

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first 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. 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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD CHIROPRACTIC EXAMINERS

[R06-507]

PREAMBLE

1. Sections Affected

R4-7-301
R4-7-302
R4-7-303
R4-7-501
R4-7-502
R4-7-503
R4-7-801
R4-7-802

Rulemaking Action

Amend
Amend
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Amend

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

Authorizing statute: A.R.S. § 32-904(B)(2)

Implementing statute: A.R.S. §§ 32-921, 32-922, 32-923, 32-924, 32-931, and 41-1092.04

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 1178, April 14, 2006

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

Name: Patrice A. Pritzl, Executive Director

Address: 5060 N. 19th Ave., Ste. 416
Phoenix, AZ 85015-3210

Telephone: (602) 864-5088

Fax Number: (602) 864-5099

E-Mail: ppritzl@earthlink.net

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

The subject matter of the proposed rule amendments encompasses multiple areas. R4-7-301, R4-7-302, and R4-7-303 will be amended to conform to statute that authorizes the Board to hold formal interviews in lieu of formal evidentiary hearings, remove reference to a board hearing officer and conform to statute regarding service. The amendment to R4-7-501 will clarify the licensee's responsibility to provide confirmatory documentation of holding a license to practice chiropractic in the state of Arizona. The Amendment to R4-7-502 will amend rule to conform to legislation requiring applicants for license to take and pass the jurisprudence examination with a score of 75% or better. The Amendment to R4-7-503 and R4-7-802 will clarify the documentation requirements to confirm compliance with continuing educating requirements. R4-7-801 and R4-7-802 will provide further definition of subject matter that will qualify for continuing education credit, reflect the Board's authority to conduct audits to confirm compliance with continuing education requirements, and reflect the statute regarding renewal requirements and suspension of a license.

6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data

Notices of Proposed Rulemaking

underlying each study, and any analysis of each 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:

The economic impact for the agency and the Office of Secretary of State includes the cost of the promulgation of the rule. R4-7-301, R4-7-303, R4-7-503 and R4-7-801 are not expected to have an economic impact in that the amendments are for clarification only and do not incur any new costs. R4-7-302 reflects statutory requirements for legal service of a document by certified mail. The cost to the agency is \$4.64 to \$5.80 per mailing. Annual cost for service by certified mail incurred by the agency is approximately \$3,300 to \$4,700. The amendment to R4-7-501 requires licensees to display their license at each location where they may practice. For the majority of licensees who practice at one location, there will be no additional economic impact. Licensees who practice at more than one location will incur an additional expense of \$20 per practice location for the cost of an additional license. The amendment to R4-7-503 includes the requirement that license applicants be notified, in writing, if an application file has been closed. The cost to the agency will be 39 cents per notice. The amendment that an applicant must pass the jurisprudence with a score of 75% or better conforms to statute and imposes no additional financial impact. The amendment to R4-7-802 reflects the Board's authority to audit licensees for compliance with continuing education requirements. The cost to the agency for conducting audits is approximately \$4,000 annually. The rule also reflects statute that suspends a license that does not meet the requirements for renewal. The cost to a licensee who fails to meet renewal requirements and who wishes to reinstate the license at a later date is \$100 for the reinstatement fee.

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: Patrice A. Pritzl, Executive Director

Address: 5060 N. 19th Ave., Ste. 416
Phoenix, AZ 85015-3210

Telephone: (602) 864-5088

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E-Mail: ppritzl@earthlink.net

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

Written comment will be accepted at the Board office, 5060 N. 19th Ave., #416, Phoenix, AZ, 85015 on a business day between the hours of 8:00 a.m. and 5:00 p.m. on February 26, 2006. An oral proceeding is not scheduled but may be requested.

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 as follows:

TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

ARTICLE 3. HEARINGS

Section	
R4-7-301.	Investigation of a Complaint
R4-7-302.	Service
R4-7-303.	Conduct of Hearing

ARTICLE 5. LICENSES

Section	
R4-7-501.	Display of Licenses

Notices of Proposed Rulemaking

- R4-7-502. Procedures for Processing Initial Licensing Applications
R4-7-503. Renewal License: Issuance, Reinstatement

ARTICLE 8. CONTINUING EDUCATION

Section

- R4-7-801. Continuing Education Requirements
R4-7-802. Documenting Compliance with Continuing Education Requirements

ARTICLE 3. HEARINGS

R4-7-301. Investigation of a Complaint

- A. The Board may investigate any complaint alleging violation of A.R.S. § 32-900 et seq. or ~~these rules~~ this Chapter.
B. ~~The seal of the Board and the signature of any member of the Board or its Executive Director shall be attestation of a~~ A subpoena compelling the production of documentary evidence or testimony of a witness under A.R.S. § 32-929; shall bear the seal of the Board and the signature of any member of the Board or the Board's executive director.
C. If the Board finds probable cause that a licensee has violated A.R.S. § 32-900 et seq. or ~~these rules~~ this Chapter, the Board shall notice the licensee of the time and place for a formal interview under A.R.S. Title 32, Chapter 8, Article 2, or for a public hearing under A.R.S. Title 41, Chapter 6, Article 10.

