

NOTICES OF PROPOSED RULEMAKING

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

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

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 8. DEPARTMENT OF ECONOMIC SECURITY

AGING AND ADULT ADMINISTRATION

PREAMBLE

1. Sections Affected

Rulemaking Action

R6-8-101	Amend
R6-8-102	Renumber
R6-8-102	Amend
R6-8-103	Renumber
R6-8-103	Amend
R6-8-104	Renumber
R6-8-104	Amend
R6-8-105	Amend
R6-8-106	Amend
R6-8-107	Amend
R6-8-108	Repeal
R6-8-108	Renumber
R6-8-108	Amend
R6-8-109	Renumber
R6-8-109	Amend
R6-8-110	Renumber
R6-8-110	Amend
R6-8-111	Renumber
R6-8-111	Amend
R6-8-112	Renumber
R6-8-112	Amend
R6-8-113	Renumber
R6-8-113	Amend
R6-8-114	Renumber
R6-8-114	Amend
R6-8-115	Renumber
R6-8-115	Amend
R6-8-116	Renumber
R6-8-116	Amend
R6-8-117	Renumber
R6-8-117	Amend

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

Authorizing statute: A.R.S. §§ 41-1003, 41-1954(A)(3), and 46-134(A)(12)

Implementing statute: A.R.S. §§ 41-1954(A)(1)(b) and (j), 41-1991 to 41-1994, 46-182, 46-191 to 46-192, and 46-251 to 46-253.

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3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 4 A.A.R. 1072, May 8, 1998.

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

Name: Paulina Vazquez-Morris
Address: Department of Economic Security
1789 West Jefferson, Site Code 101A
Phoenix, Arizona 85007

Telephone: (602) 542-1163

Fax: (602) 542-5339

or

Name: Lynn Larson, Policy and Planning Specialist

Address: Aging and Adult Administration
Department of Economic Security
1789 West Jefferson, Site Code 950A
Phoenix, Arizona 85007

Telephone: (602) 542-6461

Fax: (602) 542-6575

E-mail: voll6028@de.state.az.us

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

The Grievances and Hearings rule establishes and describes the rights and procedures of a client or grievant who seeks due process from an agency or Department action and who wishes to appeal an agency or Department decision. The following amendments are made to 6 A.A.C. 8, Article 1, Grievances and Hearings, derived from the federal Older Americans Act:

- Terms are added to Section R6-8-101;
- Sections R6-8-102 to R6-8-104 are renumbered to better group rules related to client appeal rights;
- Types of non-grievable issues are specified in Sections R6-8-104 and R6-8-105;
- Sections R6-8-107 and R6-8-108 are combined to accommodate similar actions;
- Terminology throughout the Article is enhanced for conciseness, understandability and clarity of each rule; and
- The current rules are expanded to include the details found in the Aging and Adult Administration's Policies and Procedures manual.

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 or 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 following entities will be minimally (less than \$1000) impacted and will benefit from the amendments that make the language of the rules more understandable and concise, and make the grievance and appeals process easier to follow:

Department;

- Area Agencies on Aging;
- Service Providers; and
- Service Recipients and Clients.

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: Lynn Larson, Policy and Planning Specialist

Address: Aging and Adult Administration
Department of Economic Security
1789 West Jefferson, Site Code 950A
Phoenix, Arizona 85007

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Telephone: (602) 542-6461
Fax: (602) 542-6575
E-mail: voll6028@de.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:

The Department does not plan to conduct hearings on these amendments unless a written request for an oral proceeding is submitted to the person named in this paragraph within 30 days after the date of the publication. The Department will accept written comments for at least 30 days after the date of the publication of the proposed rules. Written comments shall be submitted to the following person:

Name: Lynn Larson, Policy and Planning Specialist
Address: Aging and Adult Administration
Department of Economic Security
1789 West Jefferson, Site Code 950A
Phoenix, Arizona 85007
Telephone: (602) 542-6461
Fax: (602) 542-6575
E-mail: voll6028@de.state.az.us

