



Arizona Administrative REGISTER

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DIRECTOR
Public Services Division
Scott Cancelosi

PUBLISHER
Secretary of State
MICHELE REAGAN

RULES MANAGING EDITOR
Arizona Administrative Register
Rhonda Paschal

From the Publisher

ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

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PUBLISHER
SECRETARY OF STATE
Michele Reagan

PUBLIC SERVICES STAFF
DIRECTOR
Scott Cancelosi

RULES MANAGING EDITOR
Rhonda Paschal

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A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

PUBLICATION DEADLINES
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

CONTACT US
The Honorable Michele Reagan
Office of the Secretary of State
1700 W. Washington Street, Fl. 7
Phoenix, AZ 85007
(602) 364-3223

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Participate in the Process

Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

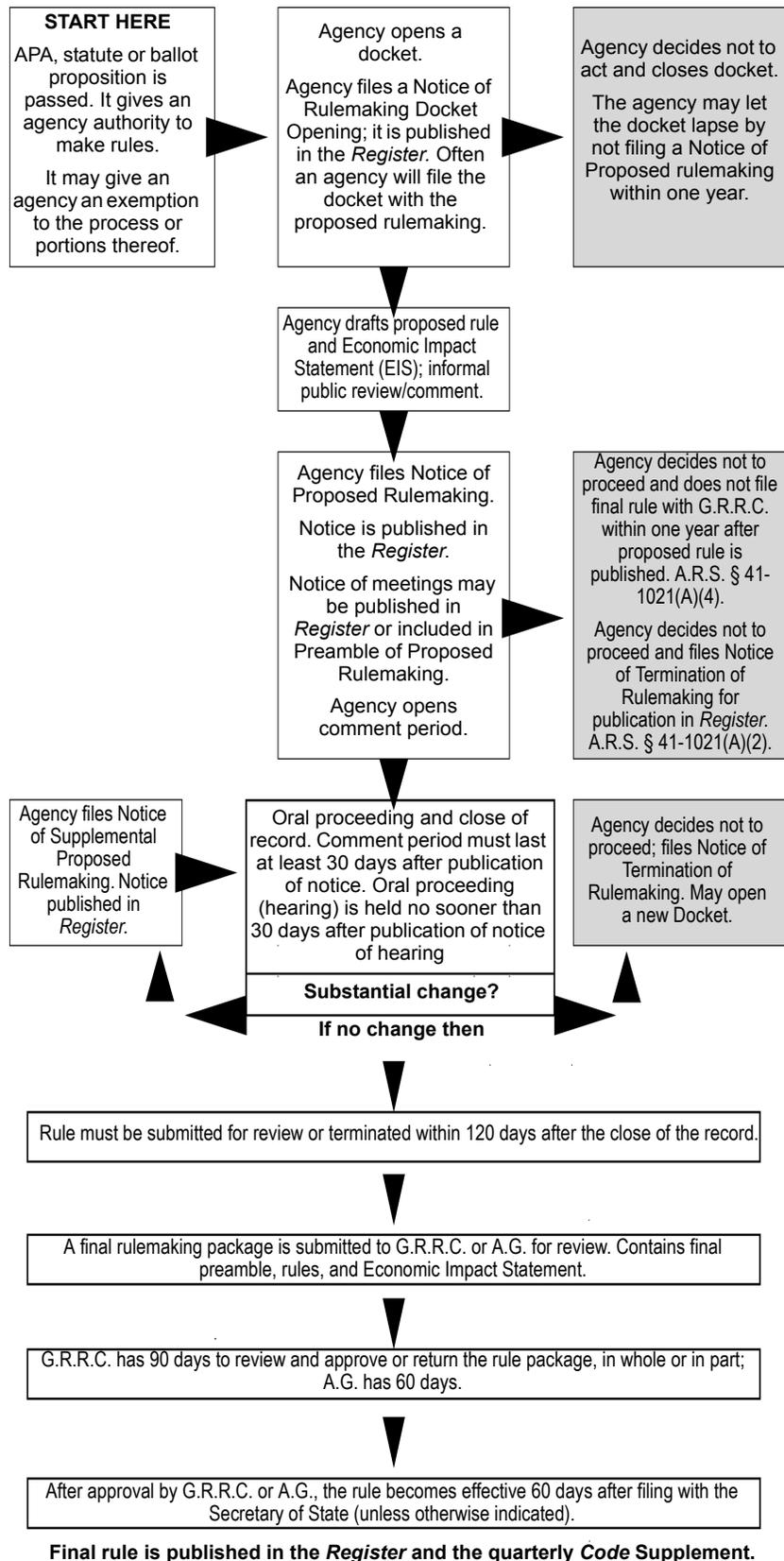
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Arizona Regular Rulemaking Process



Definitions

Arizona Administrative Code (A.A.C.): Official rules codified and published by the Secretary of State's Office. Available online at www.azsos.gov.

Arizona Administrative Register (A.A.R.): The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at www.azsos.gov.

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

Arizona Revised Statutes (A.R.S.): The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at www.azleg.gov.

Chapter: A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

Close of Record: The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

Code of Federal Regulations (CFR): The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

Docket: A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

Economic, Small Business, and Consumer Impact Statement (EIS): The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

Governor's Regulatory Review (G.R.R.C.): Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

Incorporated by Reference: An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

Federal Register (FR): The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

Session Laws or "Laws": When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

United States Code (U.S.C.): The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.



NOTICES OF FINAL RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated the rules. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING

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

CHAPTER 5. CORPORATION COMMISSION – TRANSPORTATION

[R16-189]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
R14-5-202 Amend
R14-5-203 Amend
R14-5-204 Amend
R14-5-205 Amend
R14-5-207 Amend
2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: Arizona Constitution, Article XV § 3.
Implementing statute: A.R.S. §§ 40-441, 40-202(A), 40-203, 40-321(A), 40-322, 40-336.
3. The effective date of the rule:
September 14, 2016
a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
Immediately upon filing in the Office of the Secretary of State after Attorney General certification per A.R.S. §§ 41-1032(A), 41-1044 and 41-1057. Immediate effectiveness of these rule amendments is justified under A.R.S. § 41-1032(A)(1) and (2), to preserve the public health and safety and to avoid a violation of the PHMSA deadline for the Commission to adopt regulations conforming to the current federal regulations for pipeline safety. Because the rule amendments deal directly with the handling of natural gas and other hazardous liquids transmitted through pipelines, the rule amendments will preserve the public health or safety.
b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
Not applicable
4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:
Notice of Rulemaking Docket Opening: 21 A.A.R. 685, May 15, 2015
Notice of Proposed Rulemaking: 21 A.A.R. 674, May 15, 2015
Notice of Supplemental Proposed Rulemaking: 21 A.A.R. 3158, December 11, 2015
Notice of Emergency Rulemaking: 22 A.A.R. 5, January 1, 2016
Notice of Emergency Rulemaking Renewal: 22 A.A.R. 1637, June 24, 2016
5. The agency's contact person who can answer questions about the rulemaking:
Name: Charles Hains, Commission Counsel, Legal Division
Address: Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007



Telephone: (602) 542-3402
Fax: (602) 542-4870
E-mail: Chains@azcc.gov
Web site: www.azcc.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The Commission's Pipeline Safety rules establish construction and safety standards for gas, liquefied natural gas ("LNG"), and hazardous liquid pipeline systems and for master meter systems. The rules are designed to protect all residents of and visitors to the State of Arizona by helping to ensure that the handling and transportation of gas, LNG, and hazardous liquids are conducted in the safest manner possible. The primary purpose of this rulemaking is to make the Commission's Pipeline Safety rules consistent with current federal pipeline safety regulations so that the Commission maintains compliance with the requirements of its intergovernmental agreement with the U.S. Department of Transportation's Pipeline and Hazardous Material Safety Administration ("PHMSA"). The rulemaking accomplishes this by updating the incorporations by reference for 49 CFR Parts 40, 191, 192, 193, 195, and 199, as well as several PHMSA reporting forms, and by clarifying some requirements of the rules.

Under Title 49, § 60105 of the U.S. Code ("49 U.S.C. § 60105"), the Commission holds certification from PHMSA authorizing the Commission to prescribe and enforce safety standards and practices for intrastate pipeline facilities and intrastate pipeline transportation. (See 49 U.S.C. § 60105(a).) The Commission is also authorized to act as an interstate agent under 49 CFR Chapter 601. To maintain its certification, the Commission must annually submit to PHMSA a certification stating, *inter alia*, that the Commission (1) has regulatory jurisdiction over the standards and practices to which the certification applies; (2) has adopted, by the date of certification, each applicable standard prescribed under 49 U.S.C. Chapter 601 or, if the standard was prescribed no later than 120 days before certification, is taking steps to adopt the standard; and (3) is enforcing each adopted standard through means including inspections by qualified Commission employees. (49 U.S.C. § 60105(b).) The certification filing must also identify the persons subject to the Commission's safety jurisdiction, describe specific types of reported accidents or incidents during the past 12 months, provide an investigation summary for each accident or incident, and describe the Commission's regulatory and enforcement practices. (49 U.S.C. § 60105(c).) PHMSA may reject certification for a state authority if it determines that the state authority is not satisfactorily enforcing compliance with the applicable federal safety standards of 49 U.S.C. Chapter 601. (49 U.S.C. § 60105(f).) A state authority that carries out a safety program pursuant to certification under 49 U.S.C. § 60105 is eligible to obtain grant funding from PHMSA of up to 80 percent of the state authority's costs for the personnel, equipment, and activities reasonably required to carry out the program for the next calendar year. (49 U.S.C. § 60107(a).) One of the performance factors considered by PHMSA when determining the allocation of grant funds to a state authority is whether the state has adopted the applicable federal pipeline safety standards. (49 CFR § 198.13(c)(7).) PHMSA can withhold payment if it determines that a state authority is not satisfactorily carrying out its safety program. (49 U.S.C. § 60107(b).) PHMSA requires the Commission to update its Pipeline Safety rules to the current federal standards by December 31, 2015.

The Commission commenced this rulemaking through a Notice of Rulemaking Docket Opening and Notice of Proposed Rulemaking published in the *Arizona Administrative Register* on May 15, 2015. The Commission held an oral proceeding on June 18, 2015, and did not receive any oral or written public comments on the rulemaking. On August 26, 2015, the Commission approved a Notice of Final Rulemaking ("NFRM") package for filing with the Attorney General ("AG") for certification under A.R.S. § 41-1044. The NFRM included language demonstrating the need for an immediate effective date for the rulemaking as provided under A.R.S. § 41-1032. The Commission filed the NFRM package with the AG on September 15, 2015. Subsequent to the filing of the NFRM package, the AG notified the Commission that the AG considered modifications made to a date parenthetical included in the NFRM to constitute a substantial change under A.R.S. § 41-1025 and thus would not approve the NFRM. The Commission withdrew the NFRM package and proceeded with a Notice of Supplemental Proposed Rulemaking to continue the regular rulemaking process to promulgate the updated rules.

Because the Commission's failure to meet the requirements of the certification program could result in loss of funding for the Commission's Pipeline Safety program, and the PHMSA deadline for the Commission to update its Pipeline Safety rules to the current federal standards is December 31, 2015, the Commission also filed a Notice of Emergency Rulemaking ("NERM") with the AG on October 22, 2015, under A.R.S. § 41-1026, to adopt the rule revisions herein.

At the time the NFRM was approved by the Commission, the most recent codification of 49 CFR Parts 40, 191, 192, 193, 195, and 199 had been issued on October 1, 2014. However, 49 CFR Parts 192, 193, 195, and 199 had recently been amended through a PHMSA rulemaking. Thus, in the NFRM, the Commission included the following parenthetical date citation for the 49 CFR Parts: "(October 1, 2012 October 1, 2014, as amended by the Final Rule published at 80 Fed. Reg. 168 (January 5, 2015) and effective March 6, 2015)."



Rulemaking had included a parenthetical date citation of February 5, 2015, which was intended to represent the current version of the 49 CFR Parts as of March 31, 2015, when the language for the proposed rulemaking was initially provided to the Commissioners for consideration at an Open Meeting. The Commission found that the revision to the date parenthetical included in the NFRM would not result in a substantial change to the proposed rules, under A.R.S. § 41-1025, because the revision did not change the persons affected by the rules, the subject matter of the rules, the issues determined by the rules, or the effects of the rules. The AG disagreed, however, concluding that the revision resulted in a substantial change.

The rule text in the NFRM also differed from that in the propose rulemaking because it updated the parenthetical date for Form PHMSA F 7100.1-1, located in R14-5-204(A)(2), by replacing “(January 2011)” with “(January 2011 May 2015).” The Commission also found that this revision would not result in a substantial change because the revision did not change the persons affected by the rules, the subject matter of the rules, the issues determined by the rules, or the effects of the rules. The January 2011 form and the May 2015 form differ in that the May 2015 form requires the preparer to check two additional boxes to identify commodity group and operator type and requires the preparer to break down total excavation damage events by root cause rather than just reporting the total. Both versions have burden estimates of approximately 16 hours.

The rule language included in the Notice of Supplemental Proposed Rulemaking differs from that included in the NFRM only in the parenthetical date citation for the 49 CFR Parts incorporated by reference in R14-5-202(B). A new codification of the 49 CFR Parts was issued on October 1, 2015, in accordance with the U.S. Government Publishing Office’s regular codification schedule. Because this new codification includes all of the updates reflected in the revised date parenthetical included for the NFRM, and the new codification can be referenced more simply, the Commission included the October 1, 2015, date in the Notice of Supplemental Proposed Rulemaking.

Through the NERM, the Commission will comply with the PHMSA requirement for the Commission’s Pipeline Safety rules to be consistent with the current federal pipeline safety standards before January 1, 2016. Yet A.R.S. § 41-1026(D) provides that if an agency has not issued either a Notice of Proposed Rulemaking or a Notice of Supplemental Proposed Rulemaking to adopt rule revisions consistent with its NERM within 180 days after the effective date of the rules as revised by the NERM, the rules as revised by the NERM will expire and will be ineligible for renewal. Thus, the Commission can only maintain its compliance by engaging in regular rulemaking.

For the Commission to preserve public health and safety and to maintain the Commission’s compliance with federal requirements, the regular rulemaking must be completed and must become effective as quickly as possible. If the Commission fails to adopt the rule updates permanently through regular rulemaking, the Commission could lose federal grant funding for the Commission’s Pipeline Safety program. This would constitute an imminent budget reduction and would result in serious prejudice to the public interest, which is best served by a robust Pipeline Safety program that has sufficient resources to enforce the current federal safety standards. Because the rules at issue establish safety standards consistent with the current federal safety standards, it is in the public interest to have the rules in effect and capable of enforcement as soon as possible. The Commission intends for this rulemaking to be adopted with an immediate effective date, under A.R.S. § 41-1032(A)(1) and (2), to preserve the public peace, health, and safety, and to avoid a violation of federal law or regulation.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

9. A summary of the economic, small business, and consumer impact:

Small Business Subject to the Rules: These rules do not change the responsibilities of master meter operators already established in 1970 by the adoption by the Commission of the Code of Federal Regulations, Title 49, Parts 191 and 192.

The new rules may increase testing costs for operators of liquefied natural gas facilities when welding is performed, although such costs should be minimal as welding is a non-recurring activity. Such costs will only be incurred if the liquefied natural gas facility operator is not already ensuring that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or appurtenances.

The new rules will have no effect upon consumers or users of the gas service provided by regulated public utilities as they presently are required to be in compliance with all standards, but, this will benefit consumers, users and the general public by maintaining a safe pipeline system.

The new 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.



10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

The following clarifying changes were made to the final rulemaking:

- a. R14-5-202(B) was revised by replacing “(October 1, 2012 February 5, 2015)” with “(October 1, 2012 October 1, 2015).”;
- b. R14-5-204(A)(2), was revised by updating the date of the incorporation by reference for Form PHMSA F 7100.1-1, by replacing “(January 2011)” with “(January 2011 May 2015).”;
- c. To simplify the text submitted for the Notice of Final Rulemaking by including “no change” for those subsections that are not being changed.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

Public Comments & Staff and Commission Responses Thereto

(formal comments provided in response to the Notice of Supplemental Proposed Rulemaking (“NSPRM”))

Spectrum Comment

The notices were mailed to an old office address even though Spectrum changed its mailing address with Staff in Docket No. G-20923A-15-0030 (“Complaint case”). Because the Notice of Proposed Rulemaking (“NPRM”) was sent to the old address, Spectrum had no opportunity to comment.

Staff Response

The address on file with Staff for Desert Gas, LP (“Desert Gas”) was updated when Staff was made aware of the correction. The NPRM, Notice of Emergency Rulemaking (“NERM”), and NSPRM were all published in the *Arizona Administrative Register*, providing notice to the public. Spectrum provided comments to the NSPRM during the formal comment period and has had an opportunity to be heard.