R4-7-302. Service

- A. ~~Service shall be deemed to have been made for and on behalf of the Board of any decision, order, subpoena, notice, or other process when the document or a copy thereof is delivered to the licensee or his attorney of record or is deposited as certified mail in the U.S. Mail, addressed to the licensee at the address shown on the records of the Board. Service of documents:~~
1. Service of any document, or a copy thereof, is deemed to have been made upon personal service or by enclosing a copy of the document in a sealed envelope and depositing the envelope as certified mail in the United States mail, with first-class postage prepaid, addressed to the party, at the address last provided to the Board.
2. Service by mail is deemed complete five days following the day the paper to be served is deposited in the United States mail.
3. In computing time, the date of mailing is not counted. All intermediate Sundays and holidays are counted but, if the last day falls on a Sunday or a holiday, that day is not counted and service is considered completed on the next business day.
4. The Board shall mail each notice of formal interview or hearing and final decision by certified mail to the last known address reflected in the records of the Board.
B. In addition to service of any pleading upon the Board or any member of the Board ~~of any pleading~~, a copy of ~~such the~~ the pleading shall also be served upon the Attorney General of ~~the this state of~~ Arizona.

R4-7-303. Conduct of Hearing or Formal Interview

- A. All hearings shall be conducted before the Board or ~~its~~ a hearing officer pursuant to A.R.S. Title 41, Chapter 6, Article 6 10. All formal interviews shall be conducted before the Board pursuant to A.R.S. Title 32, Chapter 8, Article 2.
1. Parties may stipulate to any facts that are not in dispute. ~~Such stipulations may be made in writing or orally by reading the same stipulation into the record, of the hearing and will be~~ A stipulation is binding upon the parties unless the Board grants permission to withdraw from them the stipulation. The Board may, where it considers such action proper, set aside any stipulation and proceed to ascertain the facts.
2. The Board may, of its own motion or at request of any party, call a conference of the parties at the opening of any hearing or formal interview or at any subsequent time, for the purpose of clarifying the procedural steps to be followed in the proceeding, or the legal or factual issues involved.
3. By order of the Board, proceedings involving a common question of law or fact may be consolidated for hearing or formal interview ~~of regarding any or all the matters of at~~ issue.
B. ~~The failure of any If a licensee fails to appear when noticed at any proceeding before the Board, shall leave the Board free to may act upon the available evidence and information at hand without further notice to the licensee.~~

ARTICLE 5. LICENSES

R4-7-501. Display of Licenses

A licensee shall, at all times, display the license issued to the licensee by the Board in a conspicuous place ~~in the licensee's office~~ at all locations where the licensee engages in the practice of chiropractic, including mobile practices. A licensee shall, upon request of any person, produce for inspection the license renewal certificate for the current calendar year.

R4-7-502. Procedures for Processing Initial License Applications

- A. An applicant may obtain a license application package at the Board Office on business days, or by requesting that the Board mail ~~one the application~~ an application to an address specified by the applicant. An applicant shall pay the Board a non-refundable

Notices of Proposed Rulemaking

\$10 fee for each license application package.

- B. A completed license application package ~~they have~~ shall be submitted to the Board office on a business day. The Board shall deem the license application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office.
- C. To complete a license application package, an applicant shall provide the following information and documentation:
1. Two identical photographs, measuring three inches by four inches, showing the applicant's full front face as the applicant will appear at the time of the examination and a description of identifying characteristics, if any;
 2. The applicant's full current name and any former names;
 3. The applicant's current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office address or addresses for the past five years;
 4. The type of license ~~and certification~~, for which application is made;
 5. All fees required by A.R.S. §§ 32-921(D) and (E) and 32-922.02(E);
 6. A record of education requirements described in A.R.S. § 32-921(B) including the applicant's chiropractic college transcript and the applicant's certificate of attainment of passing scores for Parts I, II, III, and IV of the examination conducted by the National Board of Chiropractic Examiners;
 7. Any record of being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge within the last 12 months. The applicant shall submit any record of being refused a license to practice chiropractic or any other health care profession in this or any other state, and any record of a formal sanction taken against the applicant's license in this or any other state;
 8. A completed fingerprint card;
 9. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions;
 10. The name and professional designation of the owner or owners of the clinic or office at which the applicant will be employed, if applicable;
 11. The applicant's ~~s~~ Social ~~s~~ Security number;
 12. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant;
 13. A score of ~~60%~~ 75% or higher on the Arizona Jurisprudence Examination. The applicant ~~may~~ shall not sit for the Arizona Jurisprudence Examination until the application package is otherwise complete.
- D. Within 25 business days of receiving a license application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify ~~what the~~ information that is missing. If the Board does not provide notice to the applicant, the license application package shall be deemed complete after the passage of 25 business days.
- E. An applicant with an incomplete license application package shall supply the missing information within 60 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 60 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- F. If an applicant fails to submit a complete license application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
- G. After receiving all missing information as specified in subsection (E), the Board shall notify the applicant that the license application package is complete.
- H. The Board shall render a licensing decision no later than 120 business days after receiving a completed license application package. The Board shall deem a ~~completed~~ license application package received to be complete on the postmarked date of the notice advising the applicant that the package is complete.
- I. An applicant seeking initial licensure by reciprocity under A.R.S. § 32-922.01 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part IV of the examination conducted by the National Board of Chiropractic Examiners.
- J. For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial licenses:
1. Administrative completeness review time-frame: 25 business days.
 2. Substantive review time-frame: 120 business days.
 3. Overall time-frame: 145 business days.

