

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and filing and the agency decides to prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

PREAMBLE

1. Register citation and date for the original Notice of Proposed Rulemaking:

6 A.A.R. 1803, May 19, 2000

2. Sections Affected

R4-48-105
R4-48-127
Appendix A

Rulemaking Action

New Section
New Section
New Appendix

3. 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

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

Name: A. Hal Key, P.E., Chairperson
Arizona Uniform Plumbing Code Commission

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

Telephone: (602) 542-1525, Ext. 7445

Fax: (602) 542-1599

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

This rulemaking revises Appendix G to make it consistent with the new Appendix I in R4-48-127.

The objective of Laws 1997, Ch. 112 is to ensure statewide adoption and implementation of The International Association of Plumbing and Mechanical Officials' (I.A.P.M.O.) 1994 Uniform Plumbing Code (UPC). Promulgation of Appendix I in R4-48-127 completes the state plumbing Code and meets this objective.

Background:

On February 9, 1999, the Governor's Regulatory Review Council approved the adoption of the Arizona Uniform Plumbing Code. Excluded were appendices G, J and I, which were remanded back to the Commission for rework.

On February 16, 1999, a subcommittee of 11 members, and their alternates, was appointed by the Commission to review the appendices and bring recommendations back to the Commission. This subcommittee was comprised of former Commission members, members of the Arizona Department of Environmental Quality, plumbing trade organizations and representatives from various cities, towns and counties.

The subcommittee met on a weekly basis, approximately 31 times between February 22, 1999 and January 18, 2000, putting in 4 and 5 hours at a time wording and rewording these appendices until finally, there was general consensus by all members.

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On March 21, 2000 the Commission was presented with the recommended changes for Appendix I from the subcommittee. It was motioned that Appendix I be adopted with an amendment to I 2 (a). The amendment carried unanimously, the original motion carried with 1 opposed.

6. An explanation of the substantial change which resulted in this supplemental notice:

A change was made to ensure that Appendix A, modified Appendix I, is consistent with Appendix G, which consisted of:

Removing from Table I-1, the 2nd and 3rd rows, after the Title row, as well as footnote 2 and replaced with information and a footnote, from Table B of Appendix G.

A second change is to make the paragraph under the title "Appendix A. Modified Appendix I" into a separate Section R4-48-105.

The third change was to add in I 2 Definitions the definition of Administrative Authority.

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:

Before February 1999, when rule Title 4, Chapter 48 became final, Arizona was 1 of 5 states that did not have a statewide uniform set of product and installation standards for plumbing systems. At that time the Governor's Regulatory Review Council removed Appendix I from the original rule and sent it back to the Arizona Uniform Plumbing Code Commission for further review. The Arizona Uniform Plumbing Code Commission and the Arizona Department of Environmental Quality reviewed the items in this rule package together. This rule package continues the work of the Arizona Plumbing Code Commission to develop one statewide set of uniform plumbing standards as mandated by the Arizona Legislature. These standards will significantly reduce the number of hours required for training and education about the standards, reduce the number of re-inspections by the administrative authorities (cities, counties, etc.), and reduce the quantity of rework performed by the industry (engineers, contractors, etc.). One set of uniform product and installation standards will reduce training time and costs, enhance public safety and health as a result of elimination of the existing convoluted and myriad regulation imposed by the political subdivisions of the state.

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

Although the UPCC has proposed changes to Appendix G and Appendix A, modified Appendix I, of the AUPC, few of them have an economic impact on Arizona's consumers, businesses, small businesses, public and private employment, state revenues, administrative authorities, or political subdivisions. Table I 1 was modified to coincide with Table B in Appendix G by removing from Table I-1, the 2nd and 3rd rows, after the Title row, as well as footnote 2 and replaced with information and a footnote, from Table B of Appendix G. The reasons why they have little or no economic impacts are as follows: Revisions to Appendix G and Appendix A modified Appendix I were accomplished with a joint effort by Arizona Department of Environmental Quality and Arizona Uniform Plumbing Code Commission. The revisions, with regard to setbacks, are necessary to separate existing wells or future wells from septic systems and sewage pits. The revisions were made to minimize and reduce the impact on everyone in the state of Arizona.

