

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION ADMINISTRATION

PREAMBLE

- 1. Sections Affected**
R17-1-103
- Rulemaking Action**
New Section
- 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. § 28-366
Implementing statute: A.R.S. § 41-1033
- 3. The effective date of the rules:**
November 14, 2001
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 7 A.A.R. 3053, July 13, 2001
Notice of Proposed Rulemaking: 7 A.A.R. 3210, August 3, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: George R. Pavia, Department Rules Supervisor
Address: Administrative Rules Unit
Arizona Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5017
Telephone: (602) 712-8446
Fax: (602) 241-1624
E-mail: gpavia@dot.state.az.us
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:
www.dot.state.az.us/about/rules.
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The agency makes this rule to adequately inform the public of formal procedure required to request rulemaking or review of agency policy or practice.
- 7. A reference to any study that the agency relied on its evaluation 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
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

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

Aside from minimal costs to the agency associated with rulemaking, there are no direct costs imposed to any private business or member of the public. The benefit is clarity of procedure for a person interested in requesting Department rulemaking or review action. Clear detail of required procedure reduces costs of Department employee time in possible researching and explanation of correct administrative procedure.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The agency made minor changes at the request of Governor's Regulatory Review Council staff.

11. A summary of the principal comments and the agency response to them:

The agency received no comments in this rulemaking.

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

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATION**

ARTICLE 1. GENERAL PROVISIONS

Section

R17-1-103. Petition for Department Rulemaking or Review

ARTICLE 1. GENERAL PROVISIONS

R17-1-103. Petition for Department Rulemaking or Review

- A.** A person may petition the Department under A.R.S. § 41-1033(A) for a:
1. Rulemaking action relating to a Department rule, including making a new rule or amending or repealing an existing rule; or
 2. Review of an existing Department practice or substantive policy statement alleged to constitute a rule.
- B.** To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Department Director a written petition that includes the following information:
1. Name, address, telephone number, and facsimile number, if any, of the person submitting the petition;
 2. If the person submitting the petition is a representative of another person, the name of each person represented;
 3. If requesting a rulemaking action:
 - a. A statement of the rulemaking action sought, including the A.A.C. citation for each existing rule involved, and the specific language of each new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful.
 4. If requesting a review of an existing practice or substantive policy statement:
 - a. The subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
 5. The dated signature of the person submitting the petition.
- C.** A person may submit supporting information with a petition, including:
1. Statistical data; and
 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- D.** The Department Director or the director's authorized representative shall send the person submitting a petition a written response within 60 calendar days of the date the Department receives the petition.

vides proof of mandatory vehicle liability insurance, benefiting the motor vehicle insurance industry. Before reinstatement can occur, the \$50 fee must be paid. Uninsured drivers may experience costs for alternative transportation and time off to complete the insurance acquisition and reinstatement processes. The general driving public that possesses mandatory liability coverage may benefit because the reduction of uninsured motorists may lower costs for uninsured motorist insurance, or uncovered losses resulting from collisions with uninsured motorists.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Non-substantive changes in word selection and sentence structure were made to bring the rule in line with the current publishing style of the Governor's Regulatory Review Council and the Secretary of State.

11. A summary of the principal comments and the agency response to them:

The agency received no comments in this rulemaking.

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

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

ARTICLE 3. VEHICLE REGISTRATION

Section

R17-4-307. ~~Motor vehicle registration and number plate reinstatement fee~~ Motor Vehicle Registration and License Plate Reinstatement Fee

ARTICLE 3. VEHICLE REGISTRATION

R17-4-307. ~~Motor vehicle registration and number plate reinstatement fee~~ Motor Vehicle Registration and License Plate Reinstatement Fee

~~A fee of \$50 shall be assessed for the reinstatement of a motor vehicle registration and number plate suspended pursuant to A.R.S. § 28-1262 due to cancellation or nonrenewal of a motor vehicle liability insurance policy.~~

A. Under A.R.S. § 28-4151(A), the Division shall assess a \$50 fee for reinstatement of a motor vehicle registration and license plate suspended under A.R.S. §§ 28-4148 and 28-4149.

B. Subsection (A) does not apply to a motor carrier subject to the financial responsibility requirements prescribed under A.R.S. Title 28, Chapter 9, Article 2.