R4-7-503. Renewal License: Issuance, Reinstatement

Notices of Proposed Rulemaking

- A. At least 30 days before a renewal application and renewal fee are due, the Executive Director of the Board shall send by first class mail to a licensee at the licensee's address of record, a renewal application and notice.
- B. The licensee renewal application shall be returned to the Board office on a business day. The date of receipt shall be the postmarked date or the date the licensee hand delivers the license renewal application.
- C. To complete a license renewal application, a licensee shall provide the following information and documentation:
 - 1. The licensee's full name;
 - 2. The licensee's current home and office addresses, current home and all office phone numbers, and all current office fax numbers;
 - 3. The name and professional designation of the owner or owners of the clinic or office at which the licensee is employed;
 - 4. The licensee's Social Security number;
 - 5. A record of any professional disciplinary investigation or sanction taken against the licensee by a licensing board since the licensee last applied for renewal of ~~this a~~ license in this or any other state;
 - 6. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or felony since the licensee last applied for renewal of ~~this the~~ license;
 - 7. The renewal fee of \$170 required by A.R.S. § 32-923;
 - 8. ~~A list of required continuing education courses that have been completed;~~ Attestation of compliance with the continuing education requirements under A.R.S. § 32-931 and A.A.C. R4-7-801. The licensee shall attest to compliance with continuing education requirements by documenting, on the renewal form, the date or dates the continuing education course was attended, the number of hours of continuing education completed, the qualifying course topic or topics, and the name of the accredited college or university with whom the course instructor is affiliated with as faculty. If the course does not meet the requirements under A.R.S. § 32-931 and A.A.C. R4-7-801, but has been approved by the Board, the applicant shall provide the continuing education course approval number issued by the Board instead of the name of the affiliated college of university;
 - 9. The licensee's signature attesting to the truthfulness of the information provided by the licensee.
- D. In accordance with A.R.S. § 32-923(C), the Board shall automatically suspend a license if the licensee does not submit a completed application for renewal before January 1 of each calendar year. The Board shall send written notice of the license suspension to the licensee on or before January 20.
- E. The Board shall reinstate a suspended license if the licensee pays the annual license renewal fee, pays an additional fee of \$100 as required by A.R.S. § 32-923(D), and submits a completed license renewal application between January 1 and March 31 of the calendar year for which the license renewal is made.
- F. On or after April 1 of the calendar year for which a license renewal application was to be made, an individual who wishes to have a suspended license reinstated shall apply for reinstatement in accordance with A.R.S. § 32-923(D).
- G. An application for reinstatement of license may be obtained at the Board office on business days or by requesting that the Board mail one to an address specified by the applicant.
- H. A completed application for reinstatement of a license shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a license received on the date that the Board stamps on the application as ~~the date it~~ is delivered to the Board office.
- I. To complete an application for reinstatement of license, an applicant shall provide the following information and documentation:
 - 1. The applicant's full current name, suspended license number, and certification number if a specialty certification was held by the licensee-;
 - 2. The applicant's current home and all office addresses, current home and all office phone numbers, and all current office fax numbers-;
 - 3. The name and professional designation of the owner or owners of the office or clinic at which the applicant will be employed-;
 - 4. The applicant's Social Security number-;
 - 5. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions-;
 - 6. A list of required continuing education courses completed with and certification of course completion-;
 - 7. A record of any professional disciplinary investigation or sanction initiated since the applicant last applied to renew ~~this the~~ license-;
 - 8. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or a felony since the date of the applicant's last application for licensure-;
 - 9. The applicant's notarized signature attesting to the truthfulness of the information provided by the applicant.
- J. The Board shall process a license reinstatement application in accordance with R4-7-502(D) through (J). The Board shall deem the application received on the date that the Board stamps on the application as the date the application is delivered to the Board Office.

Notices of Proposed Rulemaking

- K. The Board shall reinstate or renew a license if:
1. The applicant or licensee has complied with the requirements of ~~these rules~~ this Chapter and A.R.S. § 32-900 et seq. ~~(The Chiropractic Practice Act).~~
 2. The applicant or licensee has not had any professional disciplinary sanction taken against the applicant's or licensee's license by a licensing board since the last application for licensure.
 3. The applicant or licensee has not been convicted of, pled guilty to, or pled nolo contendere to a misdemeanor or a felony since the last application for licensure.
- L. If the provisions of subsection (K) are satisfied, the Board shall issue a license renewal certificate on or before February 1, of each year. The license renewal certificate shall serve as notice that the renewal application is complete and approved.
- M. If there is reason to believe that the provisions of subsection (K) have not been satisfied or that possible grounds for denying the renewal or reinstatement application exist, the Board shall notify the applicant of this possibility within 25 business days of the date that the application is received at the Board office.
- N. An applicant who is so notified that renewal or reinstatement may be denied may provide a written response and shall submit any documentation as required through written notice by the Board within 60 calendar days from the date of the Board's notice. An applicant who is unable to supply the required documentation within 60 calendar days may submit a written request to the Board for an extension of time in which to provide the required documentation. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of the required documentation, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- O. If an applicant fails to submit required documentation within the time permitted, the Board shall issue a notice of intent to deny the renewal application or reinstatement application.
- P. The Board shall ~~render~~ make a licensing decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the date the documentation is delivered to the Board's office.
- Q. For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for renewal or reinstatement of licenses:
1. Administrative completeness review time-frame: 25 business days.
 2. Substantive review time-frame: 70 business days.
 3. Overall time-frame: 95 business days.

