

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 19. BOARD OF NURSING

#### PREAMBLE

#### **1. Sections Affected:**

#### **Rulemaking Action:**

R4-19-601	Renumber
R4-19-601	Amend
R4-19-602	Renumber
R4-19-602	Amend
R4-19-603	Renumber
R4-19-603	Amend
R4-19-604	Renumber
R4-19-604	Amend
R4-19-605	Renumber
R4-19-605	Amend
R4-19-606	Renumber
R4-19-606	Amend
R4-19-607	Renumber
R4-19-607	Amend
R4-19-608	Renumber
R4-19-608	Amend
R4-19-609	Renumber
R4-19-609	Amend
R4-19-612	Renumber
R4-19-614	Renumber
R4-19-615	Renumber
R4-19-701	Amend
R4-19-702	Amend
R4-19-703	Repeal
R4-19-703	Renumber
R4-19-703	Amend
R4-19-704	Renumber
R4-19-704	Amend
R4-19-705	Renumber
R4-19-705	Amend
R4-19-706	Renumber

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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

Authorizing statutes: A.R.S. §§ 32-1606(A)(1) and 32-1606(B)(9)

Implementing statutes: A.R.S. §§ 32-1664, 32-1665, 39-121.01, 41-1001, 41-1023, 41-1033, 41-1056, 41-1023, 41-1091 and 41-1092 through 41-1092.12

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 2969, July 19, 2002

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

Name: Pamela K. Randolph, Nurse Practice Consultant

Address: Arizona State Board of Nursing  
1651 E. Morten, Suite 210  
Phoenix, AZ 85020

Telephone: (602) 331-8111, ext. 139

Fax: (602) 906-9365

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

The Board of Nursing is initiating rulemaking on 4 A.A.C. 19 Articles 6 and 7 to comply with the recommendations in the Board's last five-year review, approved by the Governor's Regulatory Review Council on February 5, 2002. The Board identified several rules that are inconsistent with the Administrative Procedures Act, and others that are redundant. This rulemaking will conform the rules to the APA, eliminate redundancy, and clarify the rules.

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

None

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

Not applicable

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

The Board does not anticipate that this rule package will have a direct economic impact to any entity of government or the public. The public will benefit by having rules of procedure that are consistent with the Administrative Procedure Act and clear processes for public participation in regulation. This will result in less confusion for the regulated community and the public.

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

Name: Pamela K. Randolph, Nurse Practice Consultant

Address: Arizona State Board of Nursing  
1651 E. Morten, Suite 210  
Phoenix, AZ 85020

Telephone: (602) 331-8111, ext. 139

Fax: (602) 906-9365

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

The Board has scheduled a public hearing on the proposed rulemaking on August 23, 2002 at 9:00 a.m. in the Board offices. The Board will accept written comments submitted to Ms. Randolph until the close of record on August 23, 2002 at 5:00 p.m.

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

Not applicable

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

None

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 19. BOARD OF NURSING**

**ARTICLE 6. RULES OF PRACTICE AND PROCEDURE**

Section

- ~~R4-19-601.~~      ~~Expired~~  
~~R4-19-602.~~ ~~R4-19-601.~~ ~~Initiation of a Hearing~~  
~~R4-19-603.~~ ~~R4-19-602.~~ ~~Denial of Request for Hearing~~  
~~R4-19-604.~~ ~~R4-19-603.~~ ~~Representation~~  
~~R4-19-605.~~ ~~R4-19-604.~~ ~~Notice of Hearing; Response~~  
~~R4-19-606.~~ ~~R4-19-605.~~ ~~Docket Filing; Computation of Time; Extension of Time~~  
~~R4-19-607.~~ ~~R4-19-606.~~ ~~Record of Hearings~~  
~~R4-19-612.~~ ~~R4-19-607.~~ ~~Recommended Decision~~  
~~R4-19-614.~~ ~~R4-19-608.~~ ~~Expired Rehearing or Review of Decision~~  
~~R4-19-615.~~ ~~R4-19-609.~~ ~~Expired Effectiveness of Orders~~  
R4-19-612.      ~~Recommended Decision~~ Renumbered  
R4-19-614.      ~~Rehearing or Review of Decision~~ Renumbered  
R4-19-615.      ~~Effectiveness of Orders~~ Renumbered

**ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES**

Section

- R4-19-701.      Agency Record; Directory of Substantive Policy Statements  
R4-19-702.      Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact  
~~R4-19-703.~~      ~~Public Comments~~  
R4-19-704. ~~R4-19-703.~~ ~~Oral Proceedings~~  
R4-19-705. ~~R4-19-704.~~ ~~Petition for Delayed~~ Altered Effective Date  
R4-19-706. ~~R4-19-705.~~ ~~Written Criticism of Rule~~  
R4-19-706.      Renumbered

**ARTICLE 6. RULES OF PRACTICE AND PROCEDURE**

**~~R4-19-601.~~      ~~Expired~~**

**~~R4-19-602.~~ ~~R4-19-601.~~ ~~Initiation of a Hearing~~**

- ~~A.~~ ~~A hearing shall be initiated in the manner provided by the statute or rule authorizing the hearing. When a hearing is initiated by a request for hearing served upon the Board, the request for hearing shall be in writing and shall clearly state To request a hearing, a person, as defined in A.R.S. § 41-1001 shall submit to the Board a written request containing the following information:~~
- ~~1.~~ ~~The identity of the person requesting the hearing, The person's identity, and~~
  - ~~2.~~ ~~The specific actions of the Board which are the The basis of reason for the hearing request, ,and~~
  - ~~3.~~ ~~The reasons necessitating a hearing.~~
- ~~B.~~ ~~A panel of Board members may The Board, or an administrative law judge, as defined in A.R.S. § 41-1092 shall conduct hearings or other proceedings, or request that a matter be assigned to an administrative law judge.~~
- ~~C.~~ ~~If the Board grants a request for a hearing, the party named in the notice of hearing shall file a response required by A.R.S. § 32-1664 and A.A.C. R4-19-604.~~

**~~R4-19-603.~~ ~~R4-19-602.~~ ~~Denial of Request for Hearing~~**

- ~~A.~~ ~~The Board shall grant a request for a hearing on an appealable agency action only.~~
- ~~B.~~ ~~If the Board denies the request for hearing, the Board shall provide to the applicant a written copy of the decision stating the its reasons for the denial to the person who requested the hearing.~~

**~~R4-19-604.~~ ~~R4-19-603.~~ ~~Representation~~**

~~Any party person subject to a hearing may participate in the a hearing in person or through legal counsel, and may be represented by legal counsel. In those hearings conducted by a panel of Board members, a corporation shall be represented by an attorney. A party shall pay for its own legal representation. The Board shall not pay for the person's legal counsel.~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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**~~R4-19-605.~~ R4-19-604, Notice of Hearing; Response**

- A. The Board or the Office of Administrative Hearings shall set the time and place of the hearing and give written notice to all parties under A.R.S. § 41-1092.05.
- B. ~~The notice shall contain:~~ In addition to the notice requirements in A.R.S. § 41-1092.05(D), the Board shall include the following in the notice:
- ~~1. The date, time, location, and nature of the hearing;~~
  - ~~2. A statement of the legal authority and jurisdiction under which the hearing is to be held;~~
  - ~~3. A reference to the particular Sections of the statutes and rules involved;~~
  - ~~4. A short and plain statement of the matters asserted. If the Board is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;~~
  - ~~5.~~1. The full name, address, and license number, if any, of the licensee, certificate holder, program, or applicant;
  - ~~6.~~2. The name, mailing address, and telephone number of the Board's executive director or Board designee if the hearing is to be conducted by the Board;
  - ~~7.~~3. A statement that a hearing will proceed without a party's presence if a party fails to attend or participate in the hearing;
  - ~~8.~~4. The names and mailing addresses of persons to whom notice is being given, including the Attorney General representing the state at the hearing.
  5. Any other matters relevant to the proceedings.
- C. ~~The notice may include any other matters that the Board considers desirable to expedite the proceedings.~~
- C. The party named in the notice of hearing shall file a written response under A.R.S. § 32-1664 within 30 days after service of the notice of hearing. The response may contain:
1. The party's name, address and telephone number;
  2. Whether the party has legal representation, and, if so, the name and address of the attorney, if any;
  3. A response to the allegations contained in the notice of hearing; and
  4. Any other matters relevant to the proceedings.