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TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

PREAMBLE

1. Sections Affected

R17-4-506

Rulemaking Action

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. § 28-366

Implementing statutes: A.R.S. §§ 28-3051 and 28-3153(A)(11)

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3. The effective date of the rules:

November 14, 2001

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 7 A.A.R. 1779, April 27, 2001

Notice of Recodification: 7 A.A.R. 3479, August 10, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 3529, August 17, 2001

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

Name: George R. Pavia, Department Rules Supervisor

Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5017

Telephone: (602) 712-8446

Fax: (602) 241-1624

E-mail: gpavia@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:
www.dot.state.az.us/about/rules.

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

R17-4-506 is the rule that sets forth the neurological standards for receiving a driver license. This rulemaking action arises from a five-year review report approved by the Governor's Regulatory Review Council on June 6, 2000 (F-00-0603). The Department is planning to update the rule's language for clarity.

Note: Since the initiation of rulemaking on this Section, the agency has recodified 17 A.A.C. The Section was formerly designated R17-4-522.

7. A reference to any study that the agency relied on its evaluation 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

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

Not applicable

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

This rulemaking will mainly affect people who have neurological disorders and the doctors who will conduct medical examinations to determine whether a condition would prevent a person from being able to drive safely. The costs to these groups are expected to be small, especially in comparison to the public safety benefit this rule will provide.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The agency made minor changes at the request of Governor's Regulatory Review Council staff.

11. A summary of the principal comments and the agency response to them:

The agency received no comment in this rulemaking.

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

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 5. SAFETY

Section
R17-4-506. Neurological Standards

ARTICLE 5. SAFETY

R17-4-506. Neurological Standards

~~A.~~ Definitions:

- ~~1. "Altered consciousness" means 1 or more of the following conditions:
 - a. The sudden and unanticipated partial or complete loss of awareness;
 - b. Partial or complete loss of mental contact with the environment;
 - c. Sudden confusion;
 - d. The sudden inability to recollect immediate events.~~
- ~~2. "Aura" means a sensation experienced before the onset of a neurological disorder.~~
- ~~3. "Isolated occurrence" means a single event which a physician concludes with reasonable medical certainty will not recur in the future.~~
- ~~4. "Episode" means, in the context of this rule, any incident or segment of time involving altered consciousness and/or loss of body control.~~
- ~~4. "Neurological disorder" means a malfunction or disease of the nervous system.~~
- ~~5. "Seizure" means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.~~

~~B.~~ Standard:

- ~~1. A person shall not be issued or allowed to maintain a driver license, or maintain nonresident driving privileges, if not seizure free for a 3-month period from the date of the most recent occurrence of a seizure.~~
- ~~2. Exceptions to the standard:
 - a. The seizure was due to a change in anticonvulsant medication ordered by the physician and the physician concludes that seizure control has been established with reasonable medical certainty.
 - b. The physician concludes that the seizure was an isolated occurrence and that another seizure is unlikely to occur with reasonable medical certainty.
 - c. The physician concludes that seizures are likely to occur or have an established pattern of occurring only during sleep.
 - d. The physician concludes that seizures have an established pattern of an aura of sufficient duration to allow an individual to safely and immediately cease operating a motor vehicle upon the onset of the aura.~~

~~C.~~ Reporting requirements:

- ~~1. An applicant who has experienced a seizure within the 3 months immediately prior to the date of application shall submit to a medical examination in accordance with the provisions of R17-4-520.~~
- ~~2. A licensee who experiences a seizure shall make a report to the Department pursuant to the provisions of R17-4-520(D)(3).~~
- ~~3. The medical examination shall set forth the following:
 - a. Age at onset of seizures, diagnosis, and history.
 - b. Aftereffects of seizures.
 - c. EEG findings, if any.
 - d. Description, cause, frequency, duration, and date of most recent seizure.
 - e. Current medications, including dosage, side effects, and serum level.
 - f. Whether the seizure meets any of the exceptions set forth in subsections (B)(2)(a) through (B)(2)(d) herein.~~
- ~~4. Persons experiencing seizures shall be required to submit follow-up medical examination reports to the Department within 1 year of the seizure, or a shorter time if recommended by the physician.~~

A. Definitions.

1. "Aura" means a sensation experienced before the onset of a neurological disorder.
2. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
3. "Neurological disorder" means a malfunction or disease of the nervous system.
4. "Seizure" means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.