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 6. ECONOMIC SECURITY

**CHAPTER 8. DEPARTMENT OF ECONOMIC SECURITY
OLDER AMERICANS**

ARTICLE 1. GRIEVANCES AND HEARINGS

Section

R6-8-101. Definitions
~~R6-8-102~~R6-8-103. Right to Administrative Review
~~R6-8-103~~R6-8-104. Right to Administrative Review
~~R6-8-104~~R6-8-102. Client Complaint Resolution Procedures
R6-8-105. Right to Appeal
R6-8-106. Filing an Appeal
R6-8-107. Service on Parties
~~R6-8-108.~~ Time
~~R6-8-108~~R6-8-109. Scheduling and Notice of Hearing
~~R6-8-109~~R6-8-110. Change of Hearing Officer
~~R6-8-110~~R6-8-111. Failure of a Party to Appear
~~R6-8-111~~R6-8-112. Subpoena of Witness and Documents
~~R6-8-112~~R6-8-113. Conduct of Hearing
~~R6-8-113~~R6-8-114. Hearing Decision
~~R6-8-114~~R6-8-115. Termination of Appeal
~~R6-8-115~~R6-8-116. Appeal to the Assistant Secretary Commissioner on Aging
~~R6-8-116~~R6-8-117. Review by the Appeals Board

R6-8-101. Definitions

A. "Administrative review" means a review of administrative proceedings.

B. "Adverse action" means an action taken by an agency which results in reduction, suspension, termination or denial of a client's benefits or services.

~~C.A.~~ "Aging and Adult Administration" means the Aging and Adult Administration of the Division of Aging and Community Services of the Department of Economic Security, and may be referred to as the state agency.

D. "Appeals Board" means the Appeals Board in the Appellate Services Administration in the Division of Employee Services and Support in the Department of Economic Security.

~~E.B.~~ "Area Agency agency" means Area Agency on Aging, an organization designated by the Department to develop and administer the area plan for a comprehensive and coordinated system of services to older persons.

~~E.C.~~ "Area plan" means a plan developed by each Area Agency to provide for a comprehensive and coordinated system of services for older persons and devised to govern governing activities in a Planning planning and Service Area servicee area.

G. "Business Day" means a day on which state offices are open for regular hours.

~~H.D.~~ "Client" means any person who applies for or receives services from the Department or from a service provider under the Older Americans American Act, 42 U.S.C.-3001 et. seq. §§ 3026, 3030d, or the Arizona Older Americans Act, Non-Medical non-medical Home and Community-Based Care Services, A.R.S. §§ 46-191 et. seq. through 46-193.

I. "Client Complaint Resolution" means a formal statement of a decision or expression of opinion addressing the complaint of the client.

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- J.** "Complaint" means a formal accusation or charge expressing dissatisfaction or grief with an agency or Department action or decision.
- K.E.** "Department" means the Department of Economic Security (DES).
- L.** "Good cause" means the circumstances causing a request for postponement of a hearing are beyond the reasonable control of the requesting party and failure to grant a postponement will result in undue hardship to the requesting party.
- M.F.** "Grievant" means an organization or person listed in R6-8-102 R6-8-103 which had filed a requesting request for an administrative review with the Department.
- N.** "Hearing" means a formal session for listening to arguments or testimony.
- O.** "Hearing Officer" means a person designated by the Department to conduct the hearing and set forth a subsequent decision.
- P.** "Notice of Action" means a written decision issued by the Area Agency, Program Administrator, or Hearing Officer to a client or grievant regarding a complaint or an adverse action.
- Q.G.** "Nutrition project" means a service provider under contract with the Area Agency the recipient of a subgrant or contract to provide nutrition services, other than the Area Agency.
- R.** "Office of Appeals" means the Office of Appeals in the Appellate Services Administration in the Division of Employee Services and Support in the Department of Economic Security.
- S.H.** "Party" means a any client or grievant appealing an action under R6-8-105 or the Department.
- T.** "Pertinent" means evidence or facts relevant to, pertaining to or connected with a specific administrative review, client complaint resolution, or appeal process.
- U.** "Planning and Service Area" (PSA) means a geographical area in the state or state jurisdiction that is designated by the state agency for the planning, development, delivery and overall administration of services under an approved area plan.
- V.I.** "Program Administrator" means the Program Administrator of the Aging and Adult Administration.
- W.J.** "Service provider" means an agency or organization, public or nonprofit, or a person or organization that is awarded a grant or contract from an Area Agency area-agency to provide services under the area plan, or an Area Agency that provides direct services under the area plan.
- X.** "Volunteer Ombudsman" means a person who meets the certification standards established by the Office of the State Long Term Care Ombudsman and carries out the official duties of the Ombudsman program, but does not receive compensation.