Commission Response

The Administrative Procedure Act (“APA”), A.R.S. §§ 41-1001 et seq., generally requires that notice of rulemaking activity be provided through publication in the *Arizona Administrative Register*. The additional notice provided by the Commission through mailing to stakeholders was provided as a courtesy. The Commission regrets that the courtesy copies were sent to Desert Gas using an outdated address. However, because Spectrum was able to comment on the NSPRM, Spectrum has had an opportunity to be heard, and no additional action is needed.

The rule change in A.A.C. R14-5-202(T) (“Rule 202(T)”) only impacts two operators in the state, and Applied LNG Technologies (“ALT”) was as surprised as Spectrum was.

Staff is unaware of any comments or objections from ALT. ALT was included on the proposed service list filed by Staff and has been included on the service list throughout this matter.

The number of facility operators impacted by a rule change does not lessen the appropriateness of adopting a safety rule change. Additional operators may begin operating within Arizona. Additionally, transmission pipeline operators are already required to comply with a similar requirement.

Staff acknowledges that there will be a cost impact to liquefied natural gas (“LNG”) facility operators that are not already performing nondestructive testing of all welds performed on newly installed, replaced, or repaired pipeline or appurtenances. The Commission specifically added that impact to the Economic, Small Business, and Consumer Impact Statement (“EIS”) adopted in Decision No. 75250. Staff believes that Rule 202(T) provides flexibility because it does not specify the technology to be used. The choice of technology will impact costs. Additionally, Rule 202(T) is prospective and will only impact new welds.

Rule 202(T) establishes a safety standard that will apply equally to any LNG facility that operates in Arizona. While that list may only include the facilities of two operators currently, it may include more in the future. The Commission agrees with Staff that the number of entities subject to a rule establishing a generally applicable standard to protect health, safety, and welfare is not a measure of the appropriateness of the rule.

Additionally, ALT is on the service list for this matter, has been sent numerous documents regarding the rule changes pursued by the Commission, and has not made any comments regarding Rule 202(T) or any other aspect of the rulemaking. Because none of the mail sent to ALT has been returned as undeliverable, the Commission concludes that ALT has received ample notice of this matter.



Spectrum does not understand why the Commission feels the need to modify 49 CFR § 193.2303 when the other 49 states accept it. Spectrum does not see the rationale for this change and wonders what safety or economic data was relied upon for this change. The LNG industry is being singled out, and Spectrum is not aware of any pipe weld failure to suggest change is needed. This rule change will give pause to other LNG investments that may be made in Arizona.

Spectrum takes issue with statements made at the June 18 hearing suggesting that the rule changes were required only to maintain compliance with the federal code and that funding would be at risk if the rule changes were not adopted. "The notion that funding would be at risk if the ACC didn't adopt the Federal code is false and deceptive. Should the enforcement department be allowed to write the rules? This is a public policy issue and should be treated as such."

Arizona's pipeline safety program meets federal audit standards and maintains a very proactive regulatory oversight safety program. Other states typically follow Arizona's example.

The process of liquefying natural gas is cryogenic and involves both increasing pressure and decreasing temperature to change natural gas into a liquid. The pressure is comparable to that experienced by transmission pipe, for which 100 percent nondestructive testing is already required for new welds, although transmission pipe is not subjected to comparable operating temperature stresses. Rule 202(T) puts LNG facilities on equal footing with facilities that operate under comparable pressures.

At the June 18 oral proceeding, Staff stated that the rulemaking is primarily to adopt updates to the CFRs and additionally made some clarifications to the rules. The text of the rules, with the changes identified, was published in the *Arizona Administrative Register* in accordance with proper rulemaking procedure.

In accordance with the Federal Certification and Grant Program, each state Pipeline Safety Program must adhere to federal certification guidelines to assure full funding. The Pipeline Safety Section is audited annually for compliance with federal guidelines. Failure to adhere to the guidelines will result in decreased funding.

Safety is a public policy concern. This does not change the analysis of the appropriateness of adopting the rule changes.

The Commission previously determined, for intrastate transmission pipeline transporting gas and operating at a pressure at or above 20 percent of specified minimum yield strength ("SMYS"), that it was appropriate to establish a 100-percent nondestructive testing requirement for welds performed on newly installed, replaced, or repaired pipeline or appurtenances. (See A.A.C. R14-5-202(S).) That the transmission pipeline testing requirement was supported by Southwest Gas lends credence to the Commission's position that such a standard was appropriate to enhance safety and was not unduly burdensome. The Commission believes that it is likewise appropriate to enhance the safety of LNG facilities by requiring 100-percent nondestructive testing of field welds for LNG pipeline, which is subject to similar operating pressures.

The Commission agrees with Staff that the primary purpose of the rule revisions was to update the incorporations by reference to federal regulations and forms, which were made to ensure that the Commission's Pipeline Safety Program maintained eligibility for federal funding. Spectrum is incorrect that failure to update the incorporations by reference would not jeopardize that federal funding, as the Commission's certification under 49 U.S.C. § 60105 is dependent upon the Commission's timely adoption of the applicable safety standards prescribed under 49 U.S.C. Chapter 601.

Many of the issues before the Commission can be described as public policy issues. This label does not remove the issue from treatment through rulemaking. Indeed, when the issue implicates safety concerns, and it is appropriate to address the issue through a safety standard that must apply across the board to certain activities or types of facilities, the APA generally requires that the standard be adopted through rulemaking. (See A.R.S. § 41-1001(19).)



This change impacts ongoing work Spectrum has in progress. On July 20, as part of the Settlement Agreement in the Complaint case (“Settlement Agreement”), Spectrum submitted a package to the Pipeline Safety office advising of a modification to its Desert Gas plant. The package included the x-ray strategy for the package, which was approved by a Pipeline Safety office email. Installation is underway, and Spectrum would like to avoid a conflict over the x-ray requirements. Spectrum has other projects in process as well that will be impacted by Rule 202(T).

The Settlement Agreement includes 100 percent testing for only the welds that were the cause of the complaint, not for all future welds, although that is what Staff had desired.

This rule change has a significant economic impact. Has the Commission calculated the increased cost of future expansion for LNG plant owners and considered how this action will stymie growth?

Rule 202(T) went into effect on an emergency basis on December 15, 2015. Certain facilities were assembled and welds were performed before Rule 202(T) became effective. Those welds were performed in a manner consistent with the rules then in effect and need not be tested under Rule 202(T). New welds performed after December 15, 2015, are subject to the new testing requirement in Rule 202(T). Additionally, Staff noted that Rule 202(T) does not require that nondestructive testing be done by x-ray.

Settlement Agreements generally apply only to the matter at hand and not to future matters. Staff does not believe that the Settlement Agreement addressed the issue of nondestructive testing where no weld failure had been detected. In one section, the Settlement Agreement addressed welds performed specifically in connection with the methane compressor the Complaint case concerned. In another section of the Settlement Agreement, Desert Gas agreed that all future welds would meet the requirements of 49 CFR § 193.2013(b)(C), which is the incorporation by reference of American Society of Mechanical Engineers (“ASME”) standards for quality of welds. The ASME requirements are only implicated when failed welds are detected and do not address the frequency of nondestructive testing on a standard basis. This situation is addressed under National Fire Protection Association (“NFPA”) Code 59A, § 6.6.3.2.

The costs associated with the nondestructive testing can vary widely based upon the scope of the work, the number of welds, and the method of testing used. The rule change does not specify the testing methodology, so operators can select methods that are already approved under the ASME incorporated by reference in the CFRs and in the Commission’s rules. Because the rule change applies only to new welds performed on jurisdictional pipeline at the facility location, as part of installation, repair, or replacement of pipeline or appurtenances, and not to any welds made on shop fabricated units purchased and installed as single components, the total number of welds to be tested is limited.

The Commission agrees with Staff that any weld described in Rule 202(T) and performed on or after December 15, 2015, is required to be nondestructively tested before it is placed into service.

The Commission agrees that the Settlement Agreement required 100 percent nondestructive testing only for the welds at issue in the Complaint case. The Commission notes that the Settlement Agreement also provided that “none of [its] provisions may be referred to, cited, or relied upon by any other Party as precedent in any proceeding before [the] Commission . . . for any purpose except in furtherance of the purposes and results of [the Settlement] Agreement.” The Settlement Agreement does not and could not resolve the Commission’s policy as to all field welds made in all LNG facilities, not just the Ehrenberg facility operated by Desert Gas, whereas Rule 202(T) does. The appropriate manner for the Commission to establish a 100-percent nondestructive testing standard for such welds is through rulemaking under the APA, and the Settlement Agreement did not remove Desert Gas’s obligation to comply with rules promulgated by the Commission after execution of the Settlement Agreement.

The Commission concurs with Staff’s assessment that the economic impacts of Rule 202(T) will vary depending upon the testing methods used, which are determined by operators, as well as the extent to which new welds are made at a facility. The Commission believes that the additional expense incurred due to 100-percent nondestructive testing of new welds made at an LNG facility will result in enhanced safety and, if the nondestructive testing detects and causes an operator to require remediation of faulty welding, may result in significant savings to the operator by preventing the damages that could result from pipeline breach.



In general, rules, regulations, or statutes are created by one body and enforced by others. Was the source for this rule the same as the enforcement? Is there any check and balance in the process?

Staff does not agree that entities that promulgate rules do not enforce those rules. One of the defining characteristics of administrative agencies is that they combine aspects of legislative (creating new requirements), executive (enforcing jurisdictional requirements), and potentially judicial (if enforcement is adjudicated internally) functions. The federal regulatory regime governing pipeline safety also combines rulemaking and enforcement in one entity.

Arizona statutes (A.R.S. §§ 40-441 et seq.) authorize the Commission to promulgate rules for the enhancement of pipeline safety and to enforce compliance with those rules.

Staff is proposing the rule, but the Commission must vote to adopt the proposed rule changes in a process that follows APA requirements. The Commission is an elected body. Because the rules do not fall within the Commission's exclusive ratemaking authority, the rules also must be reviewed and approved by the Attorney General in order to become effective.

Spectrum's plant integrates several skid-mounted package compressors and a few other prefabricated skids with pipe on them. These packages can be installed and removed and are always manufactured elsewhere. Is all of the on-skid piping subject to Rule 202(T)? If so, this will preclude Spectrum from being able to use packaged compressors and systems without having them built according to the rule. The gas producing states have thousands of these units in operation and don't require 100 percent of welds to be tested. Did anyone think about this?

Rule 202(T) would apply only to those welds that are performed on site at the facility. Prefabricated assemblies would not be impacted by Rule 202(T). Nonetheless, it will remain the operator's responsibility to provide documentation demonstrating that the prefabricated assemblies have been constructed and tested in accordance with other existing regulations and adopted standards.

Staff's response is appropriate. The Commission, similar to administrative agencies at other levels of government, is authorized by law to promulgate rules and to enforce those rules. The Arizona Legislature has provided the Commission this authority with regard to pipeline safety through A.R.S. §§ 40-441 et seq. It is the Commission, rather than Staff, that determines whether to propose a rule and whether a proposed rule will be adopted as a final rule. It is also the Commission rather than Staff that ultimately decides, through a formal Decision made after an evidentiary hearing presided over by an impartial administrative law judge, whether any formal enforcement action will be taken against an operator for failure to comply with a rule. In addition, revisions to the Commission's pipeline safety rules can only become effective upon certification from the Attorney General under A.R.S. § 41-1044, as the rules do not fall under the Commission's exclusive and plenary constitutional ratemaking authority. Checks and balances are in place, as required by applicable laws.

The Commission agrees that Rule 202(T) applies only to welds performed on site at an LNG facility, "on newly installed, replaced, or repaired pipeline or an appurtenance." Thus, Rule 202(T) would not require Desert Gas to complete nondestructive testing of welds made in the manufacture of a prefabricated skid or other packaged plant item. It appears that Spectrum may have misunderstood the applicability of Rule 202(T) and that this misunderstanding contributed to Spectrum's conclusion that Rule 202(T) presents a great burden to Desert Gas's operations.



Spectrum has been told that the upshot of Rule 202(T) is the elimination of a particular exception provided in NFPA 59A § 6.6.3.2. Why does the Commission believe the NFPA erred in providing the exception, and what is the basis for the Commission's adopting rules that exceed the Pipeline and Hazardous Materials Safety Administration ("PHMSA") code and the American National Standards Institute ("ANSI") piping codes, which are the industry standards throughout the industrialized world?

Staff believes that Rule 202(T) will improve safety and that, from a policy perspective, standards articulate minimum conduct (the floor). Staff believes that with regard to public safety, the driving force behind rule changes should not be to treat the floor as the ceiling as to what constitutes reasonable or appropriate requirements. Staff believes that a safety improvement is appropriate if it can be reasonably anticipated to improve a safety concern. Rule 202(T) will improve safety by requiring full nondestructive testing on all new welds for the installation, repair, or replacement of LNG pipeline or appurtenances. As stated above, Staff believes that the increased testing requirements, comparable to the testing requirements for transmission pipeline, are reasonable because of the pressure and thermal stresses to which the pipeline is exposed.

NFPA 59A § 6.6.3.2 generally requires full radiographic or ultrasonic examination of all circumferential butt welds, but provides exceptions for certain liquid drain and vapor vent piping and for pressure piping operating above -20° F (-29° C), for which 30 percent of each day's circumferentially welded pipe joints must be nondestructively tested in accordance with ASME B31.3. Rule 202(T) eliminates these exceptions for any pipe welds falling within its requirements. The Commission agrees with Staff that industry standards establish minimum requirements rather than maximum requirements and, further, that Rule 202(T) will enhance the safety of LNG facilities. The Commission further believes that PHMSA's inquiry into revising the federal pipeline safety regulations applicable to LNG facilities suggests that PHMSA also sees room for safety improvements over the current federal and industry standards. The relevant inquiry engaged in by the Commission regarding Rule 202(T) is whether safety improvements can and should be made for welds performed at LNG facilities in Arizona. The Commission concluded that safety improvements can and should be made.



Discussion Resulting from Procedural Order of January 28, 2016, and Commission Responses Thereto

On January 28, 2016, a Commission Administrative Law Judge issued a Procedural Order (“P.O.”) requiring Staff to file responses to specific questions and allowing Spectrum and any other interested person to file responses to Staff’s responses. Spectrum was the only entity to file responses. A subsequent P.O. required Staff to file a reply to Spectrum’s responses. Introductory statements made by Spectrum, the questions posed by the P.O., and the discussion resulting therefrom, are set forth below, along with the Commission’s responses.

P.O. Question	Staff Response to P.O. Question	Spectrum Response to Staff Response	Staff Reply to Spectrum Response	Commission Response
N/A	N/A	<p>Spectrum is a regional LNG producer and owns Desert Gas. Desert Gas serves over 50,000 gallons per day of LNG from its Ehrenberg plant, for fueling stations in Arizona and southern California, but is a relatively small operation. Desert Gas does not transport or transmit LNG through a transmission main or otherwise outside its property lines. Spectrum has extensive experience with regulation of LNG.</p> <p>In the Complaint case, Desert Gas worked with Staff to enter into a Settlement Agreement that adopted several proactive measures that go beyond federal and state regulatory requirements and were specifically tailored to ensure safety at the Ehrenberg LNG plant. The subject matter of the complaint involved no release of natural gas in any form, no injury to persons, no damage to property, and no pipe weld failures that allowed pipe to physically come apart.</p>	<p>The PHMSA rulemaking process is at a germinal stage, and it could be three to five years before any federal rule change is made. Until recently, Robert Miller, Supervisor of the Commission’s Pipeline Safety Program, was the national chair of the National Association of Pipeline Safety Regulators (“NAPSR”). After his chairmanship, Mr. Miller continued to be a voting board member of NAPSR. As such, Mr. Miller voted in support of holding the workshops referenced by Spectrum. [Mr. Miller retired from the Commission in May 2016.]</p> <p>State regulators in the field of pipeline safety generally have more expertise than, and are relied upon by, federal regulators. Staff is not</p>	<p>The Commission understands that Desert Gas is likely to experience some additional expenses as a result of Rule 202(T), but believes that Desert Gas can mitigate those expenses through the timing of the testing and the choice of testing methods. As stated previously, the Settlement Agreement addressed specifically the issues that had arisen in the Complaint case, and it applies only to Desert Gas. While the Commission could have decided to propose rulemaking to require all LNG facility operators to comply with the safety-enhancing provisions included in the Settlement Agreement, the Commission instead has adopted through the NERM the</p>



Spectrum believes that the measures it agreed to in the Settlement Agreement are cost effective and will lead to significantly greater assurances of safety within its Ehrenberg operations than will Rule 202(T), which will impose significant additional cost without any significant benefit. If Spectrum must comply with Rule 202(T) in addition to the terms and conditions of the Settlement Agreement, Spectrum will suffer adverse economic impact.