Whenever there is a conflict between a statute and a rule, the statute takes precedence. The AUPC is a rule, thus where there is a conflict between the AUPC and an Arizona statute, there is no effective change in the AUPC, and therefore no economic impact of changing the AUPC to conform to any statute.

Changes made to the AUPC solely to conform to other changes in it will have no economic impact in and of themselves; any economic impact would be associated with the original change.

As a result of these changes in the full rule, the administrative authority for the AUPC reverts to whoever had it prior to the passage of Laws 97, Ch. 112, § 7, since that administrative authority presumably was already appropriately qualified, this change has no economic impact.

Of those changes to the AUPC that have a potential economic impact, a number are made for reasons of public health and safety. Because of the relatively high value society places on life and limb, any negative economic impacts accruing from these changes are more than offset by the positive economic benefits derived from increased public health and safety.

Presumably consumers and businesses act in their own best interests and choose an available alternative that best suits their individual purposes. Thus, as the range of alternatives available to consumers or businesses expands, they would presumably only choose one 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.

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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: Alan Felber
Arizona Uniform Plumbing Code Commission

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

Telephone: (602) 542-1525, Ext. 7600

Fax: (602) 542-7852

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: December 12, 2000

Time: 9:00 a.m.

Location: Industrial Commission Building Hearing Room A
800 West Washington, First Floor
Phoenix, Arizona

Nature: Public Hearing

Written comments on the Supplemental Proposed Rulemaking or Economic Impact Statement will be accepted by the person specified in paragraph 4 until the close of record, at 5:00 p.m.

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 G of the I.A.P.M.O. 1994 Uniform Plumbing Code | R4-48-125(A), p. 6 |
| ASTM D-5879-95, "Standard Practice for Surface Site Characterization for On-Site Septic Systems" | R4-48-127 Appendix A, p. 10 |
| ASTM D-5921-96, "Standard Practice for Subsurface Site Characterization of Test Pits for On-Site Septic Systems" | R4-48-127 Appendix A, p. 10 |
| ASTM D-1452-80 (1990), "Standard Practice for Soil Investigation and Sampling by Auger Borings" | R4-48-127 Appendix A, p. 10 |
| ASTM C1227-00, "Standard Specification for Precast Concrete Septic Tanks" | R4-48-127 Appendix A, p. 10 |
| IAPMO PS1-93, "Prefabricated Septic Tanks" | R4-48-127 Appendix A, p. 10 |
| ACI 318 "Building Code Requirements for Structural Concrete", | R4-48-127 Appendix A, p. 10 |
| ACI 350R-89 "Environmental Engineering Concrete Structures" | R4-48-127 Appendix A, p. 10 |

13. The full text of the changes follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE

Sections

R4-48-105. General

R4-48-127. Appendix I, Private Sewage Disposal Systems

Appendix A. Modified Appendix I

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ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE

R4-48-105. General

This rule is adopted under A.R.S. § 41-619, which provides for the adoption statewide of the Uniform Plumbing Code (“Code”). The rule does not specify the entities that will be responsible for implementation and enforcement of the Code or the procedures by which the Code will be enforced, which may be governed by other provisions of state law. The rule also does not supersede, restrict, or negate the authority of any state agency, city, or county authority to administer, delegate, or enforce laws, statutes, rules, or ordinances within their respective jurisdiction.

R4-48-127. Appendix I, Private Sewage Disposal Systems

Appendix A. Modified Appendix I

I.2 Definitions:

(a) Administrative Authority - Administrative Authority may be delegated by A.R.S. Section § 49-107 which is administered by Arizona Department of Environmental Quality