R6-8-102R6-8-103. Right to Administrative Review

An administrative review shall be available to:

- A.1.** Any Area Agency area-agency when the Department proposes to disapprove an area plan or plan amendment submitted by the Area Agency area-agency, or withdraw the Area Agency's area-agency's designation;
- B.2.** Any applicant for designation as a PSA planning and service area, whose application is denied;
- C.3.** Any nutrition project for which an the Area Agency area agency proposes to cancel funding;
- D.4.** Any service provider whose application to provide services under an area plan is denied, or whose subgrant or contract is terminated or not renewed; and.

- E.** Any volunteer Ombudsman who is subject to de-certification from the Ombudsman program by the Office of the State Long Term Care Ombudsman.

R6-8-103 R6-8-104. Administrative Review Procedures

- A.** Upon the receipt of a notice of action, a A written request for an administrative review may must be filed in-writing within 30 days of the receipt of the notice of an adverse action. The request shall be signed by the grievant or an authorized representative of the grievant and directed to:
- The Program Administrator
Aging and Adult Administration
Department of Economic Security
P.O. Box 6123
Phoenix, Arizona 85005
- B.** The request shall be signed by the grievant or an authorized representative of the grievant and directed to:
- The Program Administrator
Aging and Adult Administration
Department of Economic Security
P.O. Box 6123
Phoenix, Arizona 85005
- C.B.** The Program Administrator or the Program Administrator's designee shall schedule an administrative review conference to meet with the grievant or an authorized representative of the grievant within 10 business days of receipt of request for administrative review.
- D.** Pertinent evidence on which the notice of action was based shall be reviewed and addressed at At the administrative review conference, the grievant or the grievant's representative may review pertinent evidence on which the action was based.
- E.C.** The Program Administrator shall issue a final written decision by mail within 30 days of the filing of the request for an administrative review.

R6-8-104 R6-8-102. Client Complaint Resolution Procedures

- A.** Each Area Agency area-agency shall establish have a written complaint resolution procedure that which shall be posted or given to the made available to all client clients.
- B.** A request for a client complaint resolution may be filed in writing with the Department, the Area Agency, or the service provider.
- C.** The Area Agency shall establish a formal process for responding to verbal or written complaints submitted by the client. The process will include the following:
1. The complaint will be referred to the service provider who shall address the complaint.
 2. Upon review of the complaint, the service provider shall attempt to resolve the problem with the client.
 3. If the client remains dissatisfied with the service provider, the client may appeal the decision with the Area Agency.
- B.** The complaint resolution procedure shall provide for an informal meeting to adjust the dispute and shall inform the client of the right to appeal if not satisfied with the area agency's decision.
- 4.C.** The Area Agency shall issue its written decision within 30 days of the date the complaint is filed.

R6-8-105. Right to Appeal

- A.** A client who is dissatisfied with the final decision issued by the service provider or Area Agency as described in area agency pursuant to R6-8-104 may R6-8-102 of this Article has the right to appeal the that decision to the Department for the following reasons:
1. Services have been denied in whole or in part; or

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2. Services are suspended, terminated, or reduced.

