

# NOTICES OF RULEMAKING DOCKET OPENING

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the *Register*. Because of the variety of material that is contained in a Notice of Public Information, the Office of the Secretary of State has not established a specific format for these notices.

## NOTICE OF RULEMAKING DOCKET OPENING GOVERNING COMMITTEE FOR TAX DEFERRED ANNUITY AND DEFERRED COMPENSATION PLANS

- 1. Title and its heading:** 2, Administration  
**Chapter and its heading:** 9, Governing Committee for Tax Deferred Annuities and  
Deferred Compensation Plans  
**Article and its heading:** 1, General Provisions  
**Section numbers:** R2-9-101 through R2-9-102
- 2. The subject matter of the proposed rule:**  
The rules pertaining to the expenses of the administration of the Deferred Compensation programs, and the manner in which investment providers will contact State employees and retirees, do not conform to current practice and are not consistent with current rule format and wording. The current rules will be repealed. A new section reflecting current practice regarding the manner in which investment providers will contact State employees will be promulgated.
- 3. A citation to all published notices relating to the proceeding:**  
None
- 4. Name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Graham Alex Turner  
Address: 1700 W. Washington, Suite 601  
Phoenix, AZ 85007  
Telephone: (602) 542-1500  
Fax: (602) 542-2199
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
Both written and oral comments will be accepted during business hours for thirty days after a notice of proposed rule making is published in the Arizona Administrative Register. Oral comments may also be made to the Governing Committee at its monthly meetings during this time period. Should a request for an oral proceeding be received, notice of that oral proceeding will be provided in a later edition of the Arizona Administrative Register.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
It is anticipated that a Notice of Proposed Rulemaking will be filed within ten days of the filing of this Notice of Rulemaking Docket Opening. The timing of further proceedings is not known at this time.

Notices of Rulemaking Docket Opening

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF HEALTH SERVICES

LABORATORIES

- 1. Title and its heading:** 9, Health Services  
**Chapter and its heading:** 14, Laboratories  
**Articles and their headings:** 4, Determination of Alcohol Concentration  
**Section numbers:** R9-14-401 through R9-14-410 and Exhibit A

**2. The subject matter of the proposed rule:**

A.R.S. § 28-1326 requires the Department to adopt rules prescribing the approval of methods for the analysis of blood or other bodily substances to determine blood alcohol concentration. The statute also requires the Department to issue an analyst permit to an individual who has demonstrated the ability to accurately analyze blood or other bodily substances for alcohol concentration and establishes standards for the Department to revoke an analyst permit. The rules for analysis of blood to determine blood alcohol concentration and for analyst licensure are in 9 A.A.C. 14, Article 4.

The Department completed a five-year review of these rules in February, 2001. The five-year review report was approved by the Governor's Regulatory Review Council in April, 2001. This rulemaking will address the issues identified in that five-year review report; clarify the program; and conform to current rulemaking format and style requirements, statutory authority, and the Administrative Procedures Act. The Department may add, delete, or modify additional Sections as necessary.

**The agency docket number, if applicable:**

RE-022-01

**3. A citation to all published notices relating to the proceedings:**

None

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

Name: Gary Shipley, Program Manager  
Address: Department of Health Services  
Office of Laboratory Licensure and Certification  
1740 W. Adams Street, Room 203  
Phoenix, AZ 85007

Telephone: (602) 364-0749  
Fax: (602) 364-0759  
E-mail: gshiple@hs.state.az.us

or

Name: Kathleen Phillips  
Address: Department of Health Services  
1740 W. Adams, Room 102  
Phoenix, AZ 85007

Telephone: (602) 542-1264  
Fax: (602) 364-1150  
E-mail: kphilli@hs.state.az.us

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

The Department will accept written comments until the close of record, which has not yet been determined. Written comments may be submitted to either individual listed in item #4. If the Department schedules an oral proceeding for these rules, oral public comments may be presented at that time.

