

NOTICES OF SUMMARY RULEMAKING

The Administrative Procedure Act allows an agency to use the summary rulemaking procedure instead of the regular rulemaking procedure for repeals of rules made obsolete by repeal or supersession of an agency's statutory authority or the adoption, amendment, or repeal of rules that repeat verbatim existing statutory authority granted to the agency. An agency initiating summary rulemaking shall file the proposed summary rulemaking with the Governor's Regulatory Review Council and the Secretary of State's Office for publication in the next available issue of the *Register*. The proposed summary rule takes interim effect on the date of publication in the *Register*.

NOTICE OF FINAL SUMMARY RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY WASTE MANAGEMENT

PREAMBLE

- | | |
|---------------------------------|---------------------------------|
| <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R18-8-306 | Repeal |
- 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. § 41-1027(A)(1) (summary rule making authority for repeal of rules made obsolete by supervening legislation)
Implementing statutes:	Laws 1997, Chapter 71, § 12
- The effective date of the summary rules:**
July 16, 1999
- The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Deborah K. Blacik or Martha Seaman
Address:	Arizona Department of Environmental Quality Rule Development Section, M0836A-829 3033 North Central Avenue Phoenix, Arizona 85012-2809
Telephone Number:	(602) 207-2222
Fax Number:	(602) 207-2251
TDD:	(602) 207-4829
- The concise explanatory statement, including an explanation of the rule and the agency's reasons for initiating the rule:**

This Notice of Adopted Summary Rulemaking repeals the rule currently located at R18-8-306 that governs best management practices for asbestos and asbestos containing materials. The rule at R18-8-306 needs to be repealed because its statutory basis was repealed by Laws 1997, Chapter 71, § 12.
- Reference to any study that the agency proposes to rely on in its evaluation of or justification for the 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.
- 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, because the rule making will not diminish a previous grant of authority of a political subdivision of this state.

Arizona Administrative Register
Notices of Summary Rulemaking

8. **The economic, small business, and consumer impact:**
Under A.R.S. § 41-1055(D)(2), an economic, small business, and consumer impact statement is not required for this rule making because it only repeals existing rule language that is inconsistent with subsequent legislation.
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:**
Not applicable (see answer to Question 8).
10. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule:**
No oral proceeding was conducted, and the agency received no written comments.
11. **An explanation of why summary proceedings are justified:**
See answer to Question 5.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
There are no other matters prescribed by statute that are applicable to the Department or the rule affected by this rule making.
13. **Incorporations by reference and their location in the rules:**
There are no incorporations by reference in this rule making.
14. **The full text of the rules follows:**

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY -
WASTE MANAGEMENT

ARTICLE 3. SPECIAL WASTE

R18-8-306. ~~Best Management Practices for Asbestos or Asbestos-containing Materials~~

ARTICLE 3. SPECIAL WASTE

~~R18-8-306. Best Management Practices for Asbestos or Asbestos-containing Materials~~

- ~~A. 40 CFR 61.141, 61.145(a) and (c), 61.149(d)(1), 61.150(a), (b), and (c), 61.154(a) through (d) and (f) through (j), and 61.155, amended as of July 1, 1992, except for all provisions regarding nonfriable asbestos-containing materials, are incorporated by reference and are on file with the Arizona Department of Environmental Quality and the Office of the Secretary of State.~~
- ~~B. Section 61.141 is amended by adding the following definitions to the definitions in § 61.141:
“Active waste disposal site” means any disposal site [or portion of it where asbestos or asbestos-containing materials has been deposited since the effective date of this Section.]
[“Administrator” means “Director of the Arizona Department of Environmental Quality” or “Director”, or the duly authorized designee except in 40 CFR 61.157(b) which are nondelegable to the state of Arizona.]
[“Agency” (or “the agency”) means “Arizona Department of Environmental Quality” or “ADEQ”.]
[“Container” means leak tight wrapping, receptacle, or flexible covering, for storage or shipment of asbestos or asbestos-containing materials.]
[“EPA”, “Environmental Protection Agency” and “United States Environmental Protection Agency” mean “ADEQ” with the following exceptions:
1. Any references to EPA identification numbers; and
2. Any references to EPA test methods and documents.]~~
- ~~C. 40 CFR 61.150(a)(1) is amended by adding the following:
[(vi) Containers shall be labeled in accordance with requirements in A.A.C. R17-4-436.
(vii) Vehicles used to transport asbestos or asbestos-containing materials shall follow marking and placarding requirements set forth in A.A.C. R17-4-436.]~~
- ~~D. 40 CFR 61.154(e) is replaced by the following:
[(e) There shall be no visible emissions of asbestos or asbestos-containing materials from any active waste disposal site where asbestos or asbestos-containing materials has been deposited, and, at the end of each operating day, or at least once every 24-hour period while the site is in continuous operation, the asbestos or asbestos-containing materials that has been deposited at the site during the operating day or previous 24-hour period shall:]
(1) [no change]~~

Arizona Administrative Register
Notices of Summary Rulemaking

(2) [no change]

- E.** 40 CFR 61.154(d) is replaced by the following:
~~{d} Asbestos or asbestos-containing materials shall be disposed of in a disposal area within the active waste disposal site which is separated from the disposal area for other wastes.}~~
- F.** 40 CFR 61.154(h) is replaced by the following:
~~{h} Submit to the Department, within 60 days of closure of the active waste disposal site, a copy of all records of asbestos or asbestos-containing materials disposal locations and quantities.}~~
- G.** ~~Asbestos or asbestos-containing materials mixed with other wastes which reduce the overall asbestos content of the mixed waste shall be subject to the requirements of this Section.~~
- H.** ~~Asbestos or asbestos-containing materials shall be stored in labeled containers. The storage area shall be secured to prevent unauthorized entry.~~
- I.** ~~A special waste receiving facility shall pay to the Department a fee of 25¢ per cubic yard of asbestos or asbestos-containing materials, not to exceed \$2.00 per ton.~~