ARTICLE 8. CONTINUING EDUCATION

R4-7-801. Continuing Education Requirements

- A. To be eligible to renew a license, a licensee shall complete 12 credits of continuing education between January 1 and December 31 of each year, and document compliance with continuing education requirements on the license renewal application as required by A.A.C. R4-7-503(C). A credit of continuing education is defined as 60 minutes of education.
- B. A licensee shall obtain continuing education credit in the following manner:
1. By attending or participating in a course, seminar, or workshop on subjects listed in A.R.S. §§ 32-922(B) or 32-922.02 that is taught at or sponsored by ~~an organization listed~~ a college or university that meets the requirements in A.R.S. § 32-921(B)(2)(a).
 2. By teaching a post-graduate course as a faculty member of a Council on Chiropractic Education-accredited chiropractic college during the renewal year. Continuing education credits earned in this manner are calculated as two credits of continuing education for each hour of post-graduate course instruction for the first course presentation and one credit for each hour of instruction after the first course presentation. A maximum of six credits of continuing education credit may be earned in this manner annually.
 3. By completing post-graduate mediated instruction or programmed learning courses ~~under~~ through an accredited college or university ~~only that meets the requirements of A.R.S. § 32-931(B).~~ Mediated instruction and programmed learning refers to learning transmitted by intermediate mechanisms such as audio or visual tape or telephone. A licensee shall obtain a certificate of program completion from the accredited college or university to verify compliance with this provision.
- C. The Board shall award continuing education credit only for continuing education subjects listed in A.R.S. §§ 32-922(B) and 32-922.02. The course subjects principles of chiropractic and public health and hygiene includes chiropractic record-keeping, ethics, and sexual boundaries.
- D. The Board shall grant an extension of 90 days to comply with the continuing education requirements to a qualified licensee. To qualify for an extension, a licensee shall:
1. Timely file a license renewal application and renewal fee; and
 2. Submit a written request for an extension, including evidence of good cause why the continuing education require-

Notices of Proposed Rulemaking

ments were not met.

- E. The following reasons constitute good cause for the Board to grant an extension of time to comply with the continuing education requirements:
1. The licensee graduated from an accredited chiropractic college, or a college that meets the requirements of R4-7-702, during the year that the continuing education requirements are to be met;
 2. The licensee lived in a country where there was no accredited chiropractic college, or a college that meets the requirements of R4-7-702, for at least seven months during the year that the continuing education requirements are to be met;
 3. The licensee was in active military service for at least seven months during the year that the continuing education requirements are to be met; or
 4. The licensee was not able to complete the continuing education requirements because of a documented disability of the licensee or the licensee's spouse, child, or parent.
- F. If the Board grants an extension of time in which to complete the continuing education requirements, the continuing education credits obtained during the 90-day extension shall be applied to meet only the requirements for which the extension is granted. A licensee shall not report continuing education credit earned during a 90-day extension for a subsequent renewal year.

R4-7-802. Documenting Compliance with Continuing Education Requirements

- A. A licensee shall retain documents to verify compliance with the continuing education requirements for at least five years from the date the continuing education credit is used to qualify the licensee for renewal. The Board may audit continuing education compliance at any time during those five years.
- B. With each license renewal application, a licensee shall attest by providing the licensee's signature, that the licensee has met the continuing education requirements, and ~~will comply~~ complied with A.A.C. R4-7-503(C)(8) and subsection (A).
- C. The Board may require a licensee to provide documentation to verify compliance with continuing education requirements, including ~~that~~:
1. Each continuing education credit was for 60 minutes of education;
 2. The requirements of subsections (A) and (B) were satisfied;
 3. Continuing education credit was earned between the immediately preceding January 1 and the date that the license renewal application was filed or the date on which an extension of time expired; and
 4. No continuing education credit earned between the immediately preceding January 1 and the date that the license renewal application was filed was earned under an extension of time to comply with the continuing education requirements of a previous year; and
 5. The provisions of A.R.S. § 32-931 and A.A.C. R4-7-801(B) and (C) were met.
- D. Documentation shall be in the form of a certificate of completion issued by a course sponsor or instructor.
- E. The Board shall suspend a license upon notification to the licensee that the licensee has failed to demonstrate compliance with continuing education requirements as per by A.R.S. § 32-931, A.A.C. R4-7-801 and A.A.C. R4-7-802.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD CHIROPRACTIC EXAMINERS

[R06-506]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| Article 3 | Amend |
| R4-7-305 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 32-904(B)(2)
- Implementing statute: A.R.S. § 41-1092.09
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 12 A.A.R 3902, October 20, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Notices of Proposed Rulemaking

Name: Patrice A. Pritzl, Executive Director
Address: 5060 N. 19th Ave., Ste. 416
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5. An explanation of the rule, including the Agency's reasons for initiating the rule:

The rule amendment will specify a time period in which an amendment to a motion for rehearing or review of decision must be submitted. The amendment will also reflect the Board's statutory authority to hold formal interviews.