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

To be announced in the Notice of Proposed Rulemaking

**NOTICE OF RULEMAKING DOCKET OPENING**

**DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

- 1. Title and its heading:** 9, Health Services  
**Chapter and its heading:** 16, Department of Health Services – Occupational Licensing  
**Article and its heading:** 3, Licensing Hearing Aid Dispensers  
**Section numbers:** R9-16-301 through R9-16-314  
The Department may add, delete, or modify additional Sections as necessary
- 2. The subject matter of proposed rule:**  
The Department has conducted a five-year review of the rules and determined that the rules require amendment. The purpose of this rulemaking is to address the issues identified during the review, to add time-frames to the rules pursuant to A.R.S. § 41-1073, to update the rules as needed to reflect current industry practice, and to amend the rules to conform to current rulemaking and style requirements.  
**The agency docket number, if applicable:** RE-023-01
- 3. A citation to all published notices relating to the proceeding:**  
None published.
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Becky Burkhart, Program Manager  
Address: Department of Health Services  
Assurance and Licensure, Office of Speech and Hearing Licensure  
1647 E. Morten Avenue, Suite 160  
Phoenix, AZ 85020  
Telephone: (602) 674-4325  
Fax: (602) 861-0463  
or  
Name: Kathleen Phillips, Rules Administrator  
Address: Department of Health Services  
1740 W. Adams, Suite 102  
Phoenix, AZ 85007  
Telephone: (602) 542-1264  
Fax: (602) 364-1150
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
Written comments will be accepted until the close of record on a date and time not yet determined. If a public hearing is scheduled for these rules, oral public comments may be presented at that time.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
Undetermined at this time

Notices of Rulemaking Docket Opening

**NOTICE OF RULEMAKING DOCKET OPENING**

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)**

**ARIZONA LONG-TERM CARE SYSTEM**

- 1. Title and its heading:** 9, Health Services  
**Chapter and its heading:** 28, Arizona Health Care Cost Containment System (AHCCCS) - Arizona Long-term Care System  
**Article and its heading:** 1, Definitions  
13, Ticket to Work  
**Section numbers:** R9-28-113 and 9 A.A.C. 28, Article 13  
The Article will be divided into Sections, as necessary.
- 2. The subject matter of the proposed rule:**  
The Administration will develop rules for Laws 2001, Chapter 385 (H.B. 2585), which added A.R.S. § 36-2950 to expand coverage to:  
1. Individuals aged 16 through 64 years of age who meet SSI eligibility criteria and have earned income below 250% FPL, and  
2. Employed individuals with a medically improved disability with earned income under 250% FPL.
- 3. A citation to all published notices relating to the proceeding:**  
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Cheri Tomlinson  
Address: AHCCCS Administration  
Office of Policy Analysis and Coordination  
801 E. Jefferson Street, Mail Drop 4200  
Phoenix, AZ 85034  
Telephone: (602) 417-4198  
Fax: (602) 256-6756
- 5. The time which the agency will accept written comments and the time and place where oral comments may be made:**  
The Administration will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m., at the address indicated in item #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
The Administration will hold a public hearing at a time to be determined.

**NOTICE OF RULEMAKING DOCKET OPENING**

**DEPARTMENT OF TRANSPORTATION**

**COMMERCIAL PROGRAMS**

- 1. Title and its heading:** 17, Transportation  
**Chapter and its heading:** 5, Department of Transportation - Commercial Programs  
**Articles and their headings:** 7, Third Party Programs  
**Section numbers:** R17-5-701 through R17-5-706
- 2. The subject matters of the proposed rules:**  
The Arizona Department of Transportation (Department) will change the 17 A.A.C. 5 heading to "Department of Transportation Commercial Programs" and will repeal Article 7 and the third party program Sections constituting Article 7. On July 20, 2001, the Department recodified these third party program Sections from 17 A.A.C. 4, Articles 5 and 8. The Department is simultaneously filing a Notice of Rulemaking Docket Opening to make new third party program Sections at 17 A.A.C. 7. The Department may use two or more rulemaking packages to make new third party rules. This docket opening notice supersedes the Notice of Rulemaking Docket Opening listed in question #3.
- 3. A citation to all published notices relating to the proceedings:**  
This notice supersedes the docket opening notice listed below.  
Notice of Rulemaking Docket Opening: 7 A.A.R. 2530, June 15, 2001

Notices of Rulemaking Docket Opening

Notice of Recodification: 7 A.A.R. 3485, August 10, 2001

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

Name: Lynn S. Golder, Hearing Officer II  
Address: Department of Transportation  
Motor Vehicle Division, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5017  
Telephone: (602) 712-7941  
Fax: (602) 241-1624  
E-mail: lgolder@dot.state.az.us  
To track progress of any Department rulemaking, please visit the ADOT web site at  
www.dot.state.az.us/about/rules.