**Table I-1
Location of Sewage Disposal System**

| <u>Point of Beginning for Setback Distance</u> | <u>Minimum Horizontal Setback Distances in feet (meters)</u> | |
|---|---|--|
| | <u>Septic Tank</u> | <u>Disposal Trench/Bed or Seepage Pit</u> |
| <u>Buildings</u> ¹ | <u>10 (3.0)</u> | <u>10 (3.0)</u> |
| <u>Any property line shared with adjoining land not served by a community water system or an existing well</u> | <u>5 (1.5)</u> | <u>5 (1.5)</u> |
| <u>Any property line shared with adjoining land served by a community water system or an existing well</u> ² <u>Private property adjoining private property</u> | <u>5 (1.5)</u> | <u>5 (1.5)</u> <u>See footnote 2</u> |
| <u>Well (Public Water Supplies)</u> | <u>100 (30.5)</u> | <u>100 (30.5)</u> |
| <u>Wells (Private)</u> ³ | <u>100 (30.5)</u> | <u>100 (30.5)</u> |
| <u>Live Streams</u> ⁴ | <u>100 (30.5)</u> | <u>100 (30.5)</u> |
| <u>Lake or Reservoir</u> ⁵ | <u>100 (30.5)</u> | <u>100 (30.5)</u> |
| <u>Domestic Water Source Intake</u> | <u>200 (61.0)</u> | <u>200 (61.0)</u> |
| <u>Dry Wash/Drainage Easement</u> ⁶ | <u>50 (15.2)</u> | <u>50 (15.2)</u> |

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| | | |
|---|-----------------|--|
| <u>Transmission Distribution Water Line</u> | <u>10 (3.0)</u> | <u>10 (3.0)</u> |
| <u>Domestic Service Water Line</u> ⁷ | <u>5 (1.5)</u> | <u>5 (1.5)</u> |
| <u>Cut on Sloping Downgradient Terrain, Culverts and Roadway Ditches</u> ⁸ | <u>15 (4.6)</u> | <u>15 (4.6)</u> <u>or 4 x the elevation difference</u> <u>between the finished grade at</u> <u>the point of beginning and the</u> <u>elevation at the cut bank bot-</u> <u>tom, ditch bottom, or culvert</u> <u>invert, whichever is greater,</u> <u>up to</u> <u>50 feet (15.2 m)</u> |
| <u>Driveway</u> ⁹ | <u>5 (1.5)</u> | <u>5 (1.5)</u> |
| <u>Swimming Pool</u> ¹⁰ | <u>5 (1.5)</u> | <u>5 (1.5)</u> |
| <u>Any Easements (other than drainage easements)</u> ¹¹ | <u>5 (1.5)</u> | <u>5 (1.5)</u> |

Notes:

- ¹ Including porches, decks and steps, whether covered or uncovered, breezeways, roofed patios, carports, covered walks, covered driveways, swimming pools, and similar structures and appurtenances.
- ² Community water system includes circumstances where a well sharing agreement or other water supply agreement has been recorded against all of the properties involved and the water supply facilities exist.
- ² The setback requirement is 5 feet (1.5 m) unless the property is not served by a central system for the distribution of water and:
 - (a) There is no existing or proposed individual well on adjoining private property, in which case the setback is 50 feet (15.2m); or
 - (b) A 100 foot (30.5m) separation distance cannot be maintained from an existing or proposed individual well, in which case the setback is the distance necessary to maintain the 100 foot (30.5m) separation; or
 - (c) The applicable setback requirement in (a) or (b) may be reduced to a minimum of 5 feet (1.5m) with a variance from the Administrative Authority.
- ³ For unaltered lots in a subdivision approved prior to October 1, 1986.
- ⁴ Measured from the nearest boundary of peak streamflow from a 10 year 24-hour precipitation event.
- ⁵ Measured from the elevation of high water line from a peak flow from a 10 year, 24-hour precipitation event at the spillway.
- ⁶ 50 foot (15.2 m) setback is measured from the edge of the defined natural channel bank of a drainage area of at least 5 acres or a drainage easement whichever is less. Setback may be reduced to 25 feet (7.6 m) up gradient from the system, if channel erosion protection is provided (naturally or man-made) and approved by the Administrative Authority.
- ⁷ Water pipes crossing sewer or drainage piping constructed of clay or materials that are not approved for use within a building shall be laid a minimum of 12 inches (30.5 cm) beside the sewer or drain pipe.
- ⁸ Measure the setback from the outside of the private sewage disposal system component to the top of the cut bank or ditch, or to the nearest sidewall of a culvert.
- ⁹ Measured from the edge of the driveway to the nearest edge of septic tank excavation. A properly reinforced septic tank and cover may be placed at any location relative to a driveway if access openings, risers, and covers carry the design load and are protected from inflow.
- ¹⁰ Setback may be increased due to soil loading and stability concerns.
- ¹¹ 5 feet (1.5 m) minimum unless other setback requirements govern as provided herein.