- B.** If the decision issued by the service provider or Area Agency as described in R6-8-104 was a direct result of changes in federal or state law, policy, or appropriations resulting in service adjustments or service discontinuance for classes of recipients, and the client is a member of 1 of those classes, the client may not appeal the decision.
- C.** A grievant who is dissatisfied with the final decision issued by the Program Administrator as described in pursuant to R6-8-103 may of this Article had the right to appeal the that decision to the Department.
- D.** The client or grievant may file an appeal under R6-8-106.

R6-8-106. Filing an Appeal

- A.** A Any client or grievant may filing an appeal under these rules shall file a written request for a hearing with the Department Program Administrator within 15 days day following after the mailing date of the Area Agency's area agency or Program Administrator's notice of action, decision as described in R6-8-103 and R6-8-104.
- B.** A document shall be considered received by and filed with the Department:
1. If transmitted via the United States Postal Service or its successor, on the date it is mailed. The mailing date shall be:
 - a. As shown by the postmark; or
 - b. In the absence of a postmark, As shown by the postage meter mark of the envelope in which it is received if there is no postmark; or
 - c. In the absence of a postmark, or postage-meter mark, or if the mark is illegible, the The date entered on the document as the date of its completion, if there is no postmark, or no postage-meter mark, of is the mark is illegible.
 2. If transmitted by means other than the United States Postal Service, or its successor, on On the date it is received by the Department, if transmitted by any means other than the United States Postal Service.
 3. If a document is not submitted The submission of a document not within the specified statutory or regulatory period, it shall be considered timely only if it is established to the satisfaction of the Department establishes that the delay in submission was due to Department error or misinformation, or due to the delay or other action by the United States Postal Service or its successor.

R6-8-107. Service on Parties

Documents Any document mailed by the Department shall be considered as having been served to on the addressee on the date it is mailed to the addressee's last known address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts. Computation of time shall be made in accordance with Rule 6(a), Arizona Rules of Civil Procedure.

R6-8-108. Time

Any reference within this Article to "days" shall mean calendar days unless otherwise specified. In computing any period of time, the date of the act, event, or default from which the designated period of time begins to run, shall not be included. The last day of the period so computed shall be counted, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

R6-8-108 R6-8-109. Scheduling and Notice of Hearing

- A.** A hearing Hearings shall be held at those regularly established hearing a location locations most convenient to the party determined by the hearing officer parties or, at the discretion of the hearing officer, by telephone. An alternative location for the hearing may be granted at a party's request if the hearing officer receives the party's request not later than 5 business days prior to the date set for the scheduled hearing. A written or verbal notice of the scheduled hearing The parties shall be given to the party not no less than 20 days prior to the scheduled notice of hearing, except that the party parties may waive the notice period or request a delay.
- B.** The notice of hearing shall inform the party parties of the date, time, and place of the hearing, the name of the hearing officer, the issues involved, and the right to:
1. Present the case in person, through an authorized representative, or by telephone;
 2. Examine and copy Copy any documents to be used by the Department at the hearing at a reasonable time before the hearing; and
 3. Request a change of hearing officer.
- C.** A If a party may request a hearing postponement, orally or in writing, to eontacts the Office of Appeals not later than 5 days prior to the scheduled hearing, promptly after receiving the notice of hearing and requests a postponement for good cause; The the hearing officer shall grant a postponement if one of the following is met:
 1. If it is the party's 1st request, or
 2. On the showing of good cause, for a reasonable period. Good cause exists when the circumstances causing the request are beyond the reasonable control of the requesting party and failure to grant the postponement would result in undue hardship to the requesting party.
- D.** The AH Office of Appeals is responsible for the scheduling of a hearing is the responsibility of the Office of Appeals.