**~~R4-19-606.~~ R4-19-605, Docket Filing; Computation of Time; Extension of Time**

- ~~A.~~ The Board shall maintain a docket of all proceedings and shall assign each proceeding a number.
- ~~B.~~ All papers in any proceeding shall be filed in the office of the Board within the time limit, if any, for the filing. Papers may be transmitted by ordinary or express mail, or otherwise delivered, but must be timely received at the office of the Board. Service thereof shall be made concurrently on all parties to the proceeding. A document shall be considered to be filed on the date received by the Board, established by the date stamp of the office of the Board on the document's face.
- C. Unless otherwise specifically provided in the rules or by an order of the Board, an original and one copy of all papers shall be filed.
- ~~D.~~ In computing any period of time prescribed or allowed by this Article, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day which is neither Saturday, Sunday, nor a state holiday. The computation shall include intermediate Saturdays, Sundays, and state holidays. Whenever a notice or other paper is served by mail upon a party, five calendar days shall be added to the prescribed period.
- E. For good cause shown, the panel of Board members, if the hearing is to be conducted by the Board, or the administrative law judge may grant continuances and extensions of time.

**~~R4-19-607.~~ R4-19-606, Record of Hearings**

The Board shall ~~maintain:~~

- ~~A.~~ Maintain a complete and separate record containing all documents and exhibits filed in connection with each hearing; and
- ~~B.~~ Such ~~Make the record shall be made available to the public, upon request, to the public~~ during regular business hours except for those records that are confidential by law.

**~~R4-19-612.~~ R4-19-607, Recommended Decision**

- ~~A.~~ The panel of Board members or the administrative law judge shall render a recommended decision.
- ~~B.~~ A recommended decision shall include separately stated findings of fact, conclusions of law, and the reasoning for the disciplinary action, if any.
- C. Findings of fact shall be as required by A.R.S. § 41-1061(G). The experience, technical competence, or specialized knowledge of the panel of Board members or the administrative law judge may be utilized in evaluating evidence.
- ~~D.~~ A recommended decision pursuant to this Section shall be rendered within 15 days after conclusion of the hearing or after submission of proposed findings by the parties, unless the Board waives or extends this period for good cause.
- ~~E.~~ The recommended decision shall be delivered to the Board.
- F. The Board or Administrative Law Judge who conducts the hearing shall make a recommended decision under A.R.S. § 41-1092.08. The Board shall transmit a copy of the recommended decision to each party. Each party may file a memoran-

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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dum of objections ~~to it~~ that contains the reasons why the recommended decision is in error or requires correction, and includes appropriate citations to the record, statutes, or rules in support of each objection. ~~The memorandum shall detail reasons why the recommended decision is in error and shall include appropriate citations to the record, statutes, rules, or other authority.~~

**~~R4-19-614, R4-19-608, Expired Rehearing or Review of Decision~~**

~~A. Any party in a contested case before the Board who is aggrieved by a decision rendered in the case may file with the Board, within the time limits set in A.R.S. § 32-1665(A), a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed served when personally delivered or when mailed by certified mail to the party's address of record.~~

~~A party may file for rehearing or review of a decision under A.R.S. § 41-1092.09.~~

~~B. A motion for rehearing or review under this rule may be amended at any time before it is ruled upon by the Board. Any other party may file a response within 10 days after service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.~~

~~C.B. The Board may grant A a rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:~~

- ~~1. Irregularity in the administrative proceedings of the agency, the administrative law judge or panel of the Board members, the prevailing party, or any abuse of discretion, whereby which deprived the moving party ~~was deprived~~ of a fair hearing;~~
- ~~2. Misconduct of the panel of Board members, the administrative law judge, or the prevailing party;~~
- ~~3. Accident or surprise which could not have been prevented by ordinary prudence;~~
- ~~4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;~~
- ~~5. Excessive or insufficient penalties;~~
- ~~6. Error in the admission or exclusion of evidence or other errors of law occurring during the pendency of the proceeding or at the administrative hearing; or~~
- ~~7. That the The decision is not justified by the evidence or is contrary to law.~~

~~D.C. Upon the Board's receipt of a motion for rehearing or review, the Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection ~~(C)~~ (B). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those specified matters.~~

~~E.D. Within the time limits of As set forth in A.R.S. § 32-1665 42-1092.09, the Board may, ~~on its own initiative, order file a motion~~ for a rehearing or review of its decision for any reason, for which it might have granted a rehearing or review on motion of a party. After giving the parties and their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting a rehearing shall specify the grounds therefor. The Board shall specify the grounds for the rehearing in the order.~~

~~F.E. When a motion for rehearing is based upon affidavits, ~~they~~ the Board shall be served serve the affidavits with the motion. An opposing party may, within ~~40~~ 15 days ~~after~~ of such service, serve opposing affidavits.~~

**~~R4-19-615, R-4-19-609, Expired Effectiveness of Orders~~**

~~A. Except as provided in subsection (B), a decision ~~shall be~~ is final upon expiration of the time for filing a request for rehearing or review or upon denial of such request, whichever is later. If the Board grants a rehearing is granted, the decision shall be stayed until readopted or another order is issued.~~

~~B. If the Board makes specific findings that the immediate effectiveness of a decision is necessary for the immediate preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If the Board issues a decision is issued as a final decision without an opportunity for rehearing or review, the decision ~~shall be~~ is effective when issued and ~~any a party that applies application~~ for judicial review of the decision shall be made submit the application within the time limits permitted for applications for judicial review of the Board's final decisions.~~

**R4-19-612. Recommended Decision Renumbered**

*Arizona Administrative Register*  
Notices of Proposed Rulemaking

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**R4-19-614. ~~Rehearing or Review of Decision~~ Renumbered**

**R4-19-615. ~~Effectiveness of Orders~~ Renumbered**

**ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES**

**R4-19-701. Agency Record; Directory of Substantive Policy Statements**

The Board shall place the official rulemaking record and directory of substantive policy statements ~~is located~~ in the office of the Board, ~~and where it~~ may be reviewed any working day, Monday through Friday, from 8:00 a.m. until 5:00 p.m., except state holidays.

