or metric equivalent, and at a proportionate rate for any quantity, as for distilled spirits of the same proof strength in liquid form.
- B.** The weight of any alcoholic mixture or preparation shall be converted to volume as follows:
1. One pound equals .16 wine gallon.
 2. One ounce equals .01 wine gallon.
 3. One gram equals .000353 wine gallon.

R15-3-406. Metric Conversion conversion

To compute the luxury tax for liquors For purposes of the computation of taxes imposed upon spirituous or vinous liquors under A.R.S. § 42-1204 in metric containers, each taxpayer shall multiply the quantity in liters by 0.264172 to determine the equivalent quantity in gallons, where such liquors are sealed in containers of metric dimensions, the following conversion table shall be used:

1. For Spirituous Liquors:		
Bottle size	Bottles per case	U.S. gallons per case
a. 1.75 Liter	6	2.7738
b. 1.00 Liter	12	3.1701
c. 750 Milliliters	12	2.3775
d. 500 Milliliters	24	3.1701
e. 200 Milliliters	48	2.5361
f. 50 Milliliters	120	1.5850
2. For Vinous Liquors:		
Bottle size	Bottles per case	U.S. gallons per case
a. 3.00 Liter	4	3.1701
b. 1.50 Liter	6	2.3775
c. 1.00 Liter	12	3.1701
d. 750 Milliliters	12	2.3775
e. 375 Milliliters	24	2.3775

f. 187 Milliliters	48	2.3712
g. 100 Milliliters	60	1.5850

R15-3-407. Primary Source source of Supply - Failure failure to Report report Sales to Arizona Wholesalers by primary source

If Upon determination by the Department determines that a primary source of supply, as defined in A.R.S. § 4-243.01, has failed to transmit report to the Department copies of all invoices for any sales sale of alcoholic beverages to wholesalers within the State state of Arizona as required by A.R.S. § 4-243.01, the Department shall will instruct notify each all Arizona wholesaler wholesalers not to accept any shipment of alcoholic beverages from the such primary source of supply for a period of 1 year.

R15-3-408. Arizona Wholesaler - Failure to Report Purchases from a Primary Source of Supply Primary source failure to report by Arizona wholesalers

If Upon determination by the Department determines that an Arizona wholesaler has failed to transmit to the Department copies of all invoices for alcoholic beverages purchased from any primary source of supply as required by A.R.S. § 4-243.01, the Department shall will report such failure to the Department of Liquor Licenses License and Control.

R15-3-409. Common bond Repealed

Any group or association of licensed wholesalers may furnish a common bond in such form as prescribed by the Department in the aggregate of twice the participating wholesalers monthly excise tax. Each participating wholesaler shall be shown separately as to name, location and amount. The amount of the bond shall not be less than two thousand dollars for any single wholesaler.

R15-3-410. Failure to File make a Return return, failure to or Pay pay Tax tax

The Department shall report any failure by a licensee to file a return returns or pay the tax due, to the Department of Liquor Licenses License and Control and the Department may request that the Department of Liquor Licenses License and Control to issue a citation against the licensee.