R6-8-109 R6-8-110. Change of Hearing Officer

A party may file a written request for a change in hearing officer not Not less than 5 five days before the scheduled date of set for the hearing, any party may file a written request for a change of hearing officer. The hearing officer and the matter shall immediately transfer the matter be transferred to another hearing officer who shall conduct the hearing. A hearing officer may be challenged for cause at any time before a decision becomes final. Except for good cause, not more than 1 one change of a hearing officer shall be granted to any 1 one party.

R6-8-110 R6-8-111. Failure of a Party to Appear

- A.** If there is no appearance on behalf of a party fails to appear at a scheduled hearing, the hearing officer may adjourn the hearing to a later date or may make the decision on the record and on the such evidence as may be presented at the scheduled hearing.
- B.** If, within 15 days of the scheduled hearing, a party files a written request to reopen the proceedings and establishes good cause for failure to appear at the scheduled hearing, the hearing shall be rescheduled. The Office of Appeals shall give notice to all parties. Notice shall be given of the time, place, and the purpose of any continued, reopened, or rescheduled hearing to all parties. Good cause shall be established upon proof that both the failure to appear, and the failure to timely notify the hearing officer, were beyond the reasonable control of the nonappearing party.

R6-8-111 R6-8-112. Subpoena of Witnesses and Documents

The hearing officer may subpoena any witnesses or documents requested by a any party or upon the hearing officer's own motion.

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1. The request shall be in writing and shall state the name and address of the witness and the nature of the expected testimony. The nature of the witness' testimony must be relevant to the issues of the hearing; otherwise the hearing officer may deny the request.
2. A request for subpoena of documents shall describe them in detail and provide the name and address of the custodian.
3. The request for the issuance of a subpoena shall be filed not less than a minimum of 5 business five working days before the hearing.
4. The Department shall prepare and serve all subpoenas. Service of the subpoena shall be accomplished by certified mail; return receipt requested.

R6-8-112R6-8-113. Conduct of Hearing

- A. Each hearing Hearing shall be conducted in an orderly and dignified manner. Each All hearing shall be open to the public ~~except~~ but the hearing officer conducting the a hearing may close the hearing to persons other than the party parties to the extent necessary to protect the interests and rights of the party parties.
- B. Each hearing Hearing shall be opened, conducted, and closed by the hearing officer who shall rule on the admissibility of evidence and shall direct the order of the presentation of evidence proof. The hearing officer shall have the power to administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of any documents deemed necessary as evidence in connection with a hearing. All testimony at the hearing shall be taken under oath or affirmation.
- C. Evidence not relevant related to the issue shall not be allowed to become a part of the record.
- D. The hearing officer may, on the hearing officer's own motion or at the request of the a party, exclude witnesses from the hearing room.
- E. The parties may present evidence, cross-examine witnesses, and present arguments.
- F. The parties to an appeal, with the consent of the hearing officer, may stipulate to facts involved in writing or on the record.
- G. At the conclusion of the hearing, the hearing officer shall grant the parties shall be granted a reasonable opportunity to present arguments argument on the all issues of fact and law to be decided. The hearing officer shall afford the parties an opportunity to may present oral arguments argument, or to file briefs, or both.
- H. A full and complete record shall be kept of all proceedings in connection with an appeal. The record shall be open for inspection by the party parties. A transcript of the proceedings need not be made unless it is required for further proceedings.

R6-8-113R6-8-114. Hearing Decision

- A. A hearing decision shall be rendered exclusively on the evidence and testimony produced at the hearing, appropriate state and federal law, and Department rules governing the issue in dispute.
- B. Every The decision adverse to a party to the proceedings shall be in writing or stated in the record and shall set forth the pertinent facts involved, the conclusions drawn from such facts, the sections of applicable law or rule, the decision, and the reasons for the decision therefor. A copy of the decision, together with an explanation of the appeal rights, shall be delivered in person or by mail mailed to the each party or designated representative not more than 60 days from the

date of filing the request for hearing unless the delay was caused by the party appellant, in which case the time limit for delivery is extended by the number of days attributable to the party appellant.