**R4-19-702. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact**

A person may petition the Board ~~A petition~~ to adopt, amend, or repeal a rule, or to review an existing agency practice or substantive policy statement that the ~~petitioner~~ person alleges to constitute a rule, ~~pursuant to~~ under A.R.S. § 41-1033, or to object to a rule ~~in accordance with~~ under A.R.S. § 41-1056.01, ~~shall be filed by filing a petition with the Board as prescribed in this Section which contains the following: Each petition shall contain:~~

1. The name, ~~and current address~~ and telephone number of the person submitting the petition.
2. For the adoption of a new rule, the specific language of the proposed rule.
3. For the amendment of a current rule, the citation for the applicable Arizona Administrative Code number and rule title heading. ~~The request shall include~~ and the specific language of the current rule, with any language to be deleted ~~shall be~~ stricken through but legible, and any new language ~~shall~~ underlined.
4. For the repeal of a current rule, the citation for the applicable A.A.C. number and ~~title of the rule~~ rule heading proposed for repeal.
5. The reasons the rule should be adopted, amended, or repealed, specifically stating in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide: Additional ~~additional~~ supporting information for the petition ~~may be provided~~; including:
  - a. Any statistical data or other justification, with clear references to attached exhibits;
  - b. An identification of what persons or segment of the public would be affected and how they would be affected; and
  - c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or as written comments offered by the public.
6. For a review of an existing agency practice or substantive policy statement alleged to constitute a rule, the reasons the existing agency practice or substantive policy statement constitutes a rule and the proposed action requested of the agency.
7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
  - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted on adoption of the rule; or
  - b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement on adoption of the rule and that actual impact imposes a significant burden on persons subject to the rule.
8. The signature of the person submitting the petition.

**~~R4-19-703. Public Comments~~**

- ~~A. Any A person may comment upon a rule proposed by the Board by submitting written comments on the proposed rule or upon any other matter noticed for public comment in the Arizona Administrative Register to the Board on or before the date of the close of record.~~
- ~~B. A written comment is considered to have been submitted on the date it is received by the Board, except if a comment is mailed, the date of receipt shall be the postmarked date.~~
- ~~C. All written comments received pursuant to A.R.S. § 41-1023 shall be considered by the Board.~~

**~~R4-19-704. R4-19-703. Oral Proceedings~~**

- ~~A. Requests for oral proceedings, as prescribed in A.R.S. § 41-1023(C), shall:
  1. Be filed with the Board;
  2. Include the name and current address of the person making the request; and
  3. Refer to the proposed rule and include, if known, the date and issue of the Arizona Administrative Register in which the notice was published.~~

The Board shall schedule an oral proceeding on all rulemakings and publish the notice as prescribed in A.R.S. § 41-1023. A Board member, the executive director or a Board staff member shall serve as presiding officer at an oral proceeding.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- B. The Board shall record all oral ~~proceeding~~ proceedings shall be recorded either by an electronic recording device or stenographically, and any resulting cassette tapes or transcripts, registers, and all written comments received shall become part of the official record.
- C. The presiding officer shall ~~utilize the following guidelines to conduct an oral proceedings:~~ proceeding according to A.R.S. § 41-1023 and the following guidelines:
1. ~~Voluntary registration of attendees~~ Request a person who attends to register.
  2. ~~Obtain the following information from a person who intends to speak:~~ Registration of persons intending to speak. Registration information shall include
    - a. ~~the registrant's name~~ Name; and representative capacity whether a person is representing self or another, if applicable;
    - b. ~~a notation of their position~~ Position with regard to the proposed rule; and
    - c. ~~the approximate~~ Approximate length of time they wish needed to speak.
  3. ~~Opening of the record. The presiding officer shall open~~ Open the proceeding by identifying the rules to be considered, the location, date, time, and purpose of the proceeding, and present the agenda.
  4. ~~A statement by Board representative. The statement~~ Ensure that a Board representative shall explain explains the background and general content of the proposed rules.
  5. ~~A public oral comment period. Comments may be limited~~ Limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited or to prevent undue repetition.
  6. ~~Closing remarks. The presiding officer shall announce~~ Announce the location where the written public comments are to be sent and the date and time of the close of record.
  7. If no person attends the oral proceeding within the first 15 minutes of its posted opening time, the presiding officer may close the proceeding.

**~~R4-19-705. R4-19-704. Petition for Delayed~~ Altered Effective Date**

- A. ~~A person wishing to alter the effective date of a rule shall file a written petition that contains:~~ A written petition to delay the effective date of the rule, pursuant to A.R.S. § 41-1032, shall be filed with the Board. The petition shall contain:
1. The name and current address of the person submitting the petition;
  2. Identification of the proposed rule;
  3. The need for the alteration ~~delay~~, specifying the undue hardship or other adverse impact that may result if the request for a an altered ~~delayed~~ effective date is not granted, and the reasons why the public interest will not be harmed by the altered ~~later~~ date; and
  4. The signature of the person submitting the petition.
- B. The Board shall make a decision and notify the petitioner of the decision within 60 days of receipt of the petition.

**~~R4-19-706. R4-19-705. Written Criticism of Rule~~**

- A. Any person may file, with the Board, a written criticism of an existing rule ~~with the Board~~ which contains:
- ~~B. The criticism shall clearly identify~~
1. ~~the~~ The rule addressed, and
  2. ~~specify why~~ The reason the existing rule is inadequate, unduly burdensome, unreasonable, or ~~otherwise considered to be improper.~~
- ~~C. B.~~ The Board shall acknowledge receipt of any criticism within 10 working days and shall place the criticism in the official record for review by the Board ~~pursuant to~~ under A.R.S. § 41-1056.

**R4-19-706. Renumbered**

## NOTICE OF PROPOSED RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 19. BOARD OF NURSING

##### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R4-19-808                          | Amend                           |
  
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 32-1605.01(B)(3), 32-1646(A)(5), and 32-1606(A)(1); Laws 1999, Ch. 229, § 2  
Implementing statutes: A.R.S. §§ 32-1606(B)(16), 32-1609, 32-1643(A)(9), 32-1645, and 32-1648; Laws 1999, Ch. 229, § 2
  
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 2970, July 19, 2002
  
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Pamela K. Randolph, Nurse Practice Consultant
Address:	Arizona State Board of Nursing 1651 E. Morten, Suite 210 Phoenix, AZ 85020
Telephone:	(602) 331-8111, ext. 139
Fax:	(602) 906-9365
  
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Board of Nursing is amending R4-19-808 to relax some of the requirements for obtaining a temporary nursing assistant certificate. Of the 5,416 applicants who applied to the Board last year for a nursing assistant certificate, less than 1% qualified and obtained a temporary certificate. Health care providers and applicants have requested that the Board amend the rule to allow more applicants to qualify for a temporary certificate.

The current employment requirements for a temporary certificate are deleted in the amended rule. The Board is also extending the expiration date of the certificate from two to six months to comply with the statutory requirement that it be valid for six months. The Board anticipates that this amendment will increase the availability of Certified Nursing Assistants (C.N.A.s) while maintaining public protection.
  
- 6. A reference to any study that the agency proposes to rely on in its evaluation or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

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

Not applicable
  
- 8. The preliminary summary of the economic, small business, and consumer impact:**

The Board of Nursing initiated a register for Certified Nursing Assistants (C.N.A.) in 1991 and received statutory authority for certifying nursing assistants in 1995. The Board is required to maintain a register of Certified Nursing Assistants, approve nursing assistant training and evaluation programs, and investigate complaints. Due to federal regulations, nursing assistants cannot be charged a certification fee. The Board obtains revenue for nursing assistant activities from state and federal grants and optional document fees. Fifty to sixty percent of the complaints received and discipline administered by the Board involve C.N.A.s. The Board maintains a register of approximately 18,000 active C.N.A. certificates, and approximately 50,000 active R.N. and L.P.N. licenses.