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:

The economic impact is minor for the agency and the Office of Secretary of State and will be limited to the cost of the promulgation of the rule. There is no anticipated financial impact for any other party. The time-frame amendment does not incur any additional cost in that a party already has the option to amend a motion for rehearing and review under current rule. The inclusion of formal interviews in the rule is a matter of clarification only.

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.

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

Written comment will be accepted at the Board office, 5060 N. 19th Ave., #416, Phoenix, AZ, 85015 on a business day between the hours of 8:00 a.m. and 5:00 p.m. on February 26, 2006. An oral proceeding is not scheduled but may be requested.

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 as follows:

TITLE 4. COMMERCE, PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

ARTICLE 3. HEARINGS

Section
R4-7-305. Rehearing; or Review of Decision

ARTICLE 3. HEARINGS

Notices of Proposed Rulemaking

R4-7-305. Rehearing; or Review of Decision

- A. Except as provided in subsection (G), any party in ~~a~~ an appealable agency action or contested case before the Board aggrieved by a decision may file with the Board a written motion for rehearing or review ~~of the decision~~ specifying the particular grounds not later than 30 days after service of the final administrative decision.
- B. A party may amend a motion for rehearing or review ~~at any time before~~ no later than eight days prior to the date set for the Board to rule on the motion. A party may ~~then~~ respond within 15 days after service of ~~a~~ the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. The Board may grant a rehearing or review ~~of a decision~~ for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the Board, its hearing officer, or the prevailing party, or any order or abuse of discretion; that deprives the moving party of a fair hearing;
 2. Misconduct of the Board, ~~it's~~ the hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
 7. ~~That the Board's decision is a result of passion or prejudice; or~~
 8. 7. That the decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.
- E. Not later than 10 days after the decision, the Board may, after serving each party with notice and an opportunity to be heard, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. ~~After giving the parties or their counsel notice and an opportunity to be heard on the matter, the~~ The Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- F. When a motion for rehearing or review is based upon an affidavit, the affidavit shall be served with the motion. An opposing party may, within 10 days after service, serve an opposing affidavit. The Board may extend the period for serving an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a ~~A~~ reply affidavit ~~may be permitted~~.
- G. If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, ~~and~~ or safety and that a rehearing or review ~~of the decision~~ is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

NOTICE OF PROPOSED RULEMAKING

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

**CHAPTER 5. CORPORATION COMMISSION
TRANSPORTATION**

[R06-509]

PREAMBLE

1. Sections Affected

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

Rulemaking Action

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):

Notices of Proposed Rulemaking

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: 13 A.A.R. 162, January 19, 2007 (*in this issue*)

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

Name: Charles Hains, Commission Counsel, Legal Division

Address: Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Telephone: (602) 542-6026

Fax: (602) 542-4870

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

Staff is proposing amendments to transportation rules R14-5-202, R14-5-203, R14-5-204 and R14-5-205. The amendments will update the rules to incorporate the most recent amendments to the Code of Federal Regulations (CFR), Title 49, Parts 40, 191, 192, except I (2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199 revised as of October 1, 2005.

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:

The Commission believes that by incorporating by reference Title 49 CFR Parts 40, 191, 192, except I (2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199 revised as of October 1, 2005, the rules will be consistent with current best practices and will enhance public safety which is in the best interest of all citizens in the State of Arizona.

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

Small Business Subject to the Rules: There will be no impact on master meter system operators if they are already complying with current Federal Pipeline Safety Regulations. There will be a minimum (operators other than Southwest Gas) to moderate impact (estimated to be over \$1 million but less than \$5 million for Southwest Gas) on operators of natural gas or other gas systems if they are already complying with current Federal Pipeline Safety Regulations. Lastly, there will be no impact on operators of hazardous liquid pipelines if they are already complying with current Federal Pipeline Safety Regulations.

The proposed amendments to the existing rules should have a minimal impact on consumers or users of the gas service provided by regulated public utilities. As major utilities such as Southwest Gas come to the ACC for future rate cases, they will include some increased costs due to complying with the new federal regulations. On the other hand, it is impossible to forecast the exact impact on final rates of any one issue at this time. The utilities are presently required to be in compliance with all standards, but, the new regulations will benefit consumers, users and the general public by enhancing the safe operation and maintenance of pipeline systems.

The proposed rules are the least costly method for obtaining compliance with the long standing minimum safety standards. The rules do not impose additional standards. There is no less intrusive method.

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: Robert E. Miller, Supervisor, Office of Pipeline Safety

Address: Arizona Corporation Commission
2200 N. Central Ave., Ste. 300
Phoenix, AZ 85004

Telephone: (602) 262-5601

Fax: (602) 262-5620

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:

Date: February 27, 2007

Notices of Proposed Rulemaking

Time: 9:30 a.m.
Location: Commission Hearing Room
1200 W. Washington St.
Phoenix, AZ 85007
Nature: Public Comment Hearing (oral and written comments accepted)

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) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199 revised as of October 1, 2005. These regulations cover the minimum safety standards for construction and operation of gas and hazardous liquid pipelines. These regulations may be found at the Arizona Corporation Commission, Office of Pipeline Safety, 2200 N. Central Ave., Ste. 300, Phoenix, AZ 85004. These regulations are incorporated by reference in the amended rules at: R14-5-202.B, C, J, K; R14-5-203.C; R14-5-204.A, B; and R14-5-205.B, C, and G.