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

Written comments will be accepted at the location listed in item #4 between 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. The person named in item #4 will accept oral comments between 7:00 a.m. and 5:00 p.m., Monday through Thursday, except legal holidays.

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

None known

**NOTICE OF RULEMAKING DOCKET OPENING**

**DEPARTMENT OF TRANSPORTATION  
THIRD PARTY PROGRAMS**

**1. Title and its heading:**

**Chapter and its heading:**

**Articles and their headings:**

**Section numbers:**

17, Transportation  
7, Department of Transportation - Third Party Programs  
1, General Provisions - Definitions and Applicability  
2, General Provisions - Authorization  
3, General Provisions - Certification  
4, General Provisions - Audits and Complaints  
R17-7-101, R17-7-102, R17-7-201 through R17-7-206, R17-7-301  
through R17-7-304, R17-7-401, and R17-7-402.  
Articles and Sections may be added, modified, or deleted as necessary.

**2. The subject matters of the proposed rules:**

The Arizona Department of Transportation (Department) will change the 17 A.A.C. 7 heading to "Department of Transportation Third Party Programs" and will make new Articles containing the third party rules. The Department is simultaneously filing a Notice of Rulemaking Docket Opening to repeal existing Sections relating to third party programs. These Sections are currently located at 17 A.A.C. 5, Article 7, recodified on July 20, 2001, from 17 A.A.C. 4, Articles 5 and 8. The Department may use two or more rulemaking packages to make new third party rules. This docket opening notice supersedes the Notice of Rulemaking Docket Opening listed in item #3.

**3. A citation to all published notices relating to the proceedings:**

This notice supersedes the docket opening notice listed below.

Notice of Rulemaking Docket Opening: 7 A.A.R. 2530, June 15, 2001

Notice of Recodification: 7 A.A.R. 3485, August 10, 2001

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

Name: Lynn S. Golder, Hearing Officer II  
Address: Department of Transportation - Motor Vehicle Division, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5017

Notices of Rulemaking Docket Opening

Telephone: (602) 712-7941  
Fax: (602) 241-1624  
E-mail: lgolder@dot.state.az.us

To track progress of any Department rulemaking matter, please visit the ADOT web site at [www.dot.state.az.us/about/rules](http://www.dot.state.az.us/about/rules).

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

Written comments will be accepted at the location listed in item #4 between 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. The person named in item #4 will accept oral comments between 7:00 a.m. and 5:00 p.m., Monday through Thursday, except legal holidays.

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

None known

**NOTICE OF RULEMAKING DOCKET OPENING**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR POLLUTION CONTROL**

- 1. Title and its heading:** 18, Environmental Quality  
**Chapter and its heading:** 2, Department of Environmental Quality - Air Pollution Control  
**Article and its heading:** 10, Motor Vehicles; Inspection and Maintenance  
**Section numbers:** To be determined
- 2. The subject matter of the proposed rule:**  
The Arizona Department of Environmental Quality (ADEQ) will propose changes to its vehicle emissions rules in order to implement OBD (On-Board Diagnostics) testing for 1996 and newer light-duty vehicles in Areas A and B. In addition, ADEQ will propose other minor technical changes to the vehicle emissions rules.
- 3. A citation to all published notices relating to the proceeding:**  
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Mark Lewandowski  
Address: Department of Environmental Quality  
3033 N. Central Ave.  
Phoenix, AZ 85012  
Telephone: (602) 207-2230  
Fax: (602) 207-2366
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
To be announced in the Notice of Proposed Rulemaking
- 6. A timetable for agency decisions or other action on the proceeding:**  
To be announced in the Notice of Proposed Rulemaking

**NOTICE OF RULEMAKING DOCKET OPENING**

**BANKING DEPARTMENT**

- 1. Title and its heading:** 20, Commerce, Banking, and Insurance  
**Chapter and its heading:** 4, Banking Department  
**Article and its heading:** 6, Debt Management Companies  
**Section numbers:** R20-4-602, R20-4-603, R20-4-604, R20-4-607, R20-4-611, R20-4-612, R20-4-620
- 2. The subject matter of the proposed rule:**  
These Sections control the conduct of business in Arizona by Debt Management Companies. This rulemaking will accomplish the revisions promised to the Council in a five-year rule review report approved September 14, 1999.
- 3. A citation to all published notices relating to the proceeding:**  
There are no previous published notices relating to this proceeding.