The current rule contains exacting employment criteria for issuing a temporary nurse assistant certificate that have resulted in less than 1% of applicants receiving temporary certificates. Board licensing technicians report that they receive approximately 20 calls per month inquiring about temporary nursing assistant certification. A very small



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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number of callers actually meet the current employment criteria for a temporary certificate because of the necessity to apply for the certificate within 30 days of hire. Most examination applicants are hired as trainees and do not apply for nursing assistant certification until their training program is completed, approximately 3-6 weeks after hire. Many endorsement applicants report that they cannot be hired without the certificate. The Board is amending the rule so that more applicants will qualify for a temporary nursing assistant certificate.

Temporary certificates are needed because of the delay in obtaining fingerprint reports from the F.B.I. Department of Health Services regulations allow nursing assistants to work in a Medicare/Medicaid long-term care facility for four months without certification. Many times the Board does not receive fingerprint results from the F.B.I. within this four-month window. The Board has become aware that there have been attempts to manipulate the system by firing and re-hiring the nursing assistant and thereby starting a new four-month window. The rules being amended are employer-employee matters and do not relate to public safety.

In 2001, the Board issued 21 temporary nursing assistant certificates. In the same year, the Board received approximately 4696 C.N.A. applications by examination and 720 by endorsement. The Board anticipates that all the endorsement applicants and at least 50 percent of the examination applicants will apply for temporary certification under the proposed rule for a total of approximately 3,000 temporary certificate applications per year. In November 2002, a recommendation will be presented to the Board to increase the fee for the temporary nursing assistant certificate from \$15 to \$25. With this increase, the fee will be the same as that charged for a temporary R.N. or L.P.N. license and is 50 percent below the ceiling of \$50 imposed by A.R.S. § 32-1643. The amendment plus the planned fee increase is anticipated to result in approximately \$75,000 in revenue to the Board. The issuing of a temporary certificate, under the amended rule, will take a licensing technician approximately 20 minutes resulting in an extra 1000 hours per year needed to carry out this function. Utilizing a full-time licensing technician at a salary of \$11.28 per hour plus 19% benefits will result in total expenses of approximately \$13,500.00. In addition, mailing, handling and material costs are estimated to be approximately \$1.00 per certificate resulting in expenses of \$3000.00. Total expenses are anticipated to be \$16,500.00.

There may be a negative effect on revenues to the Board if individuals who obtain a temporary nursing assistant certificate decline the option of purchasing a "wallet size" card verifying their status as certified nursing assistants. Currently, approximately 2,000 applicants per year purchase the optional \$40.00 document resulting in revenue of approximately \$80,000 to the Board. Any excess revenue generated by the fees collected for the issuance of temporary nursing certificates will be utilized by the Board to cover the expenses related to C.N.A. investigations.

Applicants will pay for the temporary nursing assistant certificates. Since the temporary certificate is voluntary, it is expected that only applicants who can bear the expense will apply. Many applicants report that they are eligible for an increase in pay upon obtaining certification, which may compensate for the expense of the temporary certificate.

Health care facilities may elect to pay for the temporary certificate. In informal conversations with the Board, facilities have indicated a willingness to pay for the certificate, especially as a nursing assistant is nearing the end of the 4-month window. Having an uncertified nurse assistant at the facility beyond the "window" could lead to sanctions by the Department of Health Services. Facilities invest approximately \$1000.00 in training per nursing assistant and would be able to keep trainees employed longer with temporary nursing assistant certificates. Due to the eligibility requirements imposed on applicants for a temporary nursing assistant certificate, the public will be protected as well.

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

Name: Pamela K. Randolph, Nurse Practice Consultant  
Address: Arizona State Board of Nursing  
1651 E. Morten, Suite 210  
Phoenix, AZ 85020  
Telephone: (602) 331-8111, ext. 139  
Fax: (602) 906-9365

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

The Board has scheduled a public hearing on the proposed amendment of the rule on August 23, 2002 at 9:00 a.m. in the Board's offices. The Board will accept written comments submitted to Ms. Randolph until the close of record on August 23, 2002 at 5:00 p.m.

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

Not applicable

**12. Incorporation by reference and their location in the rules:**

Not applicable

**13. The full text of the rule follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 19. BOARD OF NURSING**

**ARTICLE 8. CERTIFIED NURSING ASSISTANT**

Section

R4-19-808. Temporary Certificate

**ARTICLE 8. CERTIFIED NURSING ASSISTANT**

**R4-19-808. Temporary Certificate**

- A.** Subject to subsection (B), the Board shall issue a temporary nursing assistant certificate to an applicant who desires to work as a certified nursing assistant if: ~~the applicant lacks a state criminal history as verified in a report issued by the Arizona Department of Public Safety and the applicant:~~
- ~~1. Is qualified under:~~
    - ~~a. A.R.S. § 32-1645 or § 32-1648, and~~
    - ~~b. R4-19-806 or R4-19-807; and~~
  1. The Board receives a report from the Arizona Department of Public Safety which verifies that it has no criminal history record information, as defined in A.R.S. § 41-1701, relating to the applicant; and
  - ~~2. If seeking certification by endorsement:~~
    - ~~a. Has filed an application for certification by endorsement within 30 days of hire by a Medicare or Medicaid certified long term care facility;~~
    - ~~b. Has been employed by the same Medicare or Medicaid certified long term care facility for 75 to 100 days, and~~
    - ~~e. Has submitted documents or an official statement from another state verifying that the applicant has a current certificate or equivalent document from that state; or~~
  2. The applicant:
    - a. Submits to the Board an application for a temporary nursing certificate with the fee required under A.R.S. § 32-1643(A)(9); and
    - b. Is qualified for certification by endorsement under A.R.S. § 32-1648 and R4-19-807 and submits documentation or an official statement from another state or territory of the United States verifying that the applicant has a current certificate or equivalent document from that state or territory; or
    - c. Is qualified for certification by examination under A.R.S. § 32-1645 and R4-19-806.
  - ~~3. If seeking certification by examination,:-~~
    - ~~a. Has submitted an application within 30 days of hire by a Medicare or Medicaid certified long term care facility, and~~
    - ~~b. Has been employed by the same Medicare or Medicaid certified long term care facility for 75 to 100 days, and~~
  - ~~4. Pays applicable fees.~~
- B.** An applicant who discloses a disciplinary charge or substantiated complaint, criminal conviction, chemical dependency, pending disciplinary charge or substantiated complaint by a regulatory agency, or malpractice claim is not eligible for a temporary certificate without prior Board approval.
- C.** Unless extended for good cause under subsection (D), a temporary certificate is valid for ~~a maximum of two~~ six months.
- D.** A temporary certificate holder may apply and the Board or the Executive Director shall grant an extension for good cause. Good cause means reasons beyond the control of the temporary certificate holder, such as unanticipated delays in obtaining information required for nursing assistant certification.