B. Driver license application.

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1. A person who has had a seizure in the three months before the person applies for a driver license shall undergo medical examination as provided in R17-4-502.
 2. After the medical examination at the time the person applies, the person or the person's physician shall submit the medical examination report to the Division.
 3. The Division shall not issue a driver license to a person if the medical examination report shows that the person has a neurological disorder that affects the person's ability to operate a motor vehicle safely.
- C. Driver license revocation.**
1. A person with a driver license or non-resident driving privileges who experiences a seizure shall cease driving and:
 - a. Undergo a medical examination as provided in R17-4-502;
 - b. Submit the medical examination report to the Division; and
 - c. Undergo a follow-up medical examination within one year after the occurrence of the seizure or within a shorter time, as recommended by a physician.
 2. After each medical examination, the person or the person's physician shall submit the applicable medical examination report to the Division.
 3. The Division shall revoke a person's driver license or nonresident driver privileges if any medical examination report shows the person has a neurological disorder that affects the person's ability to operate a motor vehicle safely.
- D. Medical examination report.** A medical examination report under this Section shall include the following information:
1. Age at onset of seizures, diagnosis, and history;
 2. Aftereffects of seizures;
 3. EEG findings, if any;
 4. Description, cause, frequency, duration, and date of most recent seizure;
 5. Current medications, including dosage, side effects, and serum level; and
 6. A physician's medical opinion as to whether or not the neurological disorder will affect the person's ability to operate a motor vehicle safely.
- E. Physician's medical opinion.** A neurological disorder does not affect a person's ability to operate a motor vehicle safely if a physician concludes with reasonable medical certainty that:
1. Any seizure that occurred within the last three months was due to a change in anticonvulsant medication ordered by a physician and that seizures are under control after the change in medication;
 2. Any seizure that occurred within the last three months was a single event that will not recur in the future;
 3. Any seizure is likely to occur but has an established pattern of occurring only during sleep; and
 4. There is an established pattern of an aura of sufficient duration to allow the person to cease operating a motor vehicle safely and immediately at the onset of the aura.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

PREAMBLE

1. **Section Affected** **Rulemaking Action**
R20-6-218 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. § 20-143
Implementing statutes: A.R.S. § 20-1110(F)
3. **The effective date of the rules:**
November 16, 2001
4. **List all previous notices appearing in the register addressing the final rules:**
Notice of Rulemaking Docket Opening: 7 A.A.R. 3055, July 13, 2001
Notice of Proposed Rulemaking: 7 A.A.R. 3033, July 13, 2001
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Margaret L. McClelland
Address: Arizona Department of Insurance
2910 N. 44th Street, 2nd Floor

Phoenix, AZ 85018

Telephone: (602)912-8456

Fax: (602)912-8452

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

This rulemaking will repeal R20-6-218 that sets forth exemption standards for life or disability insurance documents or forms delivered or issued for delivery in Arizona. Under A.R.S. § 20-1110(F), the director may, by order, exempt any life or disability insurance document or form from prior approval filing requirements. The director intends to review insurance documents according to the standards in A.R.S. § 20-1110(F) and to issue appropriate orders.

Specific Section-By-Section Explanation of This Proposal

R20-6-218 sets forth exemption standards for life or disability insurance documents or forms issued or delivered in Arizona.

7. A reference to any study that the agency relied 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:

Not applicable

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

Not applicable

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

Because this rulemaking is deregulatory in nature, no economic impact statement is required. See A.R.S. § 41-1055(D)(3).

10. A description of the changes between the proposed rule, including supplemental notices, and the final rule:

No changes were made.

11. A summary of the principal comments and the agency response to them:

The Department received no comments on this rulemaking.