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

- R14-5-202. 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

R14-5-202. Construction and Safety Standards

- A. Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas, LNG and hazardous liquid pipeline systems, as described in A.R.S. § 40-441.
- 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) and (3) of Appendix D to Part 192, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of ~~January 15, 2004~~ August 1, 2006 (and no future amendments), incorporated by reference and copies available from the office of Pipeline Safety, 2200 North Central Ave., ~~Phoenix, AZ 85004~~ Ste. 300, Phoenix, AZ 85004, and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA ~~Pennsylvania~~ Pennsylvania 15250-7954.
- C. The above mentioned incorporated Parts of 49 CFR, except Parts 191, 193 Subpart A and 195 Subpart A and B, are revised as follows:
1. Substitute "Commission" where "Administrator of the Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
 2. Substitute "Office of Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where the address for the Information Resources Manager, Office of Pipeline Safety, ~~Research and Special Programs Administration, Pipeline and Hazardous Materials Safety Administration~~, U.S. Department of Transportation appears.
- 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. 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-0175-99 (1999 Revision); (and no future revisions), Standard Materials Requirements-Sulfide Stress Cracking Resistant Metallic Material for Oilfield Equipment, incorporated by reference and no future amendments. Copies are available from the Office of Pipeline Safety, 2200 North Central Ave., ~~Ste. 300, Phoenix, AZ 85004~~ Ste. 300, Phoenix, AZ 85004 and the NACE International, 1440 South Creek Drive, Houston, TX ~~Texas~~ Texas 77084-4906.

2. API RP55 (1995 Edition); (and no future amendments), API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference and no future amendments. Copies are available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, Arizona 85004 and Techstreet, 777 East Eisenhower Parkway Pkwy., Ann Arbor, Michigan 48108.
- F. Operators of an intrastate pipeline transporting LNG, hazardous liquid, natural gas or other gas will not construct any part of a hazardous liquid, LNG, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline system, the operator may require the property owner to remove the building from over the pipeline or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery, or the operator shall discontinue service to the pipeline system. When the encroachment ~~can not~~ cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.
- G. Operators of an intrastate distribution pipeline transporting natural gas or other gas will not construct any part of a pipeline 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 shall be used.
- H. Operators of an intrastate pipeline transporting natural gas or other gas 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. The Operator's steps to accomplish the abandonment shall not exceed six months beyond the 36 months out service status.
- I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than three feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe. The three foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection shall not be effective with respect to building permits which are issued and subdivisions which are platted prior to October 1, 2000. For encroachment within the required three foot clearance caused by an action of the property owner, occupant or a service provider, after the effective date of this rule the operator may require the property owner to resolve the encroachment or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery or the operator shall discontinue service to the effected pipeline system. When the encroachment cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.
- J. Operators of an intrastate pipeline transporting LNG, natural gas, other gases or hazardous liquid will utilize a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~January 15, 2004~~ August 1, 2006 (and no future amendments), incorporated by reference, and copies available from the office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, Arizona 85004, and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, except I (2) and (3) of Appendix D to Part 192 shall not be utilized.
- K. Operators of an intrastate pipeline transporting natural gas or other gas 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, ~~January 15, 2004~~ August 1, 2006 (and no future amendments), incorporated by reference, and copies available from the office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, Arizona 85004, and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.
- L. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their pipeline systems.
- M. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and approved by the Office of Pipeline Safety. Temporary aboveground plastic pipeline bypasses are permitted for up to sixty (60) days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times.
- N. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas that construct a pipeline system 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. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- O. Operators of an intrastate pipeline transporting natural gas, other gas or hazardous liquid, that construct an underground pipeline system using plastic pipe, will bury the installed pipe with a minimum of 6 inches 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. Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety.
- P. Operators of an intrastate pipeline transporting natural gas or other gas that construct an underground pipeline system

using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe and fittings shall be marked CD, CE, CF or CG as required by ASTM D2513 (1995c Edition and no future editions), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, Arizona 85004 and ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959, for areas where the service temperature is above 100°F.

- Q.** 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, 49 CFR 192, appendix A. The qualification of welders delineated in 49 CFR 192, appendix C may be used for low stress level pipe.
- R.** Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and grade all detected leakage by the following guide: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision and no future revisions), incorporated by reference and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, Arizona 85004 and the ASME, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017. ("Should" as referenced in the Guide 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.
- S.** Laboratory testing of intrastate pipelines shall be conducted in accordance with the following:
1. If an operator of an intrastate natural gas, other gas, or hazardous liquid pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this subsection shall include all of the following:
 - a. Identity of the failed pipeline,
 - b. Description and location of the failure,
 - c. Date and time of the removal,
 - d. Length or quantity of the removed portion,
 - e. Storage location of the removed portion,
 - f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is requested by the Office of Pipeline Safety. An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.
 2. Within 48 hours after telephonic notification pursuant to subsection (1), the Office of Pipeline Safety shall notify the operator that either:
 - a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure; or
 - b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed. The Office of Pipeline Safety shall confirm its notification in writing.
 3. If the Office of Pipeline Safety directs laboratory testing pursuant to subsection (2)(a):
 - a. The Office of Pipeline Safety shall:
 - i. Determine the laboratory that will do the testing pursuant to subsection (4) and the period of time within which the testing is to be completed.
 - ii. Approve the number and types of tests to be performed.
 - iii. Notify the operator of its determinations pursuant to subsections (3)(a)(i) and (ii).
 - b. The operator shall:
 - i. Notify the Office of Pipeline Safety of the number and types of tests proposed by the operator.
 - ii. Notify the Office of Pipeline Safety of the date and time of any laboratory tests at least 20 days before the tests are done.
 - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests.
 - iv. Ensure that the original laboratory test results are provided to the Office of Pipeline Safety within 30 days of the completion of the tests.
 - v. Pay for the laboratory testing.
 4. In determining a laboratory pursuant to subsection (3)(a)(i), the Office of Pipeline Safety shall:
 - a. Submit a written request to at least three different laboratories for bids to conduct the testing.
 - b. Consider the qualifications of the respondent laboratories to perform the testing, including:
 - i. Past experience in performing the required test or tests according to ASTM International standards.
 - ii. Any recognition that the laboratory may demonstrate with national or international laboratory accreditation bodies.