- C. A decision All decisions in favor of the party appellant shall apply retroactively to the date of the action being appealed or to the date the hearing officer specifically finds appropriate.
- D. The decision of the hearing officer shall become the final decision of the Department 15 days after it is issued unless a written petition for review has been filed.

R6-8-114R-6-8-115. Termination of Appeal

An appeal may be terminated by as follows:

1. Voluntary By voluntary withdrawal if the party appellant submits a signed letter requesting the termination of appeal or on the record at any time before the decision is issued; or.
2. Default By default when a party fails to appear at a scheduled hearing and fails to request a rescheduled hearing within 15 days, the default will be entered on the record. An appeal will not be considered abandoned If if the party provides notification up to the time of the hearing that he is unable to appear at the scheduled hearing, due to good cause, to appear and that the party may request, within 15 days of the scheduled hearing, that the hearing be rescheduled, as described in R6-8-110, he still wishes a hearing, or that the matter be considered on the record.

R6-8-115R6-8-116. Appeal to the Assistant Secretary Commissioner on Aging

- A. A party An appellant which has been denied designation as a PSA planning and service area may appeal to the Assistant Secretary commissioner on Aging, Department of Health and Human Services, within 30 days after the hearing officer's decision is mailed or otherwise delivered.
- B. The appeal shall be in writing, signed, and dated. The appeal It shall set forth the grounds for the request and may be filed personally or by mail to: the Administrator, Aging and Adult Administration.

The Program Administrator
Aging and Adult Administration
Department of Economic Security
P.O. Box 6123
Phoenix, Arizona 85005.

R6-8-116R6-8-117. Review by the Appeals Board

- A. For cases In all cases not covered by R6-8-115 R6-8-116 of the Article, the a party may petition for review of an adverse hearing decision within 15 days after the decision is mailed or otherwise delivered to the party appellant. The petition for review shall be in writing, signed, and dated. The petition It shall state the grounds for the request and may be filed personally or by mail to the Aging and Adult Administration or the Office of Appeals.
- B. The Appeals Board may remove to itself any matter before a hearing officer before the issuance of a decision or, if a decision has been issued, before the decision has become final. Upon removal, the Appeals Board shall notify the parties of the removal.
- C. In any case of removal or review, the Appeals Board shall notify the Office of Appeals that it has accepted jurisdiction, and the Office of Appeals shall prepare a complete record of the case, including a transcript, which shall be provided to the parties upon request.

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Address: Arizona Department of Transportation, Motor Vehicle Division
1801 West Jefferson, Mail Drop 507M
Phoenix, Arizona 85013

Telephone: (602) 712-6722

Fax: (602) 241-1624

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:

No oral proceedings are scheduled. A person may submit written comments on the proposed rulemaking or economic impact statement or a request for an oral proceeding to the persons listed in question # 9 no later than the close of the record, which is scheduled for 5 p.m., April 30, 1999.

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:

Not applicable.

13. The full text of the rule follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

MOTOR VEHICLE DIVISION

ARTICLE 7. MISCELLANEOUS RULES

Section

R17-4-710. Licensing Time-frames

ARTICLE 7. MISCELLANEOUS RULES

R17-4-710. Licensing Time-frames

A. Time-frames. The time-frames listed in Table A shall apply to licenses issued by the Division. The licensing time-frames consist of an administrative completeness review time-frame, a substantive review time-frame, and an overall time-frame that have the meanings prescribed in A.R.S. § 41-1072.

1. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.

2. "License" has the meaning prescribed in A.R.S. §41-1001(10).

B. Administrative Completeness Review - Notice of Deficiency. Within the time-frame for the administrative completeness review set forth in Table A, the Division shall notify the applicant in writing that the application is complete or incomplete. If the application is incomplete, the Division shall issue a notice of deficiency to the applicant specifying what information is required to make the application administratively complete.

1. The notice of deficiency shall list all missing information.

2. A notice of deficiency issued by the Division within the administrative completeness time-frame suspends the overall time-frame, from the date the notice of deficiency is issued until the date that the Division receives all missing information from the applicant.