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

Not applicable

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE

ARTICLE 2. TRANSACTION OF INSURANCE

Section

R20-6-218. ~~Exemption Standards for Life and Disability Forms~~ Repealed

ARTICLE 2. TRANSACTION OF INSURANCE

R20-6-218. Exemption Standards for Life and Disability Forms Repealed

A. Scope

- ~~1. Except as hereinafter exempted, this rule shall apply to all life and disability insurance forms that are delivered or issued for delivery in this state except any such forms previously approved by the Department of Insurance prior to the effective date of this rule.~~
- ~~2. This rule shall not apply to:~~
 - ~~a. Credit life insurance.~~
 - ~~b. Credit disability insurance.~~
 - ~~c. Forms with indeterminate, adjustable or higher initial premiums, values or benefits based on other than guaranteed rates except as set forth in (C)(1)(d)(iii) of this rule.~~
 - ~~d. Mass marketed insurance under A.R.S. § 20-1661.~~

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e. Advertising forms.

B. Regulation of exempt forms

1. Each year, on or before June 30, insurers shall file with the Life and Disability Division of the Department of Insurance a verified list of all forms which are available for issue in the State of Arizona as of June 1 for each year and which are exempt from the filing requirements of A.R.S. § 20-1110 by this rule.
2. The verified list of exempt forms shall set forth each such exempt form by its title and form number. If the form does not have a descriptive title, a brief explanation of the coverage provided shall be included.
 - a. The list of exempt forms shall be accompanied by the certification as set forth in Exhibit A, executed by a designated representative of the insurer, unless such certifications have previously been filed for said forms.
 - b. The list of exempt forms shall be accompanied by the actuarial certification as set forth in Exhibit B. The actuarial certification shall apply to all exempt life and annuity forms, unless such certifications have previously been filed for said forms.
3. Each insurer who does not use any exempt forms shall file a statement, executed by its president or by a designated officer, verifying that no exempt forms have been delivered or issued for delivery in the State of Arizona for the 12-month period ending June 30.
4. A list of exempt form riders, amendments, applications and endorsements which will be used with policy forms which are not exempt from the filing requirements of A.R.S. § 20-1110(A) shall be included with the policy form filing.
5. Rate certifications for individual disability policies as required by A.C.R.R. R20-6-607 shall be filed for exempt forms.

C. Exempt forms

1. The following types of life insurance policy forms are exempt from filing:
 - a. Individual permanent policies with fixed premiums, benefits and guaranteed values as follows:
 - i. Ordinary whole life.
 - ii. Limited pay life.
 - iii. Life paid up at certain ages.
 - iv. Endowments.
 - v. Modified benefit whole life (only 1 decrease or increase in face amount at a certain age with no change in premium).
 - vi. Modified premium whole life (only 1 change in premium with no change in benefit amount).
 - vii. Single premium life and endowments.
 - viii. Joint life without survivorship benefits.
 - ix. Individual policies issued as a result of a group conversion privilege.
 - b. Individual term policies with fixed premiums and benefits without guaranteed values as follows:
 - i. Level term.
 - ii. Decreasing term.
 - iii. Renewable term.
 - iv. Convertible term.
 - v. Single premium term.
 - vi. Joint life term without survivorship benefits.
 - c. Group life policies as follows:
 - i. Group annuities.
 - ii. Group permanent life.
 - iii. Group term life.
 - d. Miscellaneous life forms as follows:
 - i. Industrial life.
 - ii. Immediate annuities.
 - iii. Variable life and annuity contracts which provide benefits according to the investment experience of a separate account pursuant to A.R.S. § 20-651.
 - iv. Applications, endorsements, amendments and riders issued in conjunction with (a), (b), (c) and (d) above.
2. The following type of disability insurance policy forms are exempt from filing:
 - a. Individual disability policies as follows:
 - i. Long term disability income including overhead expense.
 - ii. Short term disability income including overhead expense.
 - iii. Prescription drugs.
 - iv. Accident only.
 - v. Travel accident.
 - vi. Accidental death and disability.
 - vii. Overhead expense disability income.

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- viii. Individual policies issued as a result of a group conversion privilege.
- b. Group disability policies, including blanket disability, except group policies issued to trustees where the trust situs is in this state.
- e. Applications, riders, endorsements and amendments issued in conjunction with (a) and (b) above.
- D.** This rule shall in no way affect any insurer's duty to comply with all other requirements of Title 20, Arizona Revised Statutes, relating to all forms delivered or issued for delivery in the State of Arizona.
- E.** Severability. If any provisions of this rule or the application thereof to any person or circumstance is for any reason held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.
- F.** Effective date. This rule shall become effective upon filing with the Secretary of State.

Exhibit A

STATE