Notices of Rulemaking Docket Opening

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

Name: John P. Hudock  
Address: 2910 N. 44th Street, Suite 310  
Phoenix, AZ  
Telephone: (602) 255-4421, ext. 167  
Fax: (602) 381-1225  
E-mail: jhudock@azbanking.com

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

The Department accepts written comments during business hours at the address above. Comments are welcome at any time until the close of the record in this proceeding. The date for closure of the record depends on the publication date of the actual proposed rules, which has not yet occurred. Notice of any opportunity to make public oral comment will be published as required by law.

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

No timetable has been projected or established. In March, 2002 the Department expects to submit the text of proposed rules for publication.

**NOTICE OF RULEMAKING DOCKET OPENING**

**BANKING DEPARTMENT**

*Editor's Note: The following Docket Opening amends the Docket Opening published at 7 A.A.R. 3054, July, 13, 2001.*

- 1. Title and its heading:** 20, Commerce, Banking, and Insurance  
**Chapter and its heading:** 4, Banking Department  
**Article and its heading:** 8, Trust Companies  
**Section numbers:** R20-4-801, R20-4-805, R20-4-806, R20-4-807, R20-4-808, R20-4-809, R20-4-810, R20-4-811, R20-4-812, R20-4-813, R20-4-814, R20-4-815, R20-4-816.

**2. The subject matter of the proposed rule:**

These Sections govern the conduct of the business of bank trust departments and private trust companies in Arizona. They are being amended for several reasons. The first reason is to correct inadvertent drafting errors in the recent revision of Article 8.

One error is that parts of three of these Sections (R20-4-805, R20-4-806, and R-20-4-807) are written so that they apply both to bank trust departments and to private trust companies. This is an error for one of two reasons. First, A.R.S. § 6-381 establishes that bank trust departments are not subject to the statutes implemented in Article 8 except in the administration of trust accounts. So, because Sections R20-4-805(B) and (C), and R-20-4-807(A) do not regulate the administration of trust accounts, this rulemaking amends each subsection to remove the implication of their applicability to bank trust departments from the language of each one.

Second, in the case of R20-4-806 (A), the Section's implied applicability to bank trust departments is an error because it is redundant. The Section grants trust departments and trust companies authority to use electronic record keeping. But, bank trust departments already have electronic record keeping authority by virtue of the recently revised text of R20-4-214(A). To remove the redundancy, this rulemaking amends R20-4-806(A) to remove implied references to bank trust departments.

The second underlying reason for these amendments is to revise some definitions peculiar to Article 8. The definitional effects of this rulemaking will be three. First, it removes the numbers from the definitions in R20-4-801. Second, it removes the definition of "Bank" in R20-4-801, recasting it as a definition of "Trust department." Third, it removes the definition of the term "Licensee" from article 8. This last change is made because neither bank trust departments or private trust departments are, strictly speaking, "licensees." Neither one receives a license to conduct its business. Instead, trust departments operate under banking permits that grant trust powers to banks. And, trust companies operate under certificates granted by the Superintendent. For these reasons, the use of the term "licensee" is confusing and unnecessary.

The rationale for the amendments discussed in the preceding paragraphs, clarifying the distinction between trust companies and bank trust departments, is that the duties presently imposed by these Sections on bank trust departments are echoed in other provisions of state law. As a result, while it is fair to impose the duties on private trust companies, it is not necessary to restate duties imposed on banks by statute. Also A.R.S. § 6-381 establishes that bank trust departments are not subject to the statutes implemented in these Sections except in the administration of trust accounts. These amended

**Notices of Rulemaking Docket Opening**

Sections do not regulate the administration of trust accounts and do not, under state law, apply to bank trust departments.

Finally, the remaining Sections in Article 8 are amended to remove the confusing and unnecessary use of the term “licensee” from each Section.

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

There are no previous published notices relating to this proceeding.

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

Name: John P. Hudock  
Address: Banking Department  
2910 N. 44th Street, Suite 310  
Phoenix, AZ  
Telephone: (602) 255-4421, ext. 167  
Fax: (602) 381-1225  
E-mail: jhudock@azbanking.com

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

The Department accepts written comments during business hours at the address above. Comments are welcome at any time until the close of the record in this proceeding. The date for closure of the record depends on the publication date of the actual proposed rules, which has not yet occurred. Notice of any opportunity to make public oral comment will be published as required by law.

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

No timetable has been projected or established. In November 2001 the Department expects to submit the text of proposed rules for publication.