C. Administrative Completeness Review - Notice of Inadequate Response. If an applicant does not respond in full to a notice of deficiency issued during the administrative completeness review, the Division shall issue a notice of inadequate response to the applicant within 10 days after receipt of the applicant's response.

1. The notice of inadequate response shall identify each item to which the applicant failed to respond.

2. The Division's failure to issue a notice of inadequate response under this subsection shall not preclude the Division from issuing additional notices of deficiency during an administrative review.

3. The suspension of the overall time-frame is not terminated by a notice of inadequate response.

D. Denial During Administrative Completeness Review. The Division shall issue a notification of denial to the applicant in writing, if either of the following occurs:

1. The applicant does not respond, within 60 days after the date on a notice of deficiency issued under subsection (B), to each item listed in the notice of deficiency; or

2. The applicant does not respond, within 60 days after the date on a notice of inadequate response issued under subsection (C), to each item listed in the notice of inadequate response.

The applicant may waive, in whole or in part, the 60-day response period. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.

E. Substantive Review - Comprehensive Request for Additional Information. Within the time-frame for the substantive review set forth in Table A, the Division may issue 1 comprehensive request for additional information to the applicant.

1. The comprehensive request for additional information shall list all items of information required.

2. A comprehensive request for additional information issued by the Division within the substantive review time-frame suspends the overall time-frame, from the date the request is issued until the date that the Division receives all the required additional information from the applicant.

F. Substantive Review - Supplemental Requests. Within the time-frame for the substantive review set forth in Table A and by mutual agreement with the applicant, the Division may issue supplemental requests for additional information.

1. A supplemental request for additional information shall specify all items of information required.

2. A supplemental request for additional information issued by the Division within the substantive review

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time-frame suspends the substantive review time-frame and the overall time-frame, from the date the request is issued until the date that the Division receives all the required additional information from the applicant.

G. Substantive Review - Notice of Inadequate Response. If an applicant does not respond to each component or item of information requested in a comprehensive or supplemental request for additional information, the Division shall issue a notice of inadequate response to the applicant within 10 days after receipt of the applicant's response.

1. The notice of inadequate response shall identify each required item of information to which the applicant did not provide.
2. The Division's failure to issue a notice of inadequate response under this subsection shall not preclude the Division from issuing other supplemental requests for additional information during the substantive review and by mutual agreement with the applicant.
3. The suspension of the substantive review time-frame and the overall time-frame is not terminated by a notice of inadequate response.

H. Denial During Substantive Review. The Division shall notify the applicant in writing that the license is denied, if either of the following occurs:

1. The applicant does not respond, within 60 days after the date on a request for additional information issued under subsection (E) or subsection (F), to each item or component required by the request for additional information;
or

2. The applicant does not respond, within 60 days after the date on a notice of inadequate response issued under subsection (G), to each required item listed in the notice of inadequate response.

The applicant may waive, in whole or in part, the 60-day response period. The notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.

I. Notification After Substantive Review. Upon completion of the substantive review, the Division shall notify the applicant in writing that the application is granted or denied. Notification shall be made within the overall time-frames set forth in Table A, unless either of the following occurs:

1. The overall time-frame is suspended under subsection (B), subsection (E), or subsection (F); or
2. The overall time-frame is extended by mutual agreement with the applicant under A.R.S. § 41-1075.

If the application is denied after a complete substantive review, the notice of denial shall provide a justification for the denial and an explanation of the applicant's right to a hearing or appeal.

J. Applicant Response Period. In computing the applicant's response periods prescribed in this time-frame rule, the last day of a response period shall be counted. If the last day is a Saturday, Sunday or legal holiday, the applicant's response period shall run until the end of the next business day which is not a Saturday, Sunday or legal holiday.

K. Effective Date. This rule applies to applications filed with the Division on or after the effective date of this Section.