**NOTICE OF PROPOSED RULEMAKING**

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

**CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION**

**PREAMBLE**

- 1. Sections Affected**

R14-5-202	Amend
R14-5-203	Amend
R14-5-204	Amend
R14-5-205	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

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

Constitutional authority: Arizona Constitution, Article XV

Implementing statute: Not applicable
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 2975, July 19, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jason D. Gellman, Commission Counsel, Legal Division

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

Telephone: (602) 542-3402

Fax: (602) 542-4870
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Staff is proposing amendments to transportation rules R14-5-202, R14-5-203, R14-5-204, and R14-5-205. The amendments will update the rules to incorporate the most recent amendments to the Code of Federal Regulations (CFR), Title 49, Parts 40, 191, 192, except I(2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199 revised as of January 16, 2002.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

The Commission believes that by incorporating by reference Title 49 CFR Parts 40, 191, 192, except I(2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199 revised as of January 16, 2002, the rules will be consistent with current best practices and will enhance public safety which is in the best interest of all citizens in the state of Arizona.
- 8. The preliminary summary of the economic, small business, and consumer impact:**

Small Business Subject to the Rules: 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 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.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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

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

Name: Terry Fronterhouse, Chief, Office of Pipeline Safety  
Address: Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007  
Telephone: (602) 542-7275  
Fax: (602) 542-7254

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

Date: To be provided by the Commission Hearing Division pursuant to procedural order  
Time: To be provided by the Commission Hearing Division pursuant to procedural order  
Location: Commission Hearing Room, 1200 W. Washington, Phoenix, AZ 85007  
Nature: Public Comment Hearing (oral and written comments accepted)

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

None

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

Title 49, Code of Federal Regulations (CFR), Parts 40, 191, 192, except I(2) and (3) of Appendix D to Part 192, 193, 195 (except 195.1(b)(2) and (3)) and 199 revised as of January 16, 2002. These regulations cover the minimum safety standards for construction and operation of gas and hazardous liquid pipelines. These regulations may be found at the Arizona Corporation Commission, Executive Secretaries Office and Office of Pipeline Safety, 1200 W. Washington, Phoenix, AZ 85007. These regulations are incorporated by reference in the amended rules at: R14-5-202(B), (C), (E)(1), (E)(2), (J), (K), (P), (Q), (R), R14-5-203(C)(2), (C)(3), (C)(5), R14-5-204 (A)(1), (A)(2), and R14-5-205(B), (G), (J), (K), (O), and (P).

**13. The full text of the rules follows:**

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

**CHAPTER 5. CORPORATION COMMISSION - TRANSPORTATION**

**ARTICLE 2. PIPELINE SAFETY**

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

**ARTICLE 2. PIPELINE SAFETY**

**R14-5-202. Construction and Safety Standards**

- A.** Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas, LNG and hazardous liquid pipeline systems, as described in A.R.S. § 40-441.
- B.** Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192 except I (2) and (3) of Appendix D to Part 192, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of ~~March 1, 2000~~ January 16, 2002 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- C. The above mentioned incorporated Parts of 49 CFR, except Parts 191, 193 Subpart A and 195 Subpart A and B, are revised as follows:
1. Substitute "Commission" where "Administrator of the Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
  2. Substitute "Office of Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where the addresses for the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U. S. Department of Transportation appears.
- D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, 30 days prior to placing a pipeline system into operation. Any changes in existing plans will be filed within 30 days of the effective date of the change.
- E. Operators of an intrastate pipeline transporting sour gas or oil are subject to industry standards addressing facilities handling hydrogen sulfide (H<sub>2</sub>S). Standards adopted are:
1. NACE Standard MR-0175-99 (1999 Revision); (and no future revisions), Standard Materials Requirements-Sulfide Stress Cracking Resistant Metallic Material for Oilfield Equipment, incorporated by reference and no future amendments. Copies are available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the NACE International, P.O. Box 218340, Houston, Texas 77218-8340 and on file with the Office of the Secretary of State.
  2. API RP55 (1995 Edition); (and no future amendments), API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference and no future amendments. Copies are available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the CSSINFO, 310 Miller Avenue, Ann Arbor, Michigan 48103 and on file with the Office of the Secretary of State.
- F. Operators of an intrastate pipeline transporting LNG, hazardous liquid, natural gas or other gas will not construct any part of a hazardous liquid, LNG, natural gas or other gas pipeline system under a building. For building encroachments over a pipeline system, the operator may require the property owner to remove the building from over the pipeline or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery, or the operator shall discontinue service to the pipeline system. When the encroachment cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.
- G. Operators of an intrastate pipeline transporting LNG, hazardous liquid, natural gas or other gas will not construct any part of a pipeline system closer than 8 inches to any other underground structure. If the 8-inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding shall be used.
- H. Operators of an intrastate pipeline transporting natural gas or other gas that have regulators, meters, or regulation meter sets that have been out of service for 36 months will abandon those lines and cap all ends. ~~The operators~~ Operator's steps to accomplish the abandonment shall not exceed 6 months beyond the 36 months out service status.
- I. Operators of an intrastate pipeline shall not install or operate a gas regulator that might release gas in its operation closer than three feet to a source of ignition, opening into a building, air intake into a building or to any electrical source not intrinsically safe. The three (3) foot clearance from a source of ignition will be measured from the vent or source of release (discharge port), not from the physical location of the meter set assembly. This subsection shall not be effective with respect to building permits which are issued and subdivisions which are platted prior to October 1, 2000. For encroachment within the required three foot clearance caused by an action of the property owner, occupant or a service provider, after the effective date of this rule the operator may require the property owner to resolve the encroachment or reimburse the operator the cost associated with relocating the pipeline system. The encroachment shall be resolved within 180 days of discovery or the operator shall discontinue service to the effected pipeline system. When the encroachment cannot be resolved within the 180 days the operator shall submit to the Office of Pipeline Safety within 90 days of discovery a written plan to resolve the encroachment. The Office of Pipeline Safety may then extend the 180-day requirement in order to allow the ratepayer and the operator to implement the written plan to resolve the encroachment.
- J. Operators of an intrastate pipeline transporting LNG, natural gas, other gases or hazardous liquid will utilize a cathodic protection system designed to protect the metallic pipeline in its entirety, in accordance with 49 CFR 192, Subpart I, ~~March 1, 2000~~ January 16, 2002 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975 except I (2) and (3) of Appendix D to Part 192 shall not be utilized.
- K. Operators of an intrastate pipeline transporting natural gas or other gas will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~March 1, 2000~~ January 16, 2002 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

- L. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their pipeline systems.
- M. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas will not install plastic pipe aboveground unless the plastic pipeline is protected by a metal casing, or equivalent, and approved by the Office of Pipeline Safety. Temporary aboveground plastic pipeline bypasses are permitted for up to sixty (60) days, provided that the plastic pipeline is protected and is under the direct supervision of the operator at all times.
- N. Operators of an intrastate pipeline transporting hazardous liquid, natural gas or other gas that construct a pipeline system or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- O. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline system using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety.
- P. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline system using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c (1995c Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100° F.
- Q. Operators of an intrastate pipeline system transporting hazardous liquid, natural gas, or other gases shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104, 49 CFR 192, appendix A. The qualification of welders delineated in 49 CFR 192, appendix C may be used for low stress level pipe.
- R. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system shall survey and grade all detected leakage by the following guide: ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 except 4.4(c) (1983 Revision and no future revisions), incorporated by reference and on file with the Office of the Secretary of State and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the ASME, United Engineering Center, 345 East 47th Street, New York, N. Y. 10017. (“Should” as referenced in the Guide will be interpreted to mean “shall”). Leakage survey records shall identify in some manner each pipeline surveyed. Records shall be maintained to demonstrate that the required leakage survey has been conducted.
- S. All repair work performed on an existing intrastate pipeline transporting LNG, hazardous liquids, natural gas or other gas pipeline system will comply with the provisions of this Article.
- T. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public and pipeline safety.
- U. To ensure compliance with provisions of this rule the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the pipeline system operation.
- V. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