- c. Select the laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.
- d. The Office of Pipeline Safety shall not select a laboratory pursuant to this subsection before either of the following, which ever occurs first:
 - i. The Office of Pipeline Safety has received written bids from at least three different laboratories.
 - ii. Thirty days from the date of the request for bids has passed.
- T. All repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquids, natural gas or other gas 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:
 - 1. Operators of an intrastate pipeline transporting LNG, natural gas or other gas will notify by telephone the Office of Pipeline Safety immediately upon discovery of the occurrence of any of the following:
 - 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 where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
 - 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 due to a failure of a leak test.
 - 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 immediately 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.
 - f. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
 - i. Not otherwise reportable under this Section;
 - ii. Not one described in 49 CFR 195.52(a)(4) (1994 revision and no future revisions), incorporated by reference and copies available from the Office of Pipeline Safety, 2200 North Central Ave., Suite Ste. 300, Phoenix, AZ ~~85004~~ 85004;
 - iii. Confined to company property or pipeline right-of-way; and
 - iv. Cleaned up promptly.
 - g. Any release of hazardous liquid or carbon dioxide, that was significant in the judgment of the operator even though it did not meet the criteria of this subsection.
 - 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,

Notices of Proposed Rulemaking

- 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 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 one 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 where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
 - 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, (March, 2004 Revision and no future revisions) incorporated by reference and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004.
 - b. RSPA F7100.2 - Transmission and Gathering System: Incident Report, (January, 2002 Revision and no future revisions) incorporated by reference and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004.
 - c. Written incident reports with respect to LNG facilities will be in an investigative form defining the incident and corrective action taken to prevent a reoccurrence.
 3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on RSPA F 7000-1, (January 2001 Revision and no future revisions), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004, 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 one 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. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
 - i. Not otherwise reportable under this Section;
 - ii. Not one described in 49 CFR 195.52 (a)(4); (1994 revision and no future revisions), incorporated by reference and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite 300, Phoenix, Arizona 85004;
 - iii. Confined to company property or pipeline right-of-way; and
 - iv. Cleaned up promptly.
 - d. Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$5,000.
 - e. News media inquiry.
 4. Written incident reports as required in this Section will be filed with the Office of Pipeline Safety, 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 a copy of all DOT required written incident reports with the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration Pipeline and Hazardous Materials Safety Administration, Rm. 7128, U.S. Department of Transportation, Washington, DC 20590.
 6. Operators of a natural gas or other gas pipeline 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:

Notices of Proposed Rulemaking

1. The Office of Pipeline Safety 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.
4. Incidents not reported in accordance with the provisions of this rule will be investigated by the Office of Pipeline Safety.
5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Office of Pipeline Safety.
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.

R14-5-204. Annual Reports

- A. Except for operators of an intrastate pipeline transporting LNG, all other intrastate pipeline operators will file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, the following appropriate report(s):
 1. RSPA F 7000-1.1 (February 2004 Edition and no future editions) – “Annual Report for calendar year 20__, hazardous liquid or carbon dioxide systems” and “Instructions for completing RSPA F 7000-1.1 Annual Report for calendar year 20__ hazardous liquid or carbon dioxide systems incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Ave., Suite 300, Phoenix, Arizona 85004 and the Information Resources Manager, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 2335 Rm. 7128 400 Seventh St., S.W., Washington, DC 20590.
 2. RSPA F7100.1-1 (November 1985 Edition for use in 2004; March 2005 Edition and no future editions, which can be used in 2004 but will become mandatory starting in 2005) “Annual Report for Calendar Year 20__, Gas Distribution System” and “Instructions for Completing RSPA Form F7100.1-1, Annual Report for Calendar Year 20__, Gas Distribution System”, incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Ave., Suite 300, Phoenix, Arizona 85004 and the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 8417 Rm. 7128, 400 Seventh St., S.W., Washington, D.C. 20590.
 3. RSPA F7100.2-1 (December 2003 Edition and no future editions) – “Annual Report for Calendar Year 20__, Gas Transmission and Gathering Systems” and “Instructions for Completing Form RSPA F7100.2-1, Annual Report for Calendar Year 20__, Gas Transmission and Gathering Systems”, incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Ave., Suite 300, Phoenix, Arizona 85004 and the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Room 8417 Rm. 7128, 400 Seventh St., S.W., Washington, D.C. 20590.
- B. The operator will also file a copy of all required annual reports by March 15 to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Rm. 7128, 400 Seventh St., S.W., Washington, D.C. 20590-0001.