Currently, 49 CFR § 193.2013 adopts the NFPA 59A standard (§ 6.6.3) for welded pipe tests for LNG, requiring that all circumferential butt welds be examined fully by radiographic or ultrasonic inspection, except that for pressure piping operating at above -20° F, only 30 percent of each day's circumferential welded pipe joints must be tested over the entire circumference. Rule 202(T) removes this exception.

Rule 202(T) is unnecessary and unduly burdensome and fails to take into account the current PHMSA process to examine regulation of LNG, which includes experts from various perspectives. PHMSA has more experience and background in cryogenics and in determining the appropriate level of nondestructive testing for LNG facilities than does the Commission. The Commission should defer to the PHMSA process to define the necessary safety regulations for LNG facilities.

Spectrum's Arizona operations have no piping that is under both high pressures and low temperatures. Desert Gas's piping that contains LNG is at low pressure and low temperatures and consists of stainless steels and aluminum, which are not weakened by low temperatures.

Staff did not indicate what the standards are regarding each of the tests it lists, including frequency of testing. ASME B31.3 at § 344.1.3 defines three different terms for examination—100 percent, random, or spot. Spectrum maintains that 100 percent nondestructive testing is not necessary and will not provide significant benefit to justify the increased costs.

persuaded that PHMSA's efforts reduce or eliminate the appropriateness of adopting Rule 202(T). Rule 202(T) is not in conflict with current federal regulations and is permissible because state agencies are permitted to adopt more stringent requirements.

Staff believes that Rule 202(T) treats cryogenic facilities the same as the Commission's rules already treat other high pressure pipelines that carry hazardous liquids or natural gas. Operators are already required to perform 100 percent nondestructive testing on all new welds on transmission pipeline. (See R14-5-202(S).) Some of Spectrum's piping is 49 CFR Part 192 piping operating at transmission pressures. Facilities used in the cryogenic phase of the liquefying process are subject to unique thermal stresses. Ensuring the integrity of welds for such facilities is no less important than it is for transmission pipelines.

more flexible requirement in Rule 202(T), which corresponds to the requirement previously adopted for transmission pipeline in R14-5-202(S). The Commission notes that the Settlement Agreement specifically required use of x-ray testing, which Rule 202(T) does not.

The Commission further points out that its Pipeline Safety Program personnel are nationally recognized for their expertise, which will be shared during the PHMSA regulatory process. Should PHMSA actively determine that 100-percent nondestructive testing of LNG pipeline welds in the field is inappropriate for some reason, the Commission will consider PHMSA's determination and could decide to revise Rule 202(T) accordingly.

However, as was noted by Staff, PHMSA's consideration of appropriate revisions to the regulation of LNG facilities is only beginning, and the process may take several years. The Commission would not best serve the public interest by delaying permanent adoption of Rule 202(T), a standard that the Commission expects to enhance the safety of LNG facility operations.

1. What are the technologies available to non-destructively test welds as required under Rule 202(T)?

The standard testing methods are liquid penetrant, magnetic particle, radiography (x-ray), and ultrasonic. These methods are recognized by NFPA 59A (2001) and ASME Standard B31.3 (1996), both of which are incorporated by reference in 49 CFR § 193.2013.

Staff was asked to identify the permissible methods of nondestructive testing and did so, including attached copies of the standards, which speak for themselves in terms of frequency. The standards do not require 100 percent testing of transmission main welds, although Arizona does under R14-5-202(S). The ASME and NFPA standards do not create ceilings for what constitutes appropriate frequency for non-destructive testing.

Staff's response identified the available testing methodologies, as requested.



2. What is the estimated cost to test a weld using each of the technologies identified in response to question [1]?

Staff obtained estimates from three Arizona testing laboratories for each method. It takes approximately 30 to 60 minutes to set up portable testing equipment and between 10 and 30 minutes to test each weld, depending on field conditions and the testing method used. Radiographic testing generally takes the longest. However, testing laboratories uniformly charge by the hour rather than by weld. Each Arizona testing lab would charge for a full day's labor per technician because the Arizona LNG facilities are outside of the lab's vicinity. Each lab would also charge a flat rental cost for the mobile testing lab and darkroom facilities, at a cost of approximately \$700 per day, and would charge travel expense of approximately \$0.75 per mile, per diem of \$175 per technician, and the costs of consumable testing materials. The costs for the different methods, not including the \$700 flat rental cost, \$135/technician per diem, and \$0.75 per mile of travel, would be approximately as follows: Radiography: Labor cost of \$145/technician/hour for 8 hours, film cost of \$36 to \$41 per weld; Ultrasonic: Labor cost of \$80/technician/hour for 8 hours; Liquid penetrant: Labor cost of \$75/technician/hour for 8 hours; \$15 per can of liquid penetrant used; and Magnetic particle: Labor cost of \$75/technician/hour for 8 hours and approximately \$35/day for materials used. The time to perform a weld (approximately 45 to 60 minutes for the welds at issue in the Complaint case) exceeds the time to nondestructively test a weld. Because the existing rule already required 30 percent of each day's welds to be nondestructively tested, and each testing lab charges for a full day's labor, the major difference in costs created by Rule 202(T) arises from the incidental costs of additional consumable testing materials such as film or liquid penetrant. Overall testing costs may even decrease because the testing could be done after completion of welding activity performed over multiple days, rather than being done each day, as required by 49 CFR § 193.2013. Staff believes that any cost increase will be incidental.

Staff's response is largely speculation. No one can be sure what the cost impacts of Rule 202(T) will be, but they will be significant. Staff's response is based on production work and does not reflect what will likely be found in the field and, further, does not include the cost associated with a loss of production from the facility. For a repair that involves welding at the plant, Staff's estimate includes only the cost of the inspection work. The full economic impact of Rule 202(T) would include the loss of production. Rule 202(T) would impact testing of 95 percent of the welds performed on any new facilities Spectrum contemplates building. Spectrum recently purchased 10 acres of land from the State of Arizona for the purpose of investing in a new LNG plant adjacent to the existing plant. The project has been suspended due to "economic head winds in the energy sector," but any added costs would further degrade its chance of success. If the LNG sector is unnecessarily burdened with additional regulations, it will locate elsewhere. PHMSA is undertaking a full evaluation of regulation of LNG facilities. Spectrum will participate and believes that the appropriate method to modify the code is to make a proposal before a body of experts in the welding of carbon steel pipe. Staff should submit written comments to PHMSA. If PHMSA agrees, the change can be included in the next edition of the federal code.

Staff agrees that its response is speculative, as examples are. Staff provided reasonable approximations based on current charges and industry experience. Staff did not include lost production cost in its estimates because nondestructive testing must be completed before facilities are placed into service. An operator will have some control over the lost production costs experienced based upon its decision as to the timing of nondestructive testing (on a rolling basis during construction or only at the end of all construction). Staff acknowledges that the rule will impose a cost on LNG facility operators, but has considered the costs and believes that the costs will vary depending on the circumstances and how an operator manages welding projects. Whether the cost of testing renders a particular project economically infeasible is not the threshold for appropriateness of a rule, particularly a safety rule. Also, the costs will be lower for LNG facilities constructed closer to locations that have local nondestructive test service providers.

The Commission finds Staff's estimates helpful in understanding the probable costs of testing under Rule 202(T). As stated previously, the Commission believes that an LNG facility operator will have the ability to mitigate its testing costs through its choices regarding the timing of the testing and the nondestructive testing technology chosen. These choices will also influence the duration of any period of non-producing that results not simply from the need for repair but from the requirement for testing to be completed. Additionally, an operator's chosen site for an LNG facility will continue to have great influence upon the costs of testing and the duration of any delay in production that results therefrom, due largely to the proximity of testing services to the site. It is up to an LNG operator to determine whether new or expanded LNG facility operations are economically feasible. Rule 202(T) should not have a great impact upon that decision, as the costs to comply with Rule 202(T) should not be substantially greater than the costs to comply with the prior requirement to test 30-percent of each day's welds. Indeed, costs may be lower if all nondestructive testing is completed at the end of construction, thereby saving on minimum daily labor costs. While it is appropriate for the Commission to consider and evaluate the estimated economic benefits and burdens associated with any rule adopted, Spectrum's speculation regarding the impact that the enhanced safety standards could have upon potential future expansion plans should not serve as a deciding factor in the Commission's analysis. Spectrum has criticized the data provided by Staff, but has itself provided no data to support its criticisms. As stated previously, Commission Pipeline Safety Program personnel will be participating in the PHMSA process, as they are recognized experts in the field.



3. To Staff's knowledge, has any other U.S. state, any other jurisdictional governmental entity, or any recognized industry standard-setting entity adopted a requirement substantially similar to that in Rule 202(T) or more stringent than the requirement in 49 CFR 193.2[3]03? If so, please identify each such entity and provide a copy of the requirement adopted.

Staff is not aware of any other U.S. state's or other jurisdictional governmental entity's having adopted a requirement like that in Rule 202(T). Arizona's pipeline regulations are generally proactive and ahead of other states. The NFPA 59A and ASME B31.3, adopted in 49 CFR Part 193, require 100 percent nondestructive testing of several types of welds. (See NFPA 59A at §§ 6.6.3.2 and 6.6.3.3; ASME B31.1 at § 341.43(b).)

Spectrum knows of no other state, jurisdictional government entity, or industry standard that has adopted a requirement substantially similar to or more stringent than Rule 202(T). Both the NFPA and PHMSA provided an exception for "warm pipe" (pipe operating at temperatures above -20° F) by allowing 30 percent of such pipe's welds to be nondestructively tested. Spectrum's Arizona operations involve 95 percent warm pipe. NFPA, ASME, and PHMSA are the entities with primary expertise in this area. The PHMSA process should be allowed to "play itself out" before any changes are made that could significantly impact small operations of LNG facilities. Spectrum provided the text of an email sent by PHMSA on March 9, 2016, announcing an upcoming two-day LNG Workshop being held May 18-19, 2016. According to the email, the LNG Workshop was to include federal and state regulators, emergency responders, NFPA 59A technical committee members, industry, and interested members of the public.

Spectrum's assertion that PHMSA and industry are the entities with the primary expertise regarding LNG safety regulation is erroneous. PHMSA works in partnership with NAPS and recognizes that in matters of intrastate safety regulation, including for LNG facilities, the states possess the leading source of expertise.

While the Commission acknowledges that it would be easier not to be the first regulatory body to adopt a safety standard, the Commission does not believe that being the first equates to being wrong. The Commission's Pipeline Safety Program personnel have extensive experience and knowledge in the areas of pipeline safety and welding. These personnel will provide their expertise to PHMSA through the LNG Workshop process. The existence of such an effort by PHMSA reinforces for the Commission its own recognition that there are safety improvements to be made in LNG facility operations. Rule 202(T) will help to bring about such safety improvements.



4. What caused Staff to conclude that it is necessary to require nondestructive testing of each weld performed on site at an LNG facility on newly installed, replaced, or repaired LNG pipeline or appurtenances?

Staff has recently grown concerned by the quality of welding performed at LNG facilities, such as concerning the welds at issue in the Complaint case. In that case, Desert Gas performed a plant upgrade involving 83 welds and used two contracted welders. Fewer than half of the required 30 percent of daily welds were nondestructively tested. After the upgraded facility was operational, additional remedial non-destructive testing was done, revealing that 8 out of 15 additionally tested welds were faulty. Upon re-welding, one repaired weld was still faulty. Staff found the greater-than-50 percent failure rate “profoundly troubling.” Staff believes that had 100 percent testing been required at the time, the issue (which ultimately was attributed to one of the contracted welders being unqualified to perform the work required) would have been identified and rectified before the upgraded facility was operational. Welding and material failure are the second leading cause of pipeline failures in the nation. The greatest risk of failure for a faulty weld is when it is first brought under full operating stress. It may be cheaper for an LNG facility operator using contracted welders to identify and have faulty welds repaired prior to initiating operations for the welded plant because identifying problems while the welding activity is ongoing means that the welders will still be available to perform necessary remedial work. Demand and lack of natural gas storage in Arizona may lead to growth in LNG operations in Arizona. Staff foresees demand for LNG peak-shaving plants. Also, the American Gas Association noted in August 2013 that natural gas supplies nearly one-fourth of all energy used in the U.S. The U.S. Department of Energy projects that consumption of natural gas will increase 11 percent by 2030.

Spectrum worked with Staff in the Complaint case to develop a Settlement Agreement with measures that go above and beyond the current rules and that will be as or more cost effective in providing assurances of safety. No gas was ever released, and no piping physically came apart due to failed welds. The problem involved issues with the welding contractor Spectrum hired, which produced substandard quality welds. Spectrum paid a significant fine and agreed to pay a higher fine should the problem recur. 100 percent nondestructive testing is not the failsafe the rule would suggest. X-ray examination can be useful in determining the quality of a weld, but cannot accurately predict physical failure. Under the various codes, each weld is permitted a certain percentage of flaws. Examination of x-ray tests of pipe welds are subject to interpretation, as Spectrum has experienced firsthand. The events that gave rise to the Complaint case were independent of the percentage of testing required. Spectrum acknowledged that mistakes were made. But neither that incident nor the possibility of future facilities justified Rule 202(T) when Spectrum has expended significant costs to implement the measures agreed to in settling the complaint from the Complaint case.

Staff acknowledges that Spectrum has complied with the Settlement Agreement from the Complaint case and notes that the Settlement Agreement required Desert Gas to perform 100 percent nondestructive testing of the welds in question. The Settlement Agreement binds only Staff and Spectrum, while a rule change would impose the requirement on all operators throughout the state. Spectrum already is not the only LNG facility operator in Arizona, and another LNG storage facility is under construction in Tucson. That and any other new LNG facility will be subject to Rule 202(T).

As stated previously, the Settlement Agreement approved in the Complaint case applies only to Desert Gas, not to any other LNG facility operator. The appropriate manner for the Commission to adopt generally applicable safety standards for LNG facilities is through rulemaking, not through a Settlement Agreement in one specific case. Rule 202(T) applies to the other LNG facility currently operating in Arizona and to future LNG facilities and does not require that only x-ray testing be used. Had Desert Gas completed the 30-percent nondestructive testing required for its daily welds, Desert Gas may have detected the faulty nature of the welds sooner and may have saved itself some difficulty and expense. A blanket requirement for 100 percent of welds to be nondestructively tested before the welds are placed into service is very clear and will avoid any potential confusion or misunderstanding regarding the testing required, which should simplify compliance efforts.



5. Is Staff aware of any incidents of weld failure in LNG facility pipeline or appurtenances in the U.S. or any other country? If yes, please identify where and when the incident occurred, identify what entity or entities owned and operated the affected LNG facility pipeline or appurtenances, describe any findings regarding the cause of the incident and identify by whom those findings were made, and describe the physical and economic damages caused by the incident.

Staff is aware of one incident, but notes that PHMSA has only required LNG operators to file annual and incident reports since 2011 and that no regulations required reports of failures prior to that time. "Additionally, a large number of LNG facilities, mostly peak shaving operations, are still not regulated and reports of failures would go unreported unless they were large enough to garner media attention." On December 18, 2014, at the Intermountain Gas LNG facility near Nampa, Idaho, a weld located inside a tube within an economizer component failed, resulting in a leak of natural gas at a pressure of 600 psi. The leak caused the economizer box to rupture, which caused personnel to activate the emergency shutdown of the LNG facility. There were no injuries or fatalities as a result of the failure, but 185,000 cubic feet of natural gas were released, and property damages exceeded \$102,000.

6. What is the operating pressure present in typical LNG pipeline and appurtenances used in the same manner as those at Desert Gas's LNG facility?

Desert Gas's LNG plant operation and maintenance manual states that normal operating pressures prior to starting up the turbo-expanders range from 15 psi at the LNG storage tanks to 690 psi discharge pressure at one of the methane compressors. The inlet pressure from the TransCanada pipeline facility that feeds the LNG facility is approximately 630 psi.

Spectrum disagrees with Staff's response for multiple reasons. First, Staff is incorrect that peak shaving LNG facilities are not regulated, as they clearly are within the scope of 49 U.S.C. § 60102 and the scope of PHMSA regulations starting at 49 CFR § 193.2001. It is common knowledge in the North American LNG industry that 49 CFR Part 193 was written and adopted specifically in response to growth in the number of peak shavers being built in the northeast. Second, the Intermountain Gas incident does not appear to be material to Spectrum's operations, and it involved an economizer with prefabricated welds delivered to the site. The economizer's prefabricated welds would not have been subject to testing under Rule 202(T). Third, several regulations indicate reporting requirements (such as 49 CFR § 193.2011). Spectrum strongly disagrees that failures at a large number of LNG facilities would go unreported, to the extent that those failures would pose a safety threat to persons and property.