**R14-5-203. Pipeline Incident Reports and Investigations**

- A. Applicability. This rule applies to all intrastate pipeline systems.
- B. Required incident reports by telephone:
  - 1. Operators of an intrastate pipeline transporting LNG, natural gas or other gas pipeline system will notify by telephone the Office of Pipeline Safety upon discovery of the occurrence of any of the following:
    - a. The release of natural gas, other gas or liquefied natural gas (LNG) from a pipeline or LNG facility, when any of the following results:
      - i. Death or personal injury requiring hospitalization.
      - ii. An explosion or fire not intentionally set by the operator.
      - iii. Property damage, including the value of the gas lost, estimated in excess of \$5,000.
    - b. Emergency transmission pipeline shutdown.
    - c. News media inquiry.
    - d. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- e. Permanent or temporary discontinuance of gas service to a master meter system or when assisting with the isolation of any portion of a gas master meter system due to a failure of a leak test.
  - f. Emergency shutdown of a LNG process or storage facility.
  2. Operators of an intrastate pipeline transporting hazardous liquid will notify by telephone the Office of Pipeline Safety upon discovery of the occurrence of any of the following:
    - a. Death or personal injury requiring hospitalization.
    - b. An explosion or fire not intentionally set by the operator.
    - c. Property damage estimated in excess of \$5,000.
    - d. Pollution of any land, stream, river, lake, reservoir, or other body of water that violates applicable environmental quality, water quality standards, causes a discoloration of the surface of the water or adjoining shoreline, or deposits sludge or emulsion beneath the surface of the water or upon adjoining shorelines.
    - e. News media inquiry.
    - f. Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
      - i. Not otherwise reportable under this Section;
      - ii. Not one described in 49 CFR 195.52(a)(4);
      - iii. Confined to company property or pipeline right-of-way; and
      - iv. Cleaned up promptly.
    - g. Any release of hazardous liquid or carbon dioxide, that was significant in the judgment of the operator even though it did not meet the criteria of any other subsection of this Section.
  3. Telephone incident reports will include the following information:
    - a. Name of the pipeline system operator,
    - b. Name of the reporting party,
    - c. Job title of the reporting party,
    - d. The reporting party's telephone number,
    - e. Location of the incident,
    - f. Time of the incident, and
    - g. Fatalities and injuries, if any.
- C. Require written incident report:
1. Operators of an intrastate pipeline transporting natural gas, LNG or other gases will file a written incident report when an incident occurs involving a natural gas or other gas pipeline that results in any of the following:
    - a. An explosion or fire not intentionally set by the operator.
    - b. Injury to a person that results in one or more of the following:
      - i. Death.
      - ii. Loss of consciousness.
      - iii. Need for medical treatment requiring hospitalization.
    - c. Property damage, including the value of the lost gas, estimated in excess of \$5,000.
    - d. Emergency transmission pipeline shutdown.
    - e. Overpressure of a pipeline system where a pipeline operating at less than 12 PSIG exceeds MAOP by 50%, where a pipeline operating between 12 PSIG and 60 PSIG exceeds MAOP by 6 PSIG or where a pipeline operating over 60 PSIG exceeds MAOP plus 10%.
    - f. Emergency shutdown of a LNG process or storage facility.
  2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:
    - a. RSPA F7100.1 - Distribution System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007.
    - b. RSPA F7100.2 - Transmission and Gathering System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007.
    - c. Written incident reports with respect to LNG facilities will be in an investigative form defining the incident and corrective action taken to prevent a reoccurrence.
  3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on ~~DOT Form~~ RSPA F 7000-1, (January 2001 Revision and no future Revisions), incorporated by reference and on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix Arizona 85007, when there is a release of hazardous liquid which results in any of the following:
    - a. An explosion or fire not intentionally set by the operator.
    - b. Injury to a person that results in one or more of the following:

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- i. Death.
  - ii. Loss of consciousness.
  - iii. Inability to leave the scene of the incident unassisted.
  - iv. Need for medical treatment.
  - v. Disability which interferes with a person's normal daily activities beyond the date of the incident.
  - c. ~~The loss of 50 or more barrels of hazardous liquid or carbon dioxide.~~ Release of 5 gallons (19 liters) or more of hazardous liquid or carbon dioxide, except that no report is required for a release of less than 5 barrels (0.8 cubic meters) resulting from a pipeline maintenance activity if the release is:
    - i. Not otherwise reportable under this Section;
    - ii. Not one described in 49 CFR 195.52 (a)(4);
    - iii. Confined to company property or pipeline right-of-way; and
    - iv. Cleaned up promptly.
  - d. ~~The escape of more than 5 barrels a day of highly volatile liquids into the atmosphere.~~ Estimated property damage, including cost of clean-up and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$5,000.
  - e. ~~Property damage estimated in excess of \$5,000.~~
  - f.e. News media inquiry.
4. Written incident reports as required in this Section will be filed with the Office of Pipeline Safety, within the time specified below:
- a. Natural gas, LNG or other gas - within 20 days after detection.
  - b. Hazardous liquids - within 15 days after detection.
5. The Operators shall also file a copy of all DOT required written incident reports with the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.
6. Operators of a natural gas or other gas pipeline system will request a clearance from the Office of Pipeline Safety prior to turning on or reinstating service to a master meter operator.

**D. Investigations by the Commission:**

1. The Office of Pipeline Safety will investigate the cause of incidents resulting in death or serious injury.
2. Pursuant to an investigation under this rule, the Commission, or an authorized agent thereof, may:
  - a. Inspect all plant and facilities of a pipeline system.
  - b. Inspect all other property, books, papers, business methods, and affairs of a pipeline system.
  - c. Make inquiries and interview persons having knowledge of facts surrounding an incident.
  - d. Attend, as an observer, hearings and formal investigations concerning pipeline system operators.
  - e. Schedule and conduct a public hearing into an incident.
3. The Commission may issue subpoenas to compel the production of records and the taking of testimony.
4. Incidents not reported in accordance with the provisions of this rule will be investigated by the Office of Pipeline Safety.
5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Office of Pipeline Safety.
6. Late filed incident reports will be accompanied by a letter of explanation. Incidents referred to in late filed reports may be investigated by the Office of Pipeline Safety.

**R14-5-204. Annual Reports**

- A.** Except for operators of an intrastate pipeline transporting LNG, ~~or~~ hazardous liquid, all other intrastate pipeline operators will file with the Office of Pipeline Safety, not later than March 15, for the preceding calendar year, the following appropriate report(s):
1. RSPA F7100.1-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year 20\_\_\_\_, Gas Distribution System" and "Instructions for Completing RSPA Form F7100.1-1, Annual Report for Calendar Year 20\_\_\_\_, Gas Distribution System", incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.
  2. RSPA F7100.2-1 (~~November 1985~~ January 2002 Edition and no future editions) - "Annual Report for Calendar Year 20\_\_\_\_, Gas Transmission and Gathering Systems" and "Instructions for Completing Form RSPA F7100.2-1, Annual Report for Calendar Year 20\_\_\_\_, Gas Transmission and Gathering Systems", incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.



*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- B. The operator will also file a copy of all required annual reports by March 15 to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street S.W., Washington, D.C. 20590-0001.