Table A. Time-frames

<u>LICENSE</u>	<u>STATUTORY AUTHORITY</u>	<u>ADMINISTRATIVE COMPLETENESS REVIEW TIME-FRAME</u>	<u>SUBSTANTIVE REVIEW TIME-FRAME</u>	<u>OVERALL TIME-FRAME</u>
<u>Fleet registration</u>	<u>A.R.S. §§ 28-2201 to 28-2208</u>	<u>60 days</u>	<u>30 days</u>	<u>90 days</u>
<u>International proportional registration</u>	<u>A.R.S. §§ 28-2231 to 28-2239</u>	<u>20 days</u>	<u>10 days</u>	<u>30 days</u>
<u>Alternative proportional registration</u>	<u>A.R.S. § 28-2261 to 28-2269</u>	<u>60 days</u>	<u>30 days</u>	<u>90 days</u>
<u>Personalized special plates</u>	<u>A.R.S. § 28-2406</u>	<u>2 days</u>	<u>30 days</u>	<u>60 days (Includes 14 days to manufacture plate and 14 days for delivery of plate to office where request submitted)</u>
<u>Traffic survival school or traffic survival school instructor license</u>	<u>A.R.S. §§ 28-3306 to 28-3307</u>	<u>1 day</u>	<u>35 days</u>	<u>36 days</u>
<u>Driver license issued after suspension, revocation or disqualification</u>	<u>A.R.S. § 28-3315</u>	<u>1 day</u>	<u>30 days</u>	<u>31 days</u>

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<u>Automotive recycler, broker, motor vehicle dealer or wholesale motor vehicle dealer license</u>	<u>A.R.S. §§ 28-4301 to 28-4366</u>	<u>5 days</u>	<u>117 days</u>	<u>122 days</u>
<u>Manufacturer, distributor, factory branch or distributor branch license</u>	<u>A.R.S. §§ 28-4301 to 28-4366</u>	<u>2 days</u>	<u>14 days</u>	<u>16 days</u>
<u>Permit to exhibit or display and sell vehicles off dealer's premises</u>	<u>A.R.S. § 4401</u>	<u>2 days</u>	<u>9 days</u>	<u>11 days</u>
<u>Permit to exhibit recreational vehicles at public event</u>	<u>A.R.S. § 28-4402</u>	<u>2 days</u>	<u>9 days</u>	<u>11 days</u>
<u>Authorization to use dealer license plates</u>	<u>A.R.S. § 28-4533</u>	<u>2 days</u>	<u>38 days</u>	<u>40 days</u>
<u>Authorization to dispose of junk vehicle</u>	<u>A.R.S. § 28-4882</u>	<u>1 day</u>	<u>45 days</u>	<u>46 days</u>
<u>License to operate as a title service company</u>	<u>A.R.S. § 28-5003</u>	<u>2 days</u>	<u>14 days</u>	<u>16 days</u>
<u>3rd party authorization to perform certain title and registration, motor carrier licensing and tax reporting, dealer licensing, and driver license functions*</u>	<u>A.R.S. §§ 28-5101 to 28-5110</u>	<u>2 days</u>	<u>90 days</u>	<u>92 days</u>
<u>3rd party authorization to issue over-weight and over-dimensional permits*</u>	<u>A.R.S. §§ 28-1145 and 28-5101 to 28-5110</u>	<u>2 days</u>	<u>90 days</u>	<u>92 days</u>
<u>Certification of an authorized 3rd party, or the authorized 3rd party's employee or agent to perform the authorized functions</u>	<u>A.R.S. §§ 28-5101 to 28-5110</u>	<u>1 day</u>	<u>60 days</u>	<u>61 days</u>
<u>Professional driver training school or professional driver training school instructor license</u>	<u>A.R.S. §§ 32-2351 to 32-2393</u>	<u>1 day</u>	<u>35 days</u>	<u>36 days</u>
<u>* The Division shall have the right to determine when an authorized 3rd party may begin to transact business after a license has been granted.</u>				