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. In case of an emergency, the Office of Pipeline Safety 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 I, the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of January 15, 2004 August 1, 2006 (and no future amendments), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Ave., Suite 300, Phoenix, Arizona 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954.
- C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:
 1. Substitute “Commission” where “Administrator of the Research and Special Programs Administration,” or “Office of Pipeline Safety” (OPS) appear.
 2. Substitute Office of “Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona” where the address for the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation appears.

Notices of Proposed Rulemaking

- D. Operators of a master meter system will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter system 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, ~~January 15, 2004~~ August 1, 2006 (and no future amendments), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, AZ ~~Arizona~~ 85004 and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA ~~Pennsylvania~~ 15250-7954.
- 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. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- 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 surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety. Steel pipe shall be installed with bedding and shading, free of any debris or materials injurious to the pipe coating, unless otherwise protected and approved by the Office of Pipeline Safety.
- 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 and fittings shall be marked CD, CE, CF or CG as required by ASTM D2513 (1995c Edition and no future editions), incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, AZ ~~Arizona~~ 85004 and ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA ~~Pennsylvania~~ 19428-2959, 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 accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104, 49 CFR 192, appendix A.
- L. All repair work performed on existing master meter systems will comply with the provisions of this Article.
- M. 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 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).
- O. 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 guide – ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision and no future revisions), except 4.4I, incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, AZ ~~Arizona~~ 85004 and the ASME, United Engineering Center, 345 East 47th Street, New York, New York NY 10017. (“Should” as referenced in the guide will be interpreted to mean “shall”.) Leak detection procedures shall be approved by the Office of Pipeline Safety.
- P. Laboratory testing of master meter systems shall be conducted in accordance with the following:
 - 1. If an operator of a master meter system, other gas or hazardous liquid pipeline removes a portion of a failed pipeline, where the cause of the failure is unknown, as the result of an incident that requires a telephonic or written incident report under R14-5-203(B) or (C), the operator shall retain the portion that was removed and shall telephonically notify the Office of Pipeline Safety of the removal within two hours after the removal is completed. A notice made pursuant to this subsection shall include all of the following:
 - a. Identity of the failed pipeline,
 - b. Description and location of the failure,
 - c. Date and time of the removal,
 - d. Length or quantity of the removed portion,
 - e. Storage location of the removed portion,
 - f. Any additional information about the failure or the removal of the portion of the pipeline that failed that is

Notices of Proposed Rulemaking

requested by the Office of Pipeline Safety. An unknown failure is any failure where the cause of the failure is not observable external corrosion, third-party damage, natural or other outside forces, construction or material defect, equipment malfunction or incorrect operations; or is any failure where the Office of Pipeline Safety and the operator do not agree as to the cause of the failure.

2. Within 48 hours after telephonic notification pursuant to subsection (1), the Office of Pipeline Safety shall notify the operator that either:
 - a. The Office of Pipeline Safety is directing the operator to have the portion of the pipeline that was removed tested by a laboratory to determine the cause or causes of the failure.
 - b. The Office of Pipeline Safety is not directing laboratory testing and the operator may discard the portion of the pipeline that was removed. The Office of Pipeline Safety shall confirm its notification in writing.
3. If the Office of Pipeline Safety directs laboratory testing pursuant to subsection (2)(a):
 - a. The Office of Pipeline Safety shall:
 - i. Determine the laboratory that will do the testing pursuant to subsection (4) and the period of time within which the testing is to be completed.
 - ii. Approve the number and types of tests to be performed.
 - iii. Notify the operator of its determinations pursuant to subsections (3)(a)(i) and (ii).
 - b. The operator shall:
 - i. Notify the Office of Pipeline Safety of the number and types of tests proposed by the operator.
 - ii. Notify the Office of Pipeline Safety of the date and time of any laboratory tests at least 20 days before the tests are done.
 - iii. At the request of the Office of Pipeline Safety, ensure that a representative of the Office of Pipeline Safety is permitted to observe any or all of the tests.
 - iv. Ensure that the original laboratory test results are provided to the Office of Pipeline Safety within 30 days of the completion of the tests.
 - v. Pay for the laboratory testing.
4. In determining a laboratory pursuant to subsection (3)(a)(i), the Office of Pipeline Safety shall:
 - a. Submit a written request to at least three different laboratories for bids to conduct the testing.
 - b. Consider the qualifications of the respondent laboratories to perform the testing, including:
 - i. Past experience in performing the required test or tests according to ASTM International standards.
 - ii. Any recognition that the laboratory may demonstrate with national or international laboratory accreditation bodies.
 - c. Select the laboratory that offers the optimum balance between cost and demonstrated ability to perform the required test or tests.
 - d. The Office of Pipeline Safety shall not select a laboratory pursuant to this subsection before either of the following, which ever occurs first:
 - i. The Office of Pipeline Safety has received written bids from at least three different laboratories.
 - ii. Thirty days from the date of the request for bids has passed.
- Q. 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 20____, Small Operators of Gas Distribution System," incorporated by reference, and copies available from the Office of Pipeline Safety, 2200 North Central Avenue, Suite Ste. 300, Phoenix, Arizona 85004. This report will be filed with the Office of Pipeline Safety not later than April 15 for the preceding calendar year.
- R. 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. 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. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.