**R14-5-205. Master Meter System Operators**

- A. Applicability. This rule applies to the construction, reconstruction, repair, emergency procedures, operation and maintenance of all master meter systems, as a condition of receiving service from public service corporations. Noncompliance with this rule by operators of a master meter system shall constitute grounds for termination of service, by the public service corporation when informed in writing by the Office of Pipeline Safety. In case of an emergency, the Office of Pipeline Safety may give the public service corporation oral instructions to terminate service, with written confirmation to be furnished within 24 hours.
- B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of ~~March 1, 2000~~ January 16, 2002 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:
1. Substitute "Commission" where "Administrator of the Research and Special Programs Administration", or "Office of Pipeline Safety" (OPS) appear.
  2. Substitute Office of "Pipeline Safety, Arizona Corporation Commission, at its office in Phoenix, Arizona" where the addresses for the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation appears.
- D. Operators of a master meter system will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter system location.
- E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building or permit a building to be placed over a pipeline. Within 180 days of discovery of a building being located over a pipeline, the operator shall remove the building from over the pipeline, relocate the pipeline or discontinue the service to the pipeline located under the building.
- F. Operators of a master meter system will not install Acrylonitrile-Butadiene-Styrene (ABS) or aluminum pipe in their systems.
- G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, ~~March 1, 2000~~ January 16, 2002 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
- H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground. Tracer wire shall not be wrapped around the plastic pipe, tracer wire may be taped, or attached in some manner to the pipe provided that the adhesive or the attachment is not detrimental to the integrity of the pipe wall.
- I. Operators of a master meter system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil surrounding the pipe for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Office of Pipeline Safety.
- J. Operators of a master meter system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD or CE as required by ASTM D2513-95c (1995c Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100° F.
- K. Operators of a master meter gas system shall qualify welding procedures and shall perform welding of steel pipelines in accordance with API Standard 1104. Each welder must be qualified in accordance with API Standard 1104, 49 CFR 192, appendix A.
- L. All repair work performed on existing master meter systems will comply with the provisions of this Article.
- M. Operators of a master meter system will not construct any part of a natural gas or other gas system closer than 8 inches to any other underground structure.

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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- N. Operators of a master meter system will file a Notice of Construction 30 days prior to commencement of the construction of any pipeline. The Notice will contain the following information:
  - 1. The dates of construction,
  - 2. The size and type of pipe to be used,
  - 3. The location of construction, and
  - 4. The Maximum Allowable Operating Pressure (MAOP).
- O. Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will survey and grade all detected leakage by the following guide -- ASME Guide for Gas Transmission and Distribution Pipeline System, Guide Material, Appendix G-11-1983 (1983 Revision and no future revisions), except 4.4(c), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007 and the ASME, United Engineering Center, 345 East 47th Street, New York, New York 10017. ("Should" as referenced in the guide will be interpreted to mean "shall".) Leak detection procedures shall be approved by the Office of Pipeline Safety.
- P. Operators of a master meter system will file an annual report with the Commission on Commission Form 1-90/15M (1990 Edition and no future editions), "Annual Report for Calendar Year 20\_\_\_, Small Operators of Gas Distribution System," incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission, Office of Pipeline Safety, 1200 West Washington, Phoenix, Arizona 85007. This report will be filed with the Office of Pipeline Safety not later than April 15 for the preceding calendar year.
- Q. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public safety.
- R. To ensure compliance with provisions of this rule, the Commission or an authorized representative thereof, may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the operation of the master meter system.
- S. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 15. REVENUE**

**CHAPTER 2. DEPARTMENT OF REVENUE  
INCOME AND WITHHOLDING TAX SECTION  
SUBCHAPTER F. ESTATES AND TRUSTS**

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R15-2F-101                         | Amend                           |
| R15-2F-102                         | Repeal                          |
| R15-2F-103                         | Repeal                          |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 42-1005  
Implementing statutes: A.R.S. §§ 43-304, 43-341, and 43-343
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 8 A.A.R. 1911, April 19, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Jerry Skinner, Tax Analyst   |
| Address:   | Tax Policy and Legal Support Section<br>Arizona Department of Revenue<br>1600 W. Monroe<br>Phoenix, AZ 85007 |
| Telephone: | (602) 542-4672   |

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

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Fax: (602) 542-4680  
E-mail: SkinnerJ@revenue.state.az.us

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

A.A.C. R15-2F-101 provides guidance to taxpayers and Department personnel in filing fiduciary tax returns. The rule is amended to make it more clear, concise, and understandable. A.A.C. R15-2F-102 is being repealed because, with the repeal of former A.R.S. §§ 43-169 and 43-344, there is no longer statutory authority for the rule. A.A.C. R15-2F-103 is being repealed because statutory changes make the rule obsolete.

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

None

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

Not applicable

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

It is expected that the benefits of this rule will be greater than the costs. The Department, Governor's Regulatory Review Council, and the Secretary of State's Office will incur costs associated with the rulemaking process.

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

Name: Jerry Skinner, Tax Analyst  
Address: Tax Policy and Legal Support Section  
Arizona Department of Revenue  
1600 W. Monroe  
Phoenix, AZ 85007  
Telephone: (602) 542-4672  
Fax: (602) 542-4680  
E-mail: SkinnerJ@revenue.state.az.us

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

Date: August 27, 2002  
Time: 1:00 p.m.  
Location: Arizona Department of Revenue, Training Room  
2902 W. Agua Fria Freeway  
Phoenix, AZ  
Nature: Public hearing on the proposed rulemaking.

A person may submit written comments regarding the proposed rulemaking action by submitting the comments no later than 5:00 p.m., August 27, 2002, to the person listed in item #4.

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

None

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

None

**13. The full text of the rules follows:**

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE  
INCOME AND WITHHOLDING TAX SECTION  
SUBCHAPTER F. ESTATES AND TRUSTS

ARTICLE 1. RETURNS

Section

R15-2F-101. Fiduciary Returns

R15-2F-102. ~~Common Trust Fund Returns~~ Repealed

R15-2F-103. ~~Information Required of Certain Trusts Claiming Charitable Deductions~~ Repealed

ARTICLE 1. RETURNS

**R15-2F-101. Fiduciary Returns**

**A.** ~~At the Department's request, a fiduciary of an estate or trust shall file the following with the Department: In cases in which the gross income of the estate or trust is \$5,000 or more, a~~

~~1. A copy of the will or trust instrument sworn to by the fiduciary as a true and complete copy, must be filed with the fiduciary return of the estate or trust together with a~~

~~2. A statement by the fiduciary indicating the provisions of the will or trust instrument that which in his opinion determine the extent to which the income of the estate or trust is taxable to the estate or trust, the beneficiaries, or the grantor respectively. However, if a copy of the will or trust instrument and statement relating to the provisions of the will or trust instrument have once been filed, they need not be filed again if the fiduciary return contains a statement showing when they were filed. If the trust instrument is amended in any way after such copies have been filed, a copy of the amendment must be filed with the return for the taxable year in which the amendment was made. In addition, the fiduciary must attach a statement to the copy of the amendment indicating the effect, if any, in his opinion of such amendment on the extent to which the income of the estate or trust is taxable to the estate or trust, the beneficiaries, or the grantor, respectively.~~

**B.** ~~A certificate required by A.R.S. § 43-1361 that all taxes due or to become due from the decedent or the decedent's estate for whom a fiduciary acts have been paid or secured will not shall be issued by the Department only if the fiduciary complies with unless all of the following requirements; are complied with:~~

~~1. A return must shall be filed by or on behalf of the decedent and for the estate for each taxable year in which the respective incomes of the decedent or estate exceeded the requirements for filing returns.~~