There is no "typical LNG pipeline." Spectrum has a very small percentage of piping (less than 300 feet) operating at low temperatures. Most of Spectrum's piping is pressure piping subject to ASME B31.1, § 345, for which the 30 percent testing exception under NFPA 59A, § 6.6.3.2 applies because it is operating above -20° F. Generally, the highest pressure at which Spectrum handles LNG is around 100 psi, downstream of the truck loading pump when filling a trailer. Normal trailer pressure after loading is 15 psi. As a comparison, city transit buses and CNG fueled cars have pressure of 3,500 psi.

Regarding peak shaving facilities, Staff reiterates that the Commission is not bound to treat federal regulations as the ceiling on what is appropriate regulation by the states. Federal regulators already defer to the greater expertise of state regulators in this area. Contrary to Spectrum's assertions, the Intermountain Gas incident demonstrates that improper welds on components that operate under the pressures and temperature variations present at an LNG facility can and do fail. The fact that the failed weld was performed in a tightly controlled factory setting reinforces Staff's view that welds performed under field conditions, where performance of a proper weld is more difficult, must be subjected to full examination. The reporting requirements for leaks and spills at LNG facilities only came into effect in 2011, and the requirements apply only to LNG facilities regulated by PHMSA.

Staff is not just concerned about "cold" pipe. Staff is concerned about the integrity of welds that are subjected to high pressures and to welds that are subjected to high pressures and cryogenic temperatures. The cryogenic liquefying process will involve facilities that are "warm" and under high pressure, facilities that are "cold" and under high pressure, and facilities that are "cold" and under negligible pressure. Staff has no reason to dispute that the "cold" facilities under significant pressure are limited. However, there are facilities in Spectrum's LNG plant that will experience pressures as high as 1,000 psi. Most of the facilities will be "warm" high pressure or "cold" high pressure, both of which create safety concerns for Staff. Staff believes that the concern with testing the integrity of welds is at least equal to the concern presented by transmission pipeline and that for some of the piping, the high thermal stresses create additional stress further supporting testing.

The Commission finds persuasive Staff's reasoning that if a weld performed under presumably favorable factory conditions can fail and cause a rupture and release of large quantities of gas, a weld performed under less favorable field conditions also could fail and cause such release. Should such an incident occur, the monetary value of the losses incurred by Desert Gas (both in product and due to damages) could exceed any added costs that would be incurred as a result of the 100 percent nondestructive testing requirement in Rule 202(T). Additionally, public health and safety would be jeopardized.

The Commission shares Staff's concern regarding the integrity of field welds subjected to high pressures, regardless of the temperature of the gas within.



7. What is the operating pressure present in typical natural gas transmission pipelines for which 100 percent of new welds must be nondestructively tested?

For intrastate natural gas transmission facilities, under 49 CFR § 192.619, the maximum allowable operating pressure (“MAOP”) varies based on the facility and is as low as 250 psi and as high as 837 psi.

Spectrum believes that the testing of natural gas transmission pipelines depends more on line location than operating pressure. 49 CFR Part 192, Subpart E addresses natural gas pipeline welding and includes requirements for nondestructive testing based on classes of locations and operating conditions (such as in 49 CFR § 192.241 and 49 CFR § 192.243(d)). In contrast, Rule 202(T) takes into account neither class location nor percentage of specified minimum yield strength (“SMYS”).

Spectrum’s response focuses on the federal requirements, which apply to interstate facilities. At an intrastate level, Arizona requires 100 percent nondestructive testing for all new welds for transmission facilities, regardless of conditions. (R14-5-202(S).)

The Commission believes that the comparable pressures to which transmission pipeline field welds and LNG facility pipeline field welds are exposed makes it reasonable and appropriate to require the same level of testing for each.

8. What are the temperatures present in typical LNG pipeline and appurtenances used in the same manner as those at Desert Gas’s LNG facility, and what impact do those temperatures have upon pipeline and weld materials?

Temperatures of the gas at an LNG plant typically range from 60° F down to -270° F (the temperature at which gas condenses into liquid, considered cryogenic). At an LNG plant like Desert Gas’s LNG plant, turbo expanders reduce the temperature of gas to well below 0° F, but only a portion of the gas is condensed to liquid, and the remaining gas is recompressed, resulting in an increase in pressure and temperature before being injected back into the main gas stream. The wide range of pressures and temperatures places thermal loads on the piping and welds. Under 49 CFR § 193.2505, LNG operators must have written cool-down procedures to enable the facility to gradually begin operations to avoid placing excessive thermal stresses on pipeline and components.

Spectrum’s Desert Gas LNG facility has LNG pipeline with temperatures ranging from a high of 250° F to a low of -242° F and pressures ranging from a high of 1,000 psi to a low of 15 psi. But no single pipe experiences this range of temperatures or pressures. There are many separate stages of pressure and temperature at the plant, and the piping used for each location is appropriate for the conditions it experiences. Spectrum believes that Rule 202(T) addresses only “warm pipe welds” (above -20° F), so there is no question about the procedures for the lower temperature cryogenic piping. Because LNG cannot exist at -20° F, Rule 202(T) has nothing to do with cryogenic piping, and consideration of LNG or extremely low temperature conditions in this matter is not germane.

Staff agrees that no single pipe at Spectrum’s facility must withstand the full range of pressure or temperature changes necessary in the cryogenic liquefaction process. Staff does not agree with Spectrum’s assertion that Rule 202(T) applies only to “warm” pipe welds. Spectrum appears to believe, incorrectly, that Rule 202(T) is intended to correct an ambiguity in ASME 31.1 § 6.6.3.2. Staff has been unambiguous that the intent of the rule is to address Staff’s safety concern that welds performed for the purpose of containing hazardous liquids at high pressure need to be tested to confirm the integrity of the weld, whether at a “warm” or “cold” temperature. The “cold” temperature supplies an additional mechanical stress. Because of this additional stress, it would be inappropriate to treat LNG facilities as less worthy of inspection than transmission pipeline for which there is already a 100-percent testing requirement. As with the transmission weld requirement in R14-5-202(S), Rule 202(T) elevates the requirement to be more stringent than that established by the ASME.

The Commission agrees with Staff that Rule 202(T) applies to all welds performed at an LNG facility on newly installed, replaced, or repaired pipeline or appurtenances, regardless of the temperature to which the pipeline is exposed.

9. What are the temperatures present in the typical natural gas transmission pipelines described in question 7, and what impact do those temperatures have upon pipeline and weld materials?

Temperatures in intrastate natural gas transmission facilities are generally around 60° F. Gas temperatures are usually higher downstream from compressor stations and lower at pressure reduction stations. Aboveground pipe undergoes some incidental thermal expansion and contraction due to the changing temperature of its surroundings.

Spectrum agrees with Staff’s response and has no additional response at this time.

N/A

The Commission concurs with Staff’s response



10. Why does Staff believe that it is not necessary to nondestructively test all welds made by a manufacturer of a prefabricated assembly being newly installed at an LNG facility (i.e., that it is only necessary to nondestructively test the welds made on site to connect the prefabricated assembly to the existing LNG facility pipeline and appurtenances)?

Pre-manufactured components are designed and manufactured to specific pressure and temperature ratings and are subject to component-specific testing requirements prescribed by 49 CFR Part 193 and NFPA 59A. The welding for factory manufactured components is conducted in a controlled environment, reducing variables that could adversely affect weld quality, such as temperature, pipe or appurtenance positioning, etc., and that cannot be controlled in a field environment. After construction, a component is also tested at the factory to ensure that it meets the design specifications and ratings. Provided that the manufacturer provides an LNG plant operator documentation stating that a component (including its welds) was tested and meets design requirements, the component's welds do not need additional nondestructive testing in the field.

Spectrum agrees with Staff's response and has no additional response at this time.

N/A

The Commission concurs with Staff's response. While the Commission is aware that even a factory weld in a prefabricated unit can fail, the Commission believes that the welds performed on site pose a greater risk and thus merit nondestructive testing per Rule 202(T).



11. To Staff's knowledge, has any other U.S. state, any other jurisdictional governmental entity, or any recognized industry standard-setting entity considered and decided not to adopt either a requirement substantially similar to that in Rule 202(T) or a requirement more stringent than the requirement in 49 CFR 193.2[3]03? If so, please identify each such state or entity and provide a copy of any documentation regarding the entity's consideration and decision not to adopt the requirement.

Staff is not aware of whether any other U.S. state, other jurisdictional governmental entity, or recognized industry standard-setting entity has considered but refrained from adopting a requirement substantially similar to that in Rule 202(T). In Staff's experience, the Commission's Pipeline Safety Program is typically ahead of other states.

Staff's experience in regulating this area is limited because Arizona is not an oil and gas-producing state, and Arizona has no gas-processing facilities other than two small-scale LNG plants. Spectrum understands that the gas transmission pipeline facilities in Arizona were primarily installed to connect the producing regions in West Texas or the Rocky Mountains to the substantial energy market in California. These larger-scale facilities are significantly different than small-scale liquefiers such as Spectrum's operation. To determine the percentage of welds that must be tested for large interstate facilities, PHMSA takes into consideration the size of pipe, the SMYS, and the Class location of the pipeline and does not always require 100 percent x-ray testing. While Staff may be ahead of other states in implementing pipeline safety rules, it is PHMSA that has the expertise to examine the adequacy of current rules over LNG facilities. The Commission should participate in the PHMSA process to examine the regulation of LNG facilities instead of adopting Rule 202(T), which is unnecessary and will impose substantial additional costs without significant benefit and which interferes with measures already being undertaken by Spectrum by imposing significant additional cost.

The safety inquiry at issue in Rule 202(T) is whether a weld that must withstand specified stresses, such as operating pressures up to 1,000 psi, can withstand those stresses. The relevant experience is welding skill, not gas or petroleum production operations. Staff's knowledge of welds is guided by multiple qualified welders within Staff, with decades (possibly centuries) of cumulative experience. Staff believes that it has sufficient expertise to understand the relevant issues relating to the quality of welds. Staff's experience is relied upon by federal regulators. Staff's Pipeline Safety Program members have industry experience, are federal safety inspectors, and must receive continuous federally sponsored training. Staff's inspectors have and continue to serve as PHMSA associate instructors for PHMSA's Training and Qualification Division, which is responsible for training state and federal inspectors. Staff's inspectors maintain individual training that exceeds the average training maintained by federal inspectors. Additionally, NAPSRS was until recently chaired by the Supervisor of Staff's Pipeline Program, Robert Miller. [Mr. Miller retired in May 2016.] Staff's views are relied upon by federal regulators, and Staff is qualified to promote pipeline safety rule enhancements. States are not bound to treat federal regulations as a ceiling on the level of regulation in pipeline safety matters, and the PHMSA process will address pipeline operations regulated by PHMSA rather than the intrastate operations that are regulated by states. Staff does not believe it necessary or appropriate to defer adoption of Rule 202(T) until PHMSA's rulemaking process concludes.

The Commission agrees with Staff's statements regarding the experience and expertise of Pipeline Safety Program personnel and their involvement with PHMSA trainings. The Commission also agrees, as stated previously, that federal regulations do not provide a maximum standard for state pipeline safety regulation and that the Commission need not wait for PHMSA to conclude its process before permanently adopting Rule 202(T).

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**



None

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rule amendments bring the state rules into conformity with the federal law, thereby paralleling the federal law and therefore are neither more nor less stringent than the federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

None

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

- 49 CFR 40 (October 1, 2015) adopted in R14-5-202(B)
- 49 CFR 191 (October 1, 2015) adopted in R14-5-202(B)
- 49 CFR 192 (October 1, 2015), except I(A)(2) and (3) of Appendix D to part 192 adopted in R14-5-202(B)
- 49 CFR 193 (October 1, 2015) adopted in R14-5-202(B)
- 49 CFR 195 (October 1, 2015), except 195.1(b)(2), (3), and (4) adopted in R14-5-202(B)
- 49 CFR 199 (October 1, 2015) adopted in R14-5-202(B)

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

- Notice of Supplemental Proposed Rulemaking: 21 A.A.R. 3158, December 11, 2015
- Notice of Emergency Rulemaking: 22 A.A.R. 5, January 1, 2016
- Notice of Emergency Rulemaking Renewal: 22 A.A.R. 1637, June 24, 2016
- Changes between the emergency and final rulemaking packages were made to simplify the text submitted by including “no change” for those subsections that are not being changed.

15. 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 for Gas, LNG, and Hazardous Liquid Pipeline Systems
- R14-5-203. Pipeline Incident Reports
- R14-5-204. Annual Reports
- R14-5-205. Commission Investigations
- R14-5-207. Master Meter System Operators

ARTICLE 2. PIPELINE SAFETY

R14-5-202. Construction and Safety Standards for Gas, LNG, and Hazardous Liquid Pipeline Systems

- A. No change
- B. Subject to the definitional changes in R14-5-201 and the modifications noted in this Section, the Commission adopts, incorporates, and approves as its own 49 CFR 40; 191; 192, except (I)(A)(2) and (3) of Appendix D to Part 192; 193; 195, except 195.1(b)(2), (3), and (4); and 199 (October 1, 2012 October 1, 2015), including no future editions or amendments, which are incorporated by reference; on file with the Office of Pipeline Safety; and published by and available from the U.S. Government Printing Office, 710 North Capital Street N.W., Washington DC 20401, and at <http://www.gpo.gov/fdsys/>. For purposes of 49 CFR 192, “Business District” means an area where the public congregate for economic, industrial, religious, educational, health, or recreational purposes and two or more buildings used for these purposes are located within 100 yards of each other.
- C. No change
 - 1. No change
 - 2. No change
- D. No change
- E. No change
 - 1. No change
 - 2. No change
- F. No change
- G. No change



- H. No change
- I. No change
- J. An operator of an intrastate pipeline transporting LNG, gas, or a hazardous liquid shall use a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~October 1, 2010 (and no future amendments)~~, as incorporated by reference in subsection (B), ~~and copies available from the Office of Pipeline Safety and the United States Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954, except Sections (I)(A)(2) and (3) of Appendix D to Part 192 shall not be utilized.~~ This modifies 49 CFR 192.463(a), 193.2629, and 195.571.
- K. No change
- L. No change
- M. No change
- N. An operator of an intrastate pipeline transporting gas or hazardous liquid that constructs an underground pipeline system using plastic pipe shall bury the installed pipe with at least 6 inches of sandy type soil, free of any rock or debris, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. Steel pipe shall be installed with at least 6 inches of sandy type soil, free of any debris or materials injurious to the pipe coating, surrounding the pipe for bedding and shading, unless the pipe is otherwise protected as approved by the Office of Pipeline Safety. This modifies 49 CFR 192.321, 192.361, and 195.246.
- O. No change
- P. No change
- Q. No change
 - 1. In the case of all gas except LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three Two~~ Park Avenue, New York, NY 10016-5990; and modified by omitting 4.4(c) and by replacing “should” with “shall” each time it appears.
 - 2. In the case of LPG, leakage surveys and grading shall be performed pursuant to the standards set by ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11A-1983, including no future editions or amendments, which is incorporated by reference; on file with the Office of Pipeline Safety; published by and available from ASME, ~~Three Two~~ Park Avenue, New York, NY 10016-5990; and modified by replacing “should” with “shall” each time it appears.
 - 3. No change
- R. No change
- S. No change
- T. An operator of an LNG facility shall ensure that nondestructive testing is completed for each weld performed on newly installed, replaced, or repaired pipeline or an appurtenance. This modifies 49 CFR 193.2303.
- ~~F.U.~~ No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - 3. Within 48 hours after receiving telephonic notification pursuant to subsection (~~F U~~)(2), the Office of Pipeline Safety shall:
 - a. No change
 - b. No change
 - i. That the operator must have the removed portion of pipeline tested, in accordance with Office of Pipeline Safety directions, by an independent laboratory selected by the Office of Pipeline Safety as provided in subsection (~~F U~~)(5), to determine the cause or causes of the failure; or
 - ii. No change
 - 4. After providing telephonic notice as provided in subsection (~~F U~~)(3)(b), the Office of Pipeline Safety shall confirm its notification in writing;
 - 5. No change
 - a. No change
 - i. Determine, as provided in subsection (~~F U~~)(6), the independent laboratory that will do the testing and the period of time within which the testing is to be completed;
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change



- ii. No change
 - iii. No change
 - iv. No change
 - v. No change
6. In determining an independent laboratory to perform testing required under subsection (~~F~~ U), the Office of Pipeline Safety shall:
- a. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change

~~U.V.~~No change

~~V.W.~~No change

~~W.X.~~No change

R14-5-203. Pipeline Incident Reports

A. No change

B. No change

- 1. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
- 2. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - g. No change
- 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change

C. No change

- 1. No change
 - a. No change



- i. No change
- ii. No change
- iii. No change
- iv. No change
- v. No change
- b. No change
- c. No change
- d. No change
- e. No change
- 2. No change
 - a. Form PHMSA F 7100.1: Incident Report – Gas Distribution System (~~June 2014~~October 2014), including no future editions or amendments;
 - b. Form PHMSA F 7100.2: Incident Report – Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~October 2014), including no future editions or amendments; or
 - c. Form PHMSA F 7100.3: Incident Report – Liquefied Natural Gas (LNG) Facilities (~~June 2014~~October 2014), including no future editions or amendments.
- 3. An operator of an intrastate pipeline transporting hazardous liquid shall file a written incident report completed using Form PHMSA F 7000-1: Accident Report – Hazardous Liquid Pipeline Systems (~~December 2012~~July 2014), including no future editions or amendments, which is incorporated by reference, on file with the Office of Pipeline Safety, and published by and available from PHMSA as set forth in subsection (C)(2), any time the operator would have been required to make a notification as required under R14-5-203(B)(2).
- 4. No change
 - a. For an LNG, or gas - incident, within 20 days after detection; and
 - b. No change
- 5. No change
- 6. After an incident involving shutdown or partial shutdown of a master meter system, an operator of a gas pipeline system shall request and obtain a clearance from the Office of Pipeline Safety before turning on or reinstating service to ~~a~~ the master meter system or portion of the master meter system that was shut down.

R14-5-204. Annual Reports

- A. No change
 - 1. Form PHMSA F 7000-1.1: Annual Report for Calendar Year 20__ Hazardous Liquid Pipeline Systems (~~June 2014~~2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
 - 2. Form PHMSA F 7100.1-1: Annual Report for Calendar Year 20__ Gas Distribution System (~~January 2014~~May 2015), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form;
 - 3. Form PHMSA F 7100.2-1: Annual Report for Calendar Year 20__ Natural and Other Gas Transmission and Gathering Pipeline Systems (~~December 2012~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form; or
 - 4. Form PHMSA F 7100.3-1: Annual Report for Calendar Year 20__ Liquefied Natural Gas (LNG) Facilities (~~June 2014~~October 2014), including no future editions or amendments, which shall be completed in accordance with the PHMSA instructions for the form.

B. No change

R14-5-205. Commission Investigations

- A. No change
- B. While investigating an incident, accident, or event, the Commission, or an authorized agent of the Commission may:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change

R14-5-207. Master Meter System Operators

- A. No change
- B. An operator of a master meter system shall comply with this Section as a condition of receiving service from a provider. Noncompliance with this Section by an operator of a master ~~meters~~ meter system constitutes grounds for termination of service by the provider when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the provider oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- C. No change



- D. No change
 - 1. No change
 - 2. No change
- E. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- M. No change
- N. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- O. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- P. In the event of an unknown failure of a gas pipeline resulting in a master meter system operator's being required to provide a report under subsection (Q) and in the operator's removing a portion of the failed pipeline, the following shall occur:
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - 3. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - 4. No change
 - 5. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - 6. No change
 - a. No change
 - b. No change



- i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
- Q.** No change
 - 1. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - viii. No change
 - b. No change
 - c. An event involving permanent or temporary discontinuance of service to a master meter system or any portion of a master meter system due to a failure of a leak test or for any purpose other than to perform routine maintenance; or
 - d. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - 3. No change
- R.** No change
- S.** To ensure compliance with all applicable provisions of this Article, 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, electronic files, business methods, and affairs that pertain to the operation of the master meter system.



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-192]

PREAMBLE

- 1. Article, Part or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:
3. The effective date of the rule and the agency's reason it selected the effective date:
4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
8. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:



- 9. **The summary of the economic, small business, and consumer impact, if applicable:**
Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**
The amendment would serve to provide clarity during the 2016 election cycle due to legislative enactments related to independent expenditures. The legality of those enactments under the Arizona Constitution remains open to question. However, in the interest of consistency, the Commission proposes to adopt this rule change. Additionally, this change removes references to A.R.S. 16-917 which will become outdated and reorganizes the rule for benefit of simplicity by moving issues related to separate regulated entities to separate rules. The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.
- 11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
The Commission solicits public comment throughout the rulemaking process.
- 12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
- 13. **A list of any incorporated by reference material and its location in the rules:**
Not applicable
- 14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**
The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
- 15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section
R2-20-109. Independent Expenditure Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-109. Independent Expenditure Reporting Requirements

- A. No change
- ~~B. All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account as follows:

 - 1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.~~
- 2. ~~If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate’s campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.~~
- 3. ~~A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:

 - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
 - b. The candidate shall have sufficient funds in the candidate’s campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate’s campaign committee; and~~



- e. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate's campaign account to the agent who purchases the goods or services.
- 4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
 - a. Joint expenditures must be authorized in advance by all candidates sharing in the expenditure and allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
 - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
 - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
 - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
- 5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.

C. Timing of reporting expenditures.

- 1. Except as set forth in subsection (B)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
- 2. In the alternative to reporting in accordance with subsection (B)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
 - a. For a month to month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate's right to terminate the contract or agreement and avoid such future periodic payment elapses.
 - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
 - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate's campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.

D. Transportation expenses.

- 1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
- 2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:
 - a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.
 - b. Use campaign funds to pay for direct fuel purchases for the candidate's automobile only and shall be reported. If a candidate chooses to use campaign funds for direct fuel purchases, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement could have been made.
- 3. Use of airplanes.
 - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.



- b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.
4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.
- E. Reports and Refunds of Excess Monies by Participating Candidates-**
1. In addition to the campaign finance reports filed pursuant to A.R.S. § 16-913, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
- a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
- b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies:
- i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
- ii. If the campaign finance report shows any amount unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidate's family member within five days.
2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate's campaign account to the Commission in the amount of all unspent monies to be deposited the Fund.
- a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
- b. The campaign finance report for the general election shall be considered filed upon the filing of the post-general campaign finance report filed in accordance with A.R.S. § 16-913(B)(3).
3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate's campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.
- FB. Independent Expenditure Reporting Requirements.**
1. No change
2. Any person required to comply with A.R.S. § 16-917 shall provide a copy of the literature and advertisement to the Commission at the same time and in the same manner as prescribed by A.R.S. § 16-917(A) and (B). For purposes of this subsection (F), "literature and advertisement" includes electronic communications, including emails and social media messages or postings, sent to more than 1,000 people.
3. Any person who fails to file:
- a. A timely campaign finance report pursuant to A.R.S. 16-941(D), A.R.S. § 16-958, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B).
- b. A timely campaign finance report pursuant A.R.S. § 16-913, shall be subject to a civil penalty as prescribed in A.R.S. § 16-942(B), except as provided in A.R.S. § 16-922(2)
3. Any person making an independent expenditure on behalf of a candidate, participating or non-participating, and not timely filing a campaign finance report as required by A.R.S. § 16-941(D), A.R.S. § 16-958, or A.R.S. § 16-913 shall be subject to a civil penalty as described in A.R.S. § 16-942(B). An expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate or candidates. This subsection and A.R.S. § 16-942(B) applies to any political committee that accepts contributions or makes expenditures on behalf of any candidate, participating or nonparticipating, regardless of any other contributions taken or expenditures made. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported. Any expenditure advocating against one or more candidates shall be considered an expenditure on behalf of any opposing candidate(s). Penalties shall be assessed as follows:
- a. No change
- b. No change
- c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten (10%) percent of the applicable ~~one of the~~ adjusted primary election spending limit or adjusted general election spending limit.



- d. No change
- e. Penalties imposed pursuant to this subsection shall not exceed twice the amount of expenditures not reported.
- 4. No change
- 5. No change
 - a. No change
 - b. No change
- 6. No change
- 7. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
- 8. No change
- 9. No change
- 10. No change
- ~~11. Any entity that has been granted an exemption as of September 11, 2014 is deemed compliant with the requirements of subpart (5) of this subsection (F) for the election cycle ending in 2014.~~
- ~~12~~11. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - (1) No change
 - (2) No change
 - iv. No change
 - v. No change
 - (1) No change
 - (2) No change
 - b. No change

G. Non-participating Candidate Reporting Requirements and Contribution Limits. Any person may file a complaint with the Commission alleging that any non-participating candidate or that candidate's campaign committee has failed to comply with or violated A.R.S. § 16-941(B). Complaints shall be processed as prescribed in Article 2 of these rules. In addition to those penalties outlined in R2-20-222(B), a non-participating candidate or candidate's campaign committee violating A.R.S. § 16-941(B) shall be subject to penalties prescribed in A.R.S. § 16-941(B) and A.R.S. § 16-942(B) and (C) as applicable:

- 1. Penalties under A.R.S. § 16-942(B);, for a violation by or on behalf of any non-participating candidate or that candidate's campaign committee of any reporting requirement imposed by chapter 6 of title 16, Arizona Revised Statutes, in association with any violation of A.R.S. § 16-941(B):
 - a. For an election involving a candidate for statewide office, the civil penalty shall be \$300 per day.
 - b. For an election involving a legislative candidate, the civil penalty shall be \$100 per day.
 - c. The penalties in (a) and (b) shall be doubled if the amount not reported for a particular election cycle exceeds ten percent (10%) of the applicable one of the adjusted primary election spending limit or adjusted general election spending limit.
 - d. The dollar amounts in items (a) and (b), and the spending limits in item (c) are subject to adjustment of A.R.S. § 16-959.
- 2. Penalties under A.R.S. § 16-942(C): Where a campaign finance report filed by a non-participating candidate or that candidate's campaign committee indicates a violation of A.R.S. § 16-941(B) that involves an amount in excess of ten percent (10%) of the sum of the adjusted primary election spending limit and the adjusted general election spending limits specified by A.R.S. § 16-961(G) and (H) as adjusted pursuant to A.R.S. § 16-959, that violation shall result in disqualification of a candidate or forfeiture of office.
- 3. Penalties under A.R.S. § 16-941(B): Regardless of whether or not there is a violation of a reporting requirement, a person who violates A.R.S. § 16-941(B) is subject to a civil penalty of three times the amount of money that has been received, expended, or promised in violation of A.R.S. § 16-941(B) or three times the value in money for an equivalent of money or other things of value that have been received, expended, or promised in violation of A.R.S. § 16-941(B).



NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-193]

PREAMBLE

1. **Article, Part or Sections Affected (as applicable)** **Rulemaking Action**
R2-20-110 Amend
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 16-940, et seq.
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.
3. **The effective date of the rule and the agency's reason it selected the effective date:**
The amendments will be effective January 1, 2017. The rule amendments were not adopted unanimously.
4. **A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Notice of Proposed Exempt Rulemaking: 22 A.A.R. 1888, July 22, 2016
5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleelections.gov
6. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
R2-20-110. Participating Candidate Reporting Requirements
The Commission amends the rule to reorganize the rule by providing a separate section for participating candidate reporting requirements. Existing R2-20-110 is renumbered as R2-20-114.
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business, and consumer impact, if applicable:**
Not applicable
10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**
The Commission amends to reorganize the rule by providing a separate section for participating candidate reporting requirements. Existing R2-20-110 is renumbered to new Section R2-20-114.
11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
The Commission solicits public comment throughout the rulemaking process.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable



- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:
Not applicable
- c. Whether a person submitted an analysis to the agency that compares the rule’s impact on the competitiveness of business in this state to the impact on business in other states:
Not applicable
- 13. A list of any incorporated by reference material and its location in the rules:
Not applicable
- 14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:
The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
- 15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section
R2-20-110. Participating Candidate Reporting Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-110. Participating Candidate Reporting Requirements

- A. All participating candidates shall file campaign finance reports that include all receipts and disbursements for their current campaign account as follows:
 - 1. Expenditures for consulting, advising, or other such services to a candidate shall include a detailed description of what is included in the service, including an allocation of services to a particular election. When appropriate, the Commission may treat such expenditures as though made during the general election period.
 - 2. If a participating candidate makes an expenditure on behalf of the campaign using personal funds, the candidate’s campaign shall reimburse the candidate within seven calendar days of the expenditure. After the 7 day period has passed, the expenditure shall be deemed an in-kind contribution subject to all applicable limits.
 - 3. A candidate may authorize an agent to purchase goods or services on behalf of such candidate, provided that:
 - a. Expenditures shall be reported as of the date that the agent promises, agrees, contracts or otherwise incurs an obligation to pay for the goods or services;
 - b. The candidate shall have sufficient funds in the candidate’s campaign account to pay for the amount of such expenditure at the time it is made and all other outstanding obligations of the candidate’s campaign committee; and
 - c. Within seven calendar days of the date upon which the amount of the expenditure is known, the candidate shall pay such amount from the candidate’s campaign account to the agent who purchases the goods or services.
 - 4. A joint expenditure is made when two or more candidates agree to share the cost of goods or services. Candidates may make a joint expenditure on behalf of one or more other campaigns, but must be authorized in advance by the other candidates involved in the expenditure, and must be reimbursed within seven days. Participating candidates may participate in joint expenditures for the cost of goods and services with one or more candidates, subject to the following:
 - a. Joint expenditures must be authorized in advance by all candidates sharing in the expenditure and allocated fairly among candidates. An allocated share of a joint expenditure paid by one candidate pursuant to such an agreement must be reimbursed within seven days.
 - b. Any violator of part (a) shall be liable for a penalty pursuant to R2-20-222, in addition to penalties prescribed by any other law.
 - c. If a fairly allocated share of any joint expenditure is not reimbursed to a candidate, the unreimbursed amount of the joint expenditure fairly allocated to that candidate shall be deemed a contribution to that candidate by the campaign committee of the candidate obligated to reimburse the share.
 - d. If a fairly allocated share of any joint expenditure is not reimbursed to a participating candidate, the candidate obligated to reimburse the share shall reimburse the fund for the unreimbursed amount of the joint expenditure fairly allocated to the obligated candidate, in addition to any penalty specified by law.
 - 5. For the purposes of the Act and Commission rules, a candidate or campaign shall be deemed to have made an expenditure as of the date upon which the candidate or campaign promises, agrees, contracts or otherwise incurs an obligation to pay for goods or services.



- B. Timing of reporting expenditures.**
 - 1. Except as set forth in subsection (B)(2) above, a participating candidate shall report a contract, promise or agreement to make an expenditure resulting in an extension of credit as an expenditure, in an amount equal to the full future payment obligation, as of the date the contract, promise or agreement is made.
 - 2. In the alternative to reporting in accordance with subsection (B)(1) above, a participating candidate may report a contract, promise or agreement to make an expenditure resulting in an extension of credit as follows:
 - a. For a month-to-month or other such periodic contract or agreement that is terminable by a candidate at will and without any termination penalty or payment, the candidate may report an expenditure, in an amount equal to each future periodic payment, as of the date upon which the candidate’s right to terminate the contract or agreement and avoid such future periodic payment elapses.
 - b. For a contract, promise or agreement to provide goods or services during the general election period that is contingent upon a candidate advancing to the general election period, the candidate may report an expenditure, in an amount equal to the general election period payment obligation, as of the date upon which such contingency is satisfied.
 - c. For a contract, promise or agreement to pay rent, utility charges or salaries payable to individuals employed by a candidate’s campaign committee as staff, the candidate may report an expenditure, in an amount equal to each periodic payment, as of the date that is the sooner of (i) the date upon which payment is made; or (ii) the date upon which payment is due.
- C. Reports and Refunds of Excess Monies by Participating Candidates.**
 - 1. In addition to the campaign finance reports filed pursuant to A.R.S. § 16-913, participating candidates shall file the following campaign finance reports and dispose of excess monies as follows:
 - a. Prior to filing the application for funding pursuant to A.R.S. § 16-950, participating candidates shall file a campaign finance report with the names of the persons who have made qualifying contributions to the candidate.
 - b. At the end of the qualifying period, a participating candidate shall file a campaign finance report consisting of all early contributions received, including personal monies and the expenditures of such monies.
 - i. The campaign finance report shall be filed with the Secretary of State no later than five days after the last day of the qualifying period and shall include all campaign activity through the last day of the qualifying period.
 - ii. If the campaign finance report shows any amount unspent monies, the participating candidate, within five days after filing the campaign finance report, shall remit all unspent contributions to the Fund, pursuant to A.R.S. § 16-945(B). Any unspent personal monies shall be returned to the candidate or the candidates’ family member within five days.
 - 2. Each participating candidate shall file a campaign finance report consisting of all expenditures made in connection with an election, all contributions received in the election cycle in which such election occurs, and all payments made to the Clean Elections Fund. If the campaign finance report shows any amount unspent, the participating candidate, within five days after filing the campaign finance report, shall send a check from the candidate’s campaign account to the Commission in the amount of all unspent monies to be deposited the Fund.
 - a. The campaign finance report for the primary election shall be filed within five days after the primary election day and shall reflect all activity through the primary election day.
 - b. The campaign finance report for the general election shall be considered filed upon the filing of the post-general campaign finance report filed in accordance with A.R.S. § 16-913(B)(3).
 - 3. In the event that a participating candidate purchases goods or services from a subcontractor or other vendor through an agent pursuant to subsection (A)(3), the candidate’s campaign finance report shall include the same detail as required in A.R.S. § 16-948(C) for each such subcontractor or other vendor. Such detail is also required when petty cash funds are used for such expenditures.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-194]

PREAMBLE

- 1. **Article, Part or Section Affected (as applicable)** **Rulemaking Action**
 R2-20-111 Amend
- 2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
 Authorizing statute: A.R.S. § 16-940, *et seq.*



Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).

The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.

- 3. **The effective date of the rule and the agency’s reason it selected the effective date:**
The amendments will be effective January 1, 2017. The rule amendments were not adopted unanimously.
- 4. **A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Notice of Proposed Exempt Rulemaking: 22 A.A.R. 1891, July 22, 2016
- 5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins @azcleelections.gov
- 6. **An explanation of the rule, including the agency’s reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
R2-20-111. Non-participating Candidate Reporting Requirements and Contribution Limits
The Commission is providing a separate section for non-participating candidate reporting requirements and campaign finance limits. Existing Section R2-20-111 is renumbered to new Section R2-20-115.
The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.
- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
- 8. **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
- 9. **The summary of the economic, small business, and consumer impact:**
Not applicable
- 10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
The rule amendments clarify the Commission’s requirement that participating candidates must retain campaign finance records for the candidate’s campaign bank account. The amendment was developed by the Commission during a review of its rules and was proposed in an open meeting on May 14, 2015 and adopted unanimously in an open meeting on July 23, 2015. There were no Notices of Supplemental Proposed Rulemakings related to this Section, and changes are being made to the subsection R2-20-111(B)(1) only.
- 11. **A summary of the comments made regarding the rule and the agency response to them:**
The Commission solicits public comment throughout the rulemaking process.
- 12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
- 13. **Incorporations by reference and their location in the rules:**
Not applicable



14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section

R2-20-111. ~~Books and Records~~ Non-participating Candidate Reporting Requirements and Contribution Limits

ARTICLE 1. GENERAL PROVISIONS

R2-20-111. ~~Books and Records~~ Non-participating Candidate Reporting Requirements and Contribution Limits

- ~~A.~~ All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- ~~B.~~ All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
- ~~1.~~ The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
 - ~~a.~~ All contributions or other monies received by or on behalf of the candidate.
 - ~~b.~~ The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
 - ~~c.~~ Cumulative totals contributed by each individual or political committee.
 - ~~d.~~ The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
 - ~~e.~~ All periodic bank statements or other statements for the candidate's campaign bank account.
 - ~~f.~~ In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in ARS 16-948(C) for each vendor.
 - ~~2.~~ No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
 - ~~3.~~ Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
 - ~~4.~~ All contributions other than in kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual contributor or must be evidenced by a written receipt with a copy of the receipt given to the contributor and a copy maintained in the records of the candidate.
 - ~~5.~~ The treasurer shall preserve all records set forth in subsection (B) and copies of all campaign finance reports required to be filed for three years after the filing of the campaign finance report covering the receipts and disbursements evidenced by the records.
 - ~~6.~~ If requested by the attorney general, the county, city or town attorney or the filing officer, the treasurer shall provide any of the records required to be kept pursuant to this Section.
- ~~C.~~ Any request to inspect a candidate's records under A.R.S. § 16-958(F) shall be sent to the candidate, with a copy to the Commission, 10 or more days before the proposed date of the inspection. If the request is made within two weeks before the primary or general election, the request shall be delivered at least two days before the proposed date of inspection. Every request shall state with reasonable particularity the records sought.
- ~~1.~~ The inspection shall occur at a location agreed upon by the candidate and the person making the request. If no agreement can be reached, the inspection shall occur at the Commission office. The inspection shall occur during the Commission's regular business hours and shall be limited to a two-hour time period.
 - ~~2.~~ The requesting party may obtain copies of records for a reasonable fee. The Commission shall not be responsible for making copies. The person in possession of the records shall produce copies within a reasonable time of the receipt of the copying request and fees.
 - ~~3.~~ The Commission will not permit public inspection of records if it determines that the inspection is for harassment purposes.
 - ~~4.~~ If a person who requests to inspect a candidate's records under A.R.S. § 16-958(F) is denied such a request, the requesting party may notify the Commission. The Commission may enforce the public inspection request by issu-



Fax: (602) 364-3487
 E-mail: thomas.collins@azcleaselections.gov

- 6. **An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
 R2-20-114. Candidate Campaign Bank Accounts
 This rule renumbers former R2-20-110 to new section R2-20-114.
- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 Not applicable
- 8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
- 9. **The summary of the economic, small business, and consumer impact, if applicable:**
 Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**
 This rule renumbers former R2-20-110 to new section R2-20-114.
- 11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
 The Commission solicits public comment throughout the rulemaking process.
- 12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
 Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**
 Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**
 Not applicable
- 13. **A list of any incorporated by reference material and its location in the rules:**
 Not applicable
- 14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**
 The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
- 15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section
 R2-20-114. Candidate Campaign Bank Accounts

ARTICLE 1. GENERAL PROVISIONS

R2-20-114. Candidate Campaign Bank Accounts

- A. Each participating candidate shall designate a single campaign bank account for conducting campaign financial activity. During an election cycle, each participating and nonparticipating candidate shall conduct all campaign financial activities through a single, current election campaign bank account and any petty cash accounts as are permitted by law.
- B. A participating candidate may maintain a campaign bank account other than the current election campaign bank account described in subsection (A) if the other campaign bank account is for a campaign in a prior election cycle in which the candidate was not a participating candidate.
- C. During the exploratory period, a candidate may receive debt-retirement contributions for a campaign during a prior elec-



tion cycle if the funds are deposited in the bank account for that prior campaign. A candidate shall not deposit debt-retirement contributions into the current election campaign bank accounts.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R16-196]

PREAMBLE

- 1. **Article, Part or Sections Affected (as applicable)** **Rulemaking Action**
 R2-20-115 New Section
- 2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
 Authorizing statute: A.R.S. § 16-940, et seq.
 Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
 The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.
- 3. **The effective date of the rule and the agency’s reason it selected the effective date:**
 The amendments will be effective January 1, 2017. The rule amendments were not adopted unanimously.
- 4. **A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
 Notice of Proposed Exempt Rulemaking: 22 A.A.R. 1895, July 22, 2016
- 5. **The agency’s contact person who can answer questions about the rulemaking:**
 Name: Thomas M. Collins, Executive Director
 Address: Citizens Clean Elections Commission
 1616 W. Adams St., Suite 110
 Phoenix, AZ 85007
 Telephone: (602) 364-3477
 Fax: (602) 364-3487
 E-mail: thomas.collins@azcleelections.gov
- 6. **An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
 R2-20-115. Books and Records Requirements
 As noted in the Preamble of the Notice of Proposed Exempt Rulemaking, the Commission amends and reorganizes this rule by providing a separate section for non-participating candidate requirements and campaign finance limits. Existing Section R2-20-111 is being renumbered to new Section R2-20-115.
 The Commission’s rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956.
- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 Not applicable
- 8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
- 9. **The summary of the economic, small business, and consumer impact, if applicable:**
 Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**
 As noted in the Notice of Proposed Exempt Rulemaking, the Commission amends and reorganizes this rule by providing a separate section for non-participating candidate requirements and campaign finance limits. Existing Section R2-20-111 is being renumbered to new Section R2-20-115.
 The amendment was developed by the Commission during a review of its rules and was proposed in an open meeting on May 14, 2015 and adopted unanimously in an open meeting on July 23, 2015. There were no Notices of Sup-



plemental Proposed Rulemakings related to this Section, and changes are being made to the subsection R2-20-115(B)(1) only.

11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
The Commission solicits public comment throughout the rulemaking process.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
13. **A list of any incorporated by reference material and its location in the rules:**
Not applicable
14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**
The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section
R2-20-115. Books and Records Requirements

ARTICLE 1. GENERAL PROVISIONS

R2-20-115. Books and Records Requirements

- A. All candidates shall maintain, at a single location within the state, the books and records of financial transactions, and other information required by A.R.S. § 16-904.
- B. All candidates shall ensure that the books and records of accounts and transactions of the candidate are recorded and preserved as follows:
 1. The treasurer of a candidate's campaign committee is the custodian of the candidate's books and records of accounts and transactions, and shall keep a record of all of the following:
 - a. All contributions or other monies received by or on behalf of the candidate.
 - b. The identification of any individual or political committee that makes any contribution together with the date and amount of each contribution and the date of deposit into the candidate's campaign bank account.
 - c. Cumulative totals contributed by each individual or political committee.
 - d. The name and address of every person to whom any expenditure is made, and the date, amount and purpose or reason for the expenditure.
 - e. All periodic bank statements or other statements for the candidate's campaign bank account.
 - f. In the event that the campaign committee uses a petty cash account the candidate's campaign finance report shall include the same detail for each petty cash expenditure as required in A.R.S. § 16-948(C) for each vendor.
 2. No expenditure may be made for or on behalf of a candidate without the authorization of the treasurer or his or her designated agent.
 3. Unless specified by the contributor or contributors to the contrary, the treasurer shall record a contribution made by check, money order or other written instrument as a contribution by the person whose signature or name appears on the bottom of the instrument or who endorses the instrument before delivery to the candidate. If a contribution is made by more than one person in a single written instrument, the treasurer shall record the amount to be attributed to each contributor as specified.
 4. All contributions other than in-kind contributions and qualifying contributions must be made by a check drawn on the account of the actual contributor or by a money order or a cashier's check containing the name of the actual con-



- 6. **An explanation of the rule, including the agency’s reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
 R2-20-702. Use of Funds
 Adds a new provision (moved from R2-20-109(D)) that addresses the use of Clean Funding for transportation expenses.
- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 Not applicable
- 8. **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
- 9. **The summary of the economic, small business, and consumer impact:**
 Not applicable
- 10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
 Not applicable
- 11. **A summary of the comments made regarding the rule and the agency response to them:**
 The Commissioners solicited public comment throughout the rulemaking process.
 The Commissioners considered the rule in open meetings and took actions they deemed appropriate.
- 12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
 Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**
 Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**
 Not applicable
- 13. **Incorporations by reference and their location in the rules:**
 Not applicable
- 14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**
 Not applicable
- 15. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 7. USE OF FUNDS AND REPAYMENT

Section
 R2-20-702. Use of Campaign Funds

ARTICLE 7. USE OF FUNDS AND REPAYMENT

R2-20-702. Use of Campaign Funds

- A. No change
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. Transportation expenses.



1. Except as otherwise provided in this subsection (D), the costs of transportation relating to the election of a participating statewide or legislative office candidate shall not be considered a direct campaign expense and shall not be reported by the candidate as expenditures or as in-kind contributions.
2. If a participating candidate travels for campaign purposes in a privately owned automobile, the candidate may:
 - a. Use campaign funds to reimburse the owner of the automobile at a rate not to exceed the state mileage reimbursement rate in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure and reported in the reporting period in which the expenditure was incurred. If a candidate chooses to use campaign funds to reimburse, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement was made. This subsection applies to candidate owned automobiles in addition to any other automobile.
 - b. Use campaign funds to pay for direct fuel purchases for the candidate's automobile only and shall be reported. If a candidate chooses to use campaign funds for direct fuel purchases, the candidate shall keep an itinerary of the trip, including name and type of events(s) attended, miles traveled and the rate at which the reimbursement could have been made.
3. Use of airplanes.
 - a. If a participating candidate travels for campaign purposes in a privately owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the owner of the airplane at a rate of \$150 per hour of flying time, in which event the reimbursement shall be considered a direct campaign expense and shall be reported as an expenditure. If the owner of the airplane is unwilling or unable to accept reimbursement, the participating candidate shall remit to the fund an amount equal to \$150 per hour of flying time.
 - b. If a participating candidate travels for campaign purposes in a state-owned airplane, within 7 days from the date of travel, the candidate shall use campaign funds to reimburse the state for the portion allocable to the campaign in accordance with subsection 3a, above. The portion of the trip attributable to state business shall not be reimbursed. If payment to the State is not possible, the payment shall be remitted to the Clean Elections Fund.
4. If a participating candidate rents a vehicle or purchases a ticket or fare on a commercial carrier for campaign purposes, the actual costs of such rental (including fuel costs), ticket or fare shall be considered a direct campaign expense and shall be reported as an expenditure.

NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF HEALTH SERVICES OCCUPATIONAL LICENSING

[R16-190]

- 1. Title and its heading:** 9, Health Services
Chapter and its heading: 16, Department of Health Services - Occupational Licensing
Articles and their headings: 4, Registration of Sanitarians
Section numbers: R9-16-401 through R9-16-409 and Table 1 (*The Department may add, delete, or modify Sections, as necessary.*)

2. The subject matter of the proposed rules:

Arizona Revised Statutes (A.R.S.) § 36-136.01 requires the Department to establish a sanitarians council and establish rules for the registration of sanitarians. The Department adopted at Arizona Administrative Code (A.A.C.) Title 9, Chapter 16, Article 4 rules to implement A.R.S. § 36-136.01. The rules were originally promulgated in September 1976; substantially amended effective May 16, 2002; and last amended effective September 11, 2004. The rules in contains definitions; examination, registration, and renewal registration requirements; continuing education requirements; time-frames; registered sanitarian's authority; and criteria for the denial, suspension, or revocation of a sanitarian registration.

Presently, a statewide shortage of registered sanitarians limits most county health departments (CHD) from conducting the functions and duties, including enforcement actions to remediate public nuisances, required by Delegation Agreements between the Department and the CHDs. To address the shortage in registered sanitarians and eliminate the threat to public health and safety, the Department plans to amend the rules in A.A.C. Title 9, Chapter 16, Article 4 to: 1.) increase the number of qualified individuals approved to take the sanitarian examination by expanding the eligibility criteria to sit for the sanitarian examination administered by the Department; 2.) simplify the application process to decrease burden to applicants and reduce the Department's administrative costs; and 3.) adjust the sanitarian examination fee to cover the actual cost of the examination and remove the burden from taxpayers who are currently subsidizing the cost of sanitarian examinations administered by the Department. The proposed amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State. The Department may add, delete, or modify Sections, as necessary.

3. A citation to all published notices relating to the proceeding:

None

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

Name: Brigitte Dufour, Chief
Address: Arizona Department of Health Services
Division of Public Health Services, Public Health Preparedness
Office of Environmental Health
150 N. 18th Ave. Suite 140
Phoenix, AZ 85007-3232
Telephone: (602) 364-3142
Fax: (602) 364-3146
E-mail: Brigitte.Dufour@azdhs.gov
or



Name: Robert Lane, Manager
 Address: Arizona Department of Health Services
 Office of Administrative Counsel and Rules
 150 N. 18th Ave., Suite 200
 Phoenix, AZ 85007-3232
 Telephone: (602) 542-1020
 Fax: (602) 364-1150
 E-mail: Robert.Lane@azdhs.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

Written comments will be accepted at the addresses listed in item #4 until the close of record, which has not yet been determined. The Department has not scheduled any oral proceedings at this time.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be announced in the Notice of Proposed Rulemaking

NOTICE OF RULEMAKING DOCKET OPENING

**DEPARTMENT OF PUBLIC SAFETY
 CRIMINAL IDENTIFICATION SECTION**

[R16-191]

- 1. Title and its heading:** 13, Public Safety
- Chapter and its heading:** 1, Department of Public Safety - Criminal Identification Section
- Article and its heading:** 5, Department Records
- Section numbers:** R13-1-504 (*Sections may be added, deleted, or modified as necessary.*)

2. The subject matter of the proposed rule:

In an effort to comply with the Governor’s initiative to provide modern electronic reports to the public over traditional paper, R13-1-504 requires amendment to establish fees for additional delivery options for public records; such as, compact disk, flash/memory drives and other electronic delivery methods. This rulemaking establishes those standards.

The Department was granted an exception to the rulemaking moratorium contained in Executive Order 2016-03 in an e-mail from Mr. Tim Roemer dated September 1, 2016.

3. A citation to all published notices relating to the proceeding:

None published.

4. Name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Captain Daryll Willis
 Address: Department of Public Safety
 Mailing: POB 6638 Mail drop 1205
 Phoenix, AZ 85005-6638
 Telephone: (602) 223-2500
 E-mail: dwillis@azdps.gov
 Web site: www.azdps.gov

or

Name: Ms. Rebecca Luera
 Address: Department of Public Safety
 Mailing: POB 6638 Mail Drop 3240
 Phoenix, AZ 85005-6638
 In Person: 2222 W. Encanto Blvd.
 Phoenix, AZ 85009
 Telephone: (602) 223-2226
 E-mail: rluera@azdps.gov
 Web site: www.azdps.gov



5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Department will accept comments during business hours at the address listed in Item 4 until the close of record. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. A timetable for agency decisions or other action on the proceeding, if known:

To be determined.



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2016-03

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2016, as a notice to the public regarding state agencies' rulemaking activities.

[M16-29]

WHEREAS, Arizona is poised to lead the nation in job growth;

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, small businesses and startups are especially hurt by regulations;

WHEREAS, each agency of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace, or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court or the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To comply with a state statutory requirement.
g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
j. To eliminates rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded



from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.

4. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule,” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
5. This Executive Order expires on December 31, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey
GOVERNOR

DONE at the Capitol in Phoenix on this Eighth day of February in the Year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-Fourth.

ATTEST:

Michele Reagan
Secretary of State



COUNTY NOTICES ACCORDING TO A.R.S. § 49-112

This section of the Arizona Administrative Register contains County Notices (according to A.R.S. § 49-112). Each county writes rules and regulations in its own unique style. Although these notices are published in the Register, they do not conform to the standards specified in

the Arizona Rulemaking Manual. With the exception of minor formatting changes, County Notices (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

NOTICE OF FINAL RULEMAKING

MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

REGULATION II - PERMITS AND FEES

RULE 241: MINOR NEW SOURCE REVIEW (NSR)

[M16-218]

PREAMBLE

- 1. Rule affected: Rule 241: Minor New Source Review (NSR); Rulemaking action: Amend
2. Statutory authority for the rulemaking: Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480; Implementing Statute: A.R.S. § 49-112
3. The effective date of the rule: Date of Adoption: September 7, 2016
4. List of public notices addressing the rulemaking: Notice of Briefing to Maricopa County Manager: March 2016; Notice of Stakeholder Workshop: April 1, 2016; Notice of Maricopa County Board of Health Meeting: April 25, 2016; Notice of Proposed Rulemaking: 22 A.A.R. 1116, May 13, 2016
5. Name and address of department personnel with whom persons may communicate regarding the rulemaking: Name: Johanna M. Kuspert or Hether Krause; Maricopa County Air Quality Department; Planning and Analysis Division; Address: 1001 N Central Avenue, Suite 125; Phoenix, Arizona 85004; Telephone: (602) 506-6010; Fax: (602) 506-6179; E-mail: aqplanning@mail.maricopa.gov
6. Explanation of the rule, including the department's reasons for initiating the rulemaking: Summary: Rule 241 provides a procedure for the review of new sources and modifications to existing sources of air pollution requiring permits or permit revisions for the protection of the national ambient air quality standards (NAAQS). Revisions in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide. Stakeholders requested that Rule 241 be revised to be consistent with the federal thresholds.

In addition, the amendments correct typographical or other clerical errors; make minor grammatical changes to improve readability or clarity; modify the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules; or make various other minor changes of a purely editorial nature. As these changes



do not alter the sense, meaning, or effect of the rules, they are not described in detail here, but can be readily discerned in the “underline/ strikeout” version of the rules contained in Item 14 of this notice.

Description of Amendments:

- Section 102 (Applicability): Stakeholders submitted comments after the workshop conducted on April 1, 2016. Stakeholders proposed introductory text for Section 102.1 to state that it applies to new sources and introductory text to Section 102.2 to state that it applies to existing sources. In addition, Stakeholders proposed that Section 102.2 be changed to match text in the Arizona Department of Environmental Quality’s (ADEQ’s) Rule R18-2-334(A)(3) (Minor New Source Review); “if the modification” should be added between “minor NSR modification” and “would increase” and “maximum capacity to emit” should be changed to “potential to emit”. Stakeholders also proposed that “permit limit” be added to the phrase “increase the source’s permit limit or potential to emit that pollutant...”; however, after consideration, the department has not proposed this change, because a permit limit and potential to emit may not be equivalent.
- Section 304.1 (BACT Required): Changed the BACT requirement for any new stationary source which emits 40 or more tons per year (instead of 25 or more tons per year) of volatile organic compounds, nitrogen oxides, or sulfur dioxide
- Section 304.2 (BACT Required): Changed the BACT requirement for any modified existing stationary source if the modification causes an increase in the source’s potential to emit 40 or more tons per year (instead of 25 or more tons per year) of volatile organic compounds, nitrogen oxides, or sulfur dioxide. Stakeholders submitted comments after the workshop conducted on April 1, 2016. Stakeholders proposed that “maximum capacity to emit” be changed to “potential to emit” and that “existing” be added between “modified” and “stationary source”. Stakeholders also proposed that “permit limit” be added to the phrase “increase the source’s permit limit or potential to emit...”; however, after consideration, the department has not proposed this change, because a permit limit and potential to emit may not be equivalent.
- Section 305 (RACT Required): Changed the RACT requirement for any new or modified existing stationary source which emits or causes an increase in the source’s potential to emit up to 40 tons per year (instead of 25 tons per year) of volatile organic compounds, nitrogen oxides, or sulfur dioxide. Stakeholders submitted comments after the workshop conducted on April 1, 2016. Stakeholders proposed that “emissions of” be changed to “potential to emit” and that “existing” be added between “modified” and “stationary source”.

7. Demonstration of compliance with A.R.S. §49-112:

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or other regulation is either;
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or other regulation will not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

§ 49-112(B)



When authorized by law, a county may adopt rules, ordinances or other regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or other regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department complies with A.R.S. § 49-112(A) in that Maricopa County fails to meet the NAAQS for both ozone and particulates. The county recently failed to meet the 2008 8-hour ozone standard by the marginal area attainment date and has been reclassified as “moderate”. Further, a portion of the county was classified as a serious ozone nonattainment area under the previous 1-hour ozone standard requiring the county to continue to maintain the measures and requirements that allowed the county to attain that standard. Currently, a portion of Maricopa County and Apache Junction in Pinal County is designated serious nonattainment for the PM₁₀ 24-hour standard. This is the only serious PM₁₀ nonattainment area in Arizona. Maricopa County's permit rules are substantially identical to or impose no greater procedural burden than procedures for the review, issuance, revision and administration of permits issued by the State. However, Maricopa County's rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source's proximity to the PM₁₀ and ozone nonattainment areas and specific atmospheric, geographical conditions found at the source's location, and control technology provisions required by the Clean Air Act for nonattainment areas, and other control measures adopted into various nonattainment State Implementation Plans (SIPs) for Maricopa County. Specifically, various SIPs for Maricopa County have required the adoption of RACT, BACT, and most stringent measures (MSM) as required by CAA §§ 172, 182, 188, and 189.

The department complies with A.R.S. § 49-112 in that (1) the amendments to Rule 241 are not more stringent than or in addition to a provision of Title 49 or rule adopted by the director or any board or commission authorized to adopt rules pursuant to Title 49, (2) Rule 241 addresses the peculiar local conditions in Maricopa County and addresses long-standing federal requirements for nonattainment areas, and (3) the amendments to Rule 241 are authorized under A.R.S. Title 49, Chapter 3, Article 3 and consequently are not in lieu of a state program.

8. Documents and/or studies referenced and/or reviewed for this rulemaking:

Not applicable

9. 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:

Not applicable

10. Summary of the economic, small business, and consumer impact:

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055.

An identification of the rulemaking.

This rulemaking revises Rule 241 (Minor New Source Review (NSR)). Revisions in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide to be consistent with the federal thresholds.

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

The persons who will be directly affected by and bear the costs of this rulemaking will be owners or operators of hot mix asphalt plants, sand and gravel facilities, coating facilities, facilities with large or numerous boilers and/or engines, facilities that have installed low nitrogen oxide (NO_x) boilers and engines, coating facilities that have elected to use low volatile organic compound (VOC) coatings, and facilities that have installed VOC controls.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.



Because this rulemaking does not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department deemed that none of the revisions have potentially significant economic impacts on permitted sources. In addition, the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking

The rule revisions will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.

The department does not anticipate these rule revisions to have a significant impact on a person's income, revenue, or employment in this state related to this activity. The rule revision will not impose increased monetary or regulatory costs on individuals so regulated.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

The rule revisions will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

A statement of the probable impact of the rulemaking on small businesses.

The rule revisions will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated.

(a) An identification of the small businesses subject to the rulemaking.

Small businesses subject to this rulemaking include hot mix asphalt plants, sand and gravel facilities, coating facilities, facilities with large or numerous boilers and/or engines, facilities that have installed low nitrogen oxide (NO_x) boilers and engines, coating facilities that have elected to use low volatile organic compound (VOC) coatings, and facilities that have installed VOC controls.

(b) The administrative and other costs required for compliance with the rulemaking.

To be consistent with the federal thresholds, revisions proposed in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide.

(c) A description of the methods that the agency may use to reduce the impact on small businesses.

(i) Establishing less costly compliance requirements in the rulemaking for small businesses.

By changing BACT and RACT thresholds to be consistent with federal thresholds, this rulemaking lessens or eases the regulatory burden for small businesses.

(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.

By changing BACT and RACT thresholds to be consistent with federal thresholds, this rulemaking lessens or eases the regulatory burden for small businesses.

(iii) Exempting small businesses from any or all requirements of the rulemaking.

By changing BACT and RACT thresholds to be consistent with federal thresholds, this rulemaking lessens or eases the regulatory burden for small businesses.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.

This rulemaking does not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and will not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

**A statement of the probable effect on state revenues.**

The rule revisions will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

Revisions in Rule 241 include changing the threshold when new or modified stationary sources are required to apply Best Available Control Technology (BACT) and Reasonably Available Control Technology (RACT) from 25 tons per year to 40 tons per year for volatile organic compounds, nitrogen oxides, or sulfur dioxide to be consistent with the federal thresholds.

11. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:

Name: Johanna M. Kuspert or Hether Krause
Maricopa County Air Quality Department
Planning and Analysis Division
Address: 1001 N Central Avenue, Suite 125
Phoenix, AZ 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179
E-mail: aqplanning@mail.maricopa.gov

12. Description of the changes between the proposed rule, including supplemental notices and final rule:

Since the Notice of Proposed Rulemaking was published on May 13, 2016 (22 A.A.R. 1116), the department made the following amendments:

- Section 102 (Applicability): Simplified the introductory statement by stating "...the provisions of this rule shall apply to the construction of any new or modified Title V or Non-Title V source" instead of stating "...the provisions of this rule shall apply to the construction of any new or modified Title V or Non-Title V source and any minor NSR modification to a Title V or Non-Title V source". The meaning and effect of this section has not changed.
- Section 102.1: Changed the sentence structure, because the phrase "potential to emit that pollutant" is confusing. Changed Section 102.1 from "For new sources, a regulated minor NSR pollutant emitted by a stationary source will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold; or" to "A new source has the potential to emit a regulated minor NSR pollutant in an amount equal to or greater than the permitting threshold; or". The meaning and effect of this section has not changed.
- Section 102.2: Changed the sentence structure, because the phrase "potential to emit that pollutant" is confusing. Changed Section 102.2 from "For existing sources, an increase in emissions of a regulated minor NSR pollutant from a minor NSR modification, if the modification would increase the source's potential to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold" to "An existing source increases emissions of a regulated minor NSR pollutant from a minor NSR modification by an amount equal to or greater than the minor NSR modification threshold". The meaning and effect of this section has not changed.
- Section 303: Changed the heading from "Review Of NAAQS Compliance" to "Determination For Ambient Air Quality Impact Assessment", so terms are consistent.
- Sections 304.1(a)-(g) and 304.2(a)-(g) (BACT Required): Changed "more than x tons per year" to "x or more tons per year"; this will include 40, 15, 100, 10, and 0.3 tons per year under the BACT requirement, whereas when it was written as "more than x tons per year", such specific amounts were inadvertently excluded from the BACT requirement.
- Section 308: Changed the heading from "NAAQS Compliance Assessment" to "Ambient Air Quality Impact Assessment", so terms are consistent.

13. Summary of the comments made regarding the rule and the department response to them:

No comments were submitted during the 30-day comment period – May 13, 2016 through June 13, 2016

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



Not applicable

15. Incorporations by reference and their location in the rule:

Not applicable

16. Was this rule previously an emergency rule?

No

17. Full text of the rule follows:

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES
RULE 241
MINOR NEW SOURCE REVIEW (NSR)**

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Adopted 11/15/1993; Revised 06/19/1996; Revised 02/03/2016; **Revised 09/07/2016**

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION II - PERMITS AND FEES
RULE 241
MINOR NEW SOURCE REVIEW (NSR)**

SECTION 100 - GENERAL

- 101 PURPOSE:** To provide a procedure for the review of new sources and modifications to existing sources of air pollution requiring permits or permit revisions for the protection of the national ambient air quality standards (NAAQS).



102 APPLICABILITY: Except as provided in Section 103 of this rule, the provisions of this rule shall apply to the construction of any new or modified Title V or Non-Title V source ~~and any minor NSR modification to a Title V or Non-Title V source~~, when:

102.1 ~~A regulated minor NSR pollutant emitted by a new stationary source will have the potential to emit that pollutant at an amount equal to or greater than the permitting threshold, or A new source has the potential to emit a regulated minor NSR pollutant in an amount equal to or greater than the permitting threshold; or~~

102.2 ~~An increase in emissions of a regulated minor NSR pollutant from a minor NSR modification would increase the source's maximum capacity to emit that pollutant by an amount equal to or greater than the minor NSR modification threshold. An existing source increases emissions of a regulated minor NSR pollutant from a minor NSR modification by an amount equal to or greater than the minor NSR modification threshold.~~

103 EXEMPTION: The provisions of this rule shall not apply to the emissions of a pollutant from any of the activities identified in Section 102 of this rule, if the emissions of that pollutant are subject to major source requirements under Rule 240 (Federal Major New Source Review (NSR)) of these rules.

SECTION 200 – DEFINITIONS (NOT APPLICABLE) See Rule 100 (General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

SECTION 300 - STANDARDS:

301 PERMIT OR PERMIT REVISION REQUIRED: An owner or operator of a source shall not begin actual construction:

301.1 Of a new stationary source, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.

301.2 Of a minor NSR modification, subject to this rule, without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Control Officer in accordance with Rule 210 or Rule 220 of these rules.

302 BEST AVAILABLE CONTROL TECHNOLOGY (BACT) OR REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIRED: The Control Officer shall not issue a proposed final Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule to an owner or operator of a source proposing to construct a new source or make a minor NSR modification unless such owner or operator implements BACT or RACT, as required by Sections 304 or 305 of this rule.

303 REVIEW OF NAAQS COMPLIANCE DETERMINATION FOR AMBIENT AIR QUALITY IMPACT ASSESSMENT: Notwithstanding the implementation of RACT or BACT under this rule, an applicant for a permit subject to this rule shall conduct an ambient air quality impact assessment under Section 308 of this rule upon the Control Officer's request. The Control Officer shall make such request, if there is reason to believe that a new source or minor NSR modification could interfere with attainment or maintenance of a national ambient air quality standard. In making the determination under this section of this rule, the Control Officer shall take into consideration:

303.1 The source's emission rates.

303.2 The location of emission units within the facility and their proximity to the ambient air.

303.3 The terrain in which the source is or will be located.

303.4 The source type.

303.5 The location and emissions of nearby sources.

303.6 Background concentrations of regulated minor NSR pollutants.

304 BACT REQUIRED: An applicant for a permit or permit revision subject to Rules 210, 220, or 230 of these rules shall implement BACT for each pollutant emitted which exceeds any of the threshold limits set forth in any one of the following criteria:

304.1 Any new stationary source which emits: ~~more than 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide, or ; more than 15 tons/yr of PM10; more than 100 tons/yr of carbon monoxide; more than 10 tons/yr of PM2.5; or more than 0.3 tons/yr of lead.~~



- a. 40 or more tons/yr of volatile organic compounds; or
- b. 40 or more tons/yr of nitrogen oxides; or
- c. 40 or more tons/yr of sulfur dioxide; or
- d. 15 or more tons/yr of PM₁₀; or
- e. 100 or more tons/yr of carbon monoxide; or
- f. 10 or more tons/yr of PM_{2.5}; or
- g. 0.3 or more tons/yr of lead.

304.2 Any modified existing stationary source if the modification causes an increase in the source's maximum capacity potential to emit in any of the amounts listed in Sections 304.2(a)-(g) of this rule, ~~more than 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide; more than 15 tons/yr of PM₁₀; more than 100 tons/yr of carbon monoxide; more than 10 tons/yr of PM_{2.5}; or more than 0.3 tons/yr of lead.~~ BACT is only required for the emission unit or group of emission units being modified.

- a. 40 or more tons/yr of volatile organic compounds; or
- b. 40 or more tons/yr of nitrogen oxides; or
- c. 40 or more tons/yr of sulfur dioxide; or
- d. 15 or more tons/yr of PM₁₀; or
- e. 100 or more tons/yr of carbon monoxide; or
- f. 10 or more tons/yr of PM_{2.5}; or
- g. 0.3 or more tons/yr of lead.

305 **RACT REQUIRED:** An applicant for a permit or permit revision for a new or modified existing stationary source which emits or causes an increase in ~~emissions of the source's potential to emit in any of the following amounts shall implement RACT for each pollutant emitted from said new or modified existing stationary source: up to 25 tons/yr of volatile organic compounds, nitrogen oxides, sulfur dioxide; up to 15 tons/yr of PM₁₀; up to 100 tons/yr of carbon monoxide; up to 10 tons/yr of PM_{2.5}; or up to 0.3 tons/yr of lead shall implement RACT for each pollutant emitted from said new or modified stationary source.~~

- 305.1** Up to 40 tons/yr of volatile organic compounds; or
- 305.2** Up to 40 tons/yr of nitrogen oxides; or
- 305.3** Up to 40 tons/yr of sulfur dioxide; or
- 305.4** Up to 15 tons/yr of PM₁₀; or
- 305.5** Up to 100 tons/yr of carbon monoxide; or
- 305.6** Up to 10 tons/yr of PM_{2.5}; or
- 305.7** Up to 0.3 tons/yr of lead.

306 **BACT DETERMINATIONS:** The Control Officer shall determine BACT, as appropriate, for each emission unit subject to the BACT requirements under Section 304 of this rule. BACT shall be determined as follows:

- 306.1** An applicant for a permit or permit revision for a new or modified stationary source shall present an emissions analysis to determine whether the future emissions increase will trigger BACT requirements.
- 306.2** The applicant shall conduct a BACT analysis for each pollutant which exceeds the BACT threshold. The applicant may conduct a case-by-case analysis.
- 306.3** The applicant may accept legally and practically enforceable limits on the operation of their source in order to restrict emissions to below the BACT thresholds and avoid imposition of BACT in accordance with Rule 220, Section 304 of these rules. At such time as the applicability of any requirement of this rule would be triggered by an existing source solely by virtue of a relaxation of any enforceable limitation on the capacity of the source to



emit a pollutant, then the requirements of this rule will apply to the source in the same way as they would apply to a new or modified source otherwise subject to this rule.

- 306.4** In the case of a modification, the selection of BACT shall address the emission unit or group of emission units being modified.
- 307 RACT DETERMINATIONS:** The Control Officer shall determine RACT, as appropriate, for each emission unit subject to the RACT requirements under Section 305 of this rule. RACT shall be determined as follows:
- 307.1** For any facilities subject to a source-specific rule under Regulation III-Control of Air Contaminants of these rules, RACT is the emissions limitation of the existing source performance standard.
- 307.2** For any facilities not subject to a source-specific rule under Regulation III-Control of Air Contaminants of these rules, RACT is the lowest emission limitation that a particular source is capable of achieving by the application of control technology that is reasonably available considering technological and economic feasibility and shall be determined by one of the following:
- a.** Technology that may previously have been applied to a similar, but not necessarily identical, source category. RACT for a particular facility is determined on a case-by-case basis, considering the technological feasibility and cost-effectiveness of the application of the control technology to the source category.
 - b.** A control technique guideline issued by the Administrator under section 108(f)(1) of the Act.
 - c.** An emissions standard established or revised by the Administrator for the same type of source under section 111 or 112 of the Act after November 15, 1990.
- 308 NAAQS COMPLIANCE AMBIENT AIR QUALITY IMPACT ASSESSMENT:** An ambient air quality impact assessment must demonstrate that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of any national ambient air quality standard.
- 308.1** An owner or operator of a source may elect to have the Control Officer perform a screening model of its emissions. If the results of the screening model indicate that the source or minor NSR modification will interfere with attainment or maintenance of any national ambient air quality standard, the owner or operator may perform a more refined model to make the demonstration required by this rule.
- 308.2** The requirements of this rule shall be satisfied, if the results of the screen or more refined modeling conducted pursuant to Section 308.1 of this rule demonstrate either of the following:
- a.** Ambient concentrations resulting from emissions from the source or modification combined with existing concentrations of regulated minor NSR pollutants will not cause or contribute to a violation of any national ambient air quality standard.
 - b.** Emissions from the source or minor modification will have an ambient impact below the significance levels as defined in Rule 240 of these rules.
- 308.3** The assessment required by this rule shall take into account any limitations, controls, or emissions decreases that are or will be enforceable in the permit or permit revision for the source.
- 309 APPLICATION DENIAL:** The Control Officer shall deny an application for a Title V permit or permit revision or a Non-Title V permit or permit revision subject to this rule, if:
- 309.1** An assessment conducted pursuant to Section 308 of this rule demonstrates that the source or permit revision will interfere with attainment or maintenance of any national ambient air quality standard; or
- 309.2** The new or modified source will violate applicable State Implementation Plan (SIP) requirements.
- 310 PUBLIC NOTICE:** Public notice requirements pursuant to Rules 210 and 220 of these rules shall be required for a permit or permit revision if the emissions of any one pollutant are equal to or greater than the public notice threshold as defined in Rule 100 of these rules. The Control Officer shall hold a public hearing upon written request. If a public hearing is requested, the Control Officer shall schedule the public hearing and publish a notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located and by other means if necessary to assure adequate notice to the affected public. The Control Officer shall give notice of any public hearing at least 30 days in advance of the public hearing.



- 311 **NOTICE TO OTHER AGENCIES:** A copy of the notice required by Rule 210, Section 408 for permits or significant permit revisions or Rule 220, Section 407 of these rules for permits or non-minor permit revisions subject to this rule must also be sent to the Administrator through the appropriate regional office. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under this rule.
- 312 **MODELING REQUIRED:** All modeling required pursuant to this rule shall be conducted in accordance with 40 CFR 51, Appendix W.
- 313 **PERMIT CONDITIONS SPECIFIED PURSUANT TO THIS RULE:** The Control Officer shall specify those conditions in the permit that are implemented pursuant to this rule. The specified conditions shall be included in subsequent permit renewals unless modified pursuant to this rule or Rule 240 of these rules.
- 314 **CIRCUMVENTION:** The submission of applications for permits or permit revisions for new or modified sources in phases so as to circumvent the requirements of this section is prohibited. The burden of proof to show that an application for a permit or permit revision is not being submitted as a phase of a larger project shall be upon the applicant. A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, conceals or dilutes an emission which would otherwise constitute a violation of this section. A person shall not circumvent this section to dilute air contaminants by using more emission openings than is considered normal practice by the industry or by the activity in question.
- 315 **SOURCE OBLIGATION:** The issuance of a permit or permit revision under this rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan (SIP) and any other requirements under local, State, or Federal law.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

REGISTER INDEXES

The *Register* is published by volume in a calendar year (See “Information” in the front of each issue for a more detailed explanation).

Abbreviations for rulemaking activity in this Index include:

PROPOSED RULEMAKING

PN = Proposed new Section
PM = Proposed amended Section
PR = Proposed repealed Section
P# = Proposed renumbered Section

SUPPLEMENTAL PROPOSED RULEMAKING

SPN = Supplemental proposed new Section
SPM = Supplemental proposed amended Section
SPR = Supplemental proposed repealed Section
SP# = Supplemental proposed renumbered Section

FINAL RULEMAKING

FN = Final new Section
FM = Final amended Section
FR = Final repealed Section
F# = Final renumbered Section

SUMMARY RULEMAKING**PROPOSED SUMMARY**

PSMN = Proposed Summary new Section
PSMM = Proposed Summary amended Section
PSMR = Proposed Summary repealed Section
PSM# = Proposed Summary renumbered Section

FINAL SUMMARY

FSMN = Final Summary new Section
FSMM = Final Summary amended Section
FSMR = Final Summary repealed Section
FSM# = Final Summary renumbered Section

EXPEDITED RULEMAKING**PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section
PEM = Proposed Expedited amended Section
PER = Proposed Expedited repealed Section
PE# = Proposed Expedited renumbered Section

SUPPLEMENTAL EXPEDITED

SPEN = Supplemental Proposed Expedited new Section
SPEM = Supplemental Proposed Expedited amended Section
SPER = Supplemental Proposed Expedited repealed Section
SPE# = Supplemental Proposed Expedited renumbered Section

FINAL EXPEDITED

FEN = Final Expedited new Section
FEM = Final Expedited amended Section
FER = Final Expedited repealed Section
FE# = Final Expedited renumbered Section

EXEMPT RULEMAKING**EXEMPT PROPOSED**

PXN = Proposed Exempt new Section
PXM = Proposed Exempt amended Section
PXR = Proposed Exempt repealed Section
PX# = Proposed Exempt renumbered Section

EXEMPT SUPPLEMENTAL PROPOSED

SPXN = Supplemental Proposed Exempt new Section
SPXR = Supplemental Proposed Exempt repealed Section
SPXM = Supplemental Proposed Exempt amended Section
SPX# = Supplemental Proposed Exempt renumbered Section

FINAL EXEMPT RULMAKING

FXN = Final Exempt new Section
FXM = Final Exempt amended Section
FXR = Final Exempt repealed Section
FX# = Final Exempt renumbered Section

EMERGENCY RULEMAKING

EN = Emergency new Section
EM = Emergency amended Section
ER = Emergency repealed Section
E# = Emergency renumbered Section
EEXP = Emergency expired

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

TN = Terminated proposed new Sections
TM = Terminated proposed amended Section
TR = Terminated proposed repealed Section
T# = Terminated proposed renumbered Section

RULE EXPIRATIONS

EXP = Rules have expired

See also “emergency expired” under emergency rulemaking

CORRECTIONS

C = Corrections to Published Rules

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2016 RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/1	2/1	4/1	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/2	2/2	4/2	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/3	2/3	4/3	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/4	2/4	4/4	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/5	2/5	4/5	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/6	2/6	4/6	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/7	2/7	4/7	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/8	2/8	4/8	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/9	2/9	4/9	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/10	2/10	4/10	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/11	2/11	4/11	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/12	2/12	4/12	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/13	2/13	4/13	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/14	2/14	4/14	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/15	2/15	4/15	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/16	2/16	4/16	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/17	2/17	4/17	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/18	2/18	4/18	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/19	2/19	4/19	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/20	2/20	4/20	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/21	2/21	4/21	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/22	2/22	4/22	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/23	2/23	4/23	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/24	2/24	4/24	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/25	2/25	4/25	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/26	2/26	4/26	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/27	2/27	4/27	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/28	2/28	4/28	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/29	2/29	4/29	3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/30			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	3/31			3/31	5/30			5/31	7/30		



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30/13
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1/13	12/2	1/31/13
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2/13	12/3	2/1/13
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3/13	12/4	2/2/13
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4/13	12/5	2/3/13
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5/13	12/6	2/4/13
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6/13	12/7	2/5/13
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7/13	12/8	2/6/13
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8/13	12/9	2/7/13
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9/13	12/10	2/8/13
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10/13	12/11	2/9/13
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11/13	12/12	2/10/13
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12/13	12/13	2/11/13
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13/13	12/14	2/12/13
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14/13	12/15	2/13/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15/13	12/16	2/14/13
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16/13	12/17	2/15/13
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17/13	12/18	2/16/13
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18/13	12/19	2/17/13
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19/13	12/20	2/18/13
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20/13	12/21	2/19/13
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21/13	12/22	2/20/13
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22/13	12/23	2/21/13
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23/13	12/24	2/22/13
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24/13	12/25	2/23/13
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25/13	12/26	2/24/13
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26/13	12/27	2/25/13
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27/13	12/28	2/26/13
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28/13	12/29	2/27/13
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29/13	12/30	2/28/13
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1/13



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from June 10, 2016 to December 30, 2016.



GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor’s Regulatory Review Council. Council meetings and *Register* deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by noon of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit www.grrc.state.az.us.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2016

DEADLINE TO BE PLACED ON COUNCIL AGENDA	FINAL MATERIALS DUE FROM AGENCIES	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
November 17, 2015	December 18, 2015	December 29, 2015	January 5, 2016
December 21, 2015	January 15, 2016	January 26, 2016	February 2, 2016
January 19, 2016 (Tuesday)	February 12, 2016	February 23, 2016	March 1, 2016
February 16, 2016 (Tuesday)	March 18, 2016	March 29, 2016	April 5, 2016
March 21, 2016	April 15, 2016	April 26, 2016	May 5, 2016
April 18, 2016	May 20, 2016	June 1, 2016 (Wednesday)	June 7, 2016
May 23, 2016	June 17, 2016	June 28, 2016	July 6, 2016 (Wednesday)
June 20, 2016	July 15, 2016	July 26, 2016	August 2, 2016
July 18, 2016	August 19, 2016	August 30, 2016	September 7, 2016 (Wednesday)
August 22, 2016	September 16, 2016	September 27, 2016	October 4, 2016
September 19, 2016	October 14, 2016	October 25, 2016	November 1, 2016
October 17, 2016	November 18, 2016	November 29, 2016	December 6, 2016
November 21, 2016	December 16, 2016	December 28, 2016 (Wednesday)	January 4, 2017 (Wednesday)

*Materials must be submitted by **noon** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.



GOVERNOR'S REGULATORY REVIEW COUNCIL
NOTICE OF ACTION TAKEN AT THE
SEPTEMBER 7, 2016 MEETING

[M16-219]

RULES:

ARIZONA STATE LOTTERY COMMISSION (R-16-0901)

Title 19, Chapter 3, Article 5, Procurements

Amend: R19-3-501; R19-3-505; R19-3-506; R19-3-508; R19-3-509; R19-3-510; R19-3-514;
R19-3-517; R19-3-518; R19-3-520; R19-3-521; R19-3-523; R19-3-524; R19-3-525;
R19-3-526; R19-3-527; R19-3-528; R19-3-531; R19-3-532; R19-3-534; R19-3-535;
R19-3-544; R19-3-545; R19-3-546; R19-3-547; R19-3-549; R19-3-553; R19-3-562;
R19-3-564; R19-3-566; R19-3-569

New Section: R19-3-563

Renumber: R19-3-563; R19-3-564; R19-3-565; R19-3-566; R19-3-567; R19-3-568; R19-3-569

Repeal: R19-3-533

COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF HEALTH SERVICES (R-16-0902)

Title 9, Chapter 14, Article 6, Licensing of Environmental Laboratories

Amend: R9-14-601; R9-14-602; R9-14-603; R9-14-605; R9-14-606; R9-14-607; R9-14-608;
R9-14-609; R9-14-610; R9-14-611; R9-14-612; R9-14-613; R9-14-614; R9-14-615;
R9-14-616; R9-14-617; R9-14-620; R9-14-621; Table 6.1

New Section: Table 6.2.A; Table 6.2.B; Table 6.2.C; Table 6.2.D; Table 6.2.E; Table 6.3; Table 6.4

Renumber: Table 1; Table 6.1

Repeal: Exhibit I; Exhibit II

COUNCIL ACTION: APPROVED, IMMEDIATE EFFECTIVE DATE OF OCTOBER 1, 2016

INDUSTRIAL COMMISSION OF ARIZONA (R-16-0903)

Title 20, Chapter 5, Article 7, Self-Insurance Requirements for Workers' Compensation Pools Organized under A.R.S. § 23-961.01

Amend: R20-5-715

COUNCIL ACTION: APPROVED, IMMEDIATE EFFECTIVE DATE

FIVE-YEAR-REVIEW REPORTS:

ARIZONA DEPARTMENT OF ADMINISTRATION (F-16-0103)

Title 2, Chapter 7, Article 1, General Provisions; Article 2, Procurement Organization; Article 3, Source Selection and Contract Formation; Article 4, Specifications; Article 5, Procurement of Construction and



Specified Professional Services; Article 6, Contract Clauses; Article 7, Cost Principles; Article 9, Legal and Contractual Remedies; Article 10, Intergovernmental Procurement

COUNCIL ACTION: APPROVED

**ARIZONA DEPARTMENT OF FORESTRY AND FIRE MANAGEMENT
(F-16-0505)**

Title 4, Chapter 36, Article 2, Arizona State Fire Code; Article 3, International Fire Code Modifications

COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (F-16-0605)

Title 18, Chapter 9, Article 5, Grazing Best Management Practices; Article 6, Reclaimed Water Conveyances; Article 7, Direct Reuse of Reclaimed Water

COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF HEALTH SERVICES (F-16-0803)

Title 9, Chapter 16, Article 4, Registration of Sanitarians

COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF REVENUE (F-16-0805)

Title 15, Chapter 5, Article 6, Prime Contracting Classification; Article 9, Mining Classification; Article 10, Transaction Privilege Tax – Transient Lodging Classification; Article 11, Transaction Privilege Tax – Job Printing Classification; Article 13, Sales Tax – Publishing Classification; Article 14, Transporting Classification; Article 15, Personal Property Rental Classification; Article 16, Commercial Lease Classification; Article 17, Restaurant Classification; Article 18.1, Sales of Food; Article 20, General; Article 21, Utilities Classification

COUNCIL ACTION: APPROVED

ARIZONA DEPARTMENT OF PUBLIC SAFETY (F-16-0806)

Title 13, Chapter 12, Article 1, Private Investigator and Security Guard Hearing Board

COUNCIL ACTION: APPROVED