~~2. An Arizona Form 210, Notice of Assumption of Duties in a Fiduciary Capacity, shall be filed with the Department.~~

~~2.3. Although it is possible that no tax will become due from an estate for the year in which it is distributed, since all the income of the estate may be either properly paid or credited to the beneficiaries and hence deductible, a A final fiduciary return for each year must the year in which the estate is terminated shall be filed at the time the certificate is requested, regardless of the amount of gross or net taxable income for such that year. Such The return must shall disclose all income to be distributed to beneficiaries upon the final distribution of the estate as well as and income property paid or credited to beneficiaries during the year covered by the return and prior to final distribution.~~

~~3.4. A statement under declaration of perjury must shall be made by the fiduciary on the request for certificate, regarding the status of returns filed by or on behalf of the decedent or for the estate for the four taxable years immediately preceding the date a certificate is requested. The statement required should shall indicate the years for which returns were filed or indicate the years for which the gross and net taxable incomes were less than the amount necessary to require the filing of returns. If additional information is required, a supplemental statement will be requested.~~

**R15-2F-102. Common Trust Fund Returns Repealed**

**A.** ~~In order for a fund maintained by a bank or a trust company to be designated as a "common trust fund", such fund must be maintained by such a bank or a trust company exclusively for the collective investment and reinvestment of monies contributed thereto by the bank or the trust company acting alone or in conjunction with 1 or more co-fiduciaries, but acting solely in the capacity of the bank or the trust company as:~~

~~1. A trustee of a trust created by will, deed, agreement, declaration of trust, or order of the court;~~

~~2. An executor of the will of or as an administrator of the estate of a deceased person;~~

~~3. A guardian of the estate of an infant, of an incompetent individual, or of an absent individual.~~

**B.** ~~Income of participants in common trust fund~~

~~1. Each participant in a common trust fund is required to include the following in computing the net income of the fund for the taxable year within which or with which the taxable year of the fund ends whether or not distributed and whether or not it is distributable:~~

*Arizona Administrative Register*  
**Notices of Proposed Rulemaking**

- a. the proportionate share of the gains and losses of the fund from sales or exchanges of capital assets held for not more than 12 months computed as provided in this Section as part of the gains and losses of the fund from the sales or the exchanges of capital assets held for not more than 12 months.
  - b. the proportionate share of the gains and losses of the fund from sales or exchanges of capital assets held for more than 12 months computed as provided in this Section as part of the gains and the losses of the fund from the sales or the exchanges of the capital assets held for more than 12 months.
  - e. the proportionate share of the ordinary net income or the ordinary net loss of the common trust fund computed as provided in this Section.
2. The proportionate share of each participant in the gains and losses from sales or exchange of capital assets held for not more than 12 months, gains and losses from sales or exchanges of capital assets held for more than 12 months, the ordinary net income or the ordinary net loss, and the exempt interest shall be determined in accordance with the method of accounting adopted by the bank in accordance with the written plan under which the common trust fund is established and administered provided that the method clearly reflects the income of each participant. The items of income and deductions are, therefore, to be allocated to the periods between valuation dates within the taxable year established by that plan in which they were realized or sustained and the ordinary net income or ordinary net loss, gains and losses from sales or exchanges of capital assets held for not more than 12 months, and gains and losses from sales or exchanges of capital assets held for more than 12 months computed for each such period. The proportionate shares of the participants in such items are then to be determined.
3. The provisions of subsection (B)(2) of this subsection may be illustrated by the following example:

Example 1. The plan of a common trust fund provides for quarterly valuation dates and for the computation and the distribution of the income on a quarterly basis except that there shall not be a distribution of the capital gains. The participants are as follows:

- Trusts A, B, C, and D for the 1st quarter
- Trusts A, B, C, and E for the 2nd quarter
- Trusts A, B, F, and G for the 3rd and 4th quarters.

The participants have equal participating interests. The ordinary net income as computed on the quarterly basis, the short term capital gains, and the long term loss for the taxable year were as follows:

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
Ordinary net income	\$200	\$300	\$200	\$400	\$1,100
Short term capital gain	200	200	200	100	600
Long term capital loss	100	200	100	200	600

Example 2. Participants' shares of ordinary net income are as follows:

Participant	Participants' Shares of Ordinary Net Income				
	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
A	\$50	\$75	\$50	\$100	\$275
B	50	75	50	100	275
C	50	75	—	—	125
D	50	—	—	—	50
E	—	75	—	—	75
F	—	—	50	100	150
G	—	—	50	100	150

Example 3. The participants' shares of the short term capital gain are as follows:

Participant	Participants' Shares of Ordinary Net Income				
	Quarter	Quarter	Quarter	Quarter	Total
A	\$50	\$25	\$50	\$25	\$150
B	50	25	50	25	150
C	50	25	—	—	75
D	50	—	—	—	50
E	—	25	—	—	25
F	—	—	50	25	75
G	—	—	50	25	75
Total	\$200	\$100	\$200	\$100	\$600

- C. Returns of common trust funds. A bank or trust company maintaining a common trust fund shall make a return of income of the common trust fund regardless of the amount of net income of the fund. If a bank maintains more than 1 common trust fund, a separate return shall be made for each. The return shall be made for the taxable year of the common trust fund on the form prescribed by the Department in accordance with these regulations and the instructions on the form or issued therewith. The return of a common trust fund shall state specifically the items of gross income and the deductions allowed under the Act pertaining to the fund and shall include each participant's name and address, the ordinary net income or loss, and the proportionate share of the gains and the losses from sales or exchanges of capital assets. A copy of the plan of the common trust fund must be filed with the return. However, if a copy of that plan has once been filed with a return,

*Arizona Administrative Register*  
Notices of Proposed Rulemaking

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it need not again be filed if the return contains a statement showing when and where it was filed. If the plan is amended in any way after that copy has been filed, a copy of the amendment must be filed with the return for the taxable year in which the amendment was made. Each such return shall be verified in the same manner as the return filed by the bank or the trust company.

**R15-2F-103. Information Required of Certain Trusts Claiming Charitable Deductions Repealed**

- A.** General. Every trust other than a trust described in subsection (B) of this Section claiming a charitable deduction shall file a return of information relative to the taxable year for which the deduction is claimed. The return shall be filed with the Department on or before the 15th day of the 4th month following the close of the taxable year of the trust. The return shall set forth the name and the address of the trust as well as detailed information concerning the trust as may be prescribed by the Department in the instructions issued or on a form supplied by the trust as follows:
1. The amount of the charitable deduction taken for the taxable year should be shown separately for each class of activity for which disbursements or amounts permanently set aside during that year were paid.
  2. The amount paid during the taxable year that represents the amounts permanently set aside in previous years for charitable deductions should list separately each class of activity for which the disbursements were made and the total amount paid.
  3. The amount for charitable deductions taken in previous years but have not been paid at the beginning of the taxable year.
  4. The amount paid from principal in the taxable year for charitable purposes and listing separately for each class of activity the disbursements made and the total amounts paid.
  5. The total amount paid from principal in previous years for charitable purposes.
  6. The gross income of the trust for the taxable year and the expenses attributable to the trust in sufficient detail to show the different categories of income and expense.
  7. A balance sheet showing the assets, liabilities, and the net worth of the trust as of the beginning of the taxable year.
- B.** The provisions of subsection (A) of this Section relative to the filing of information returns shall not be applicable to the taxable year of a trust if the trust is specifically exempt from filing a return under the provisions of A.R.S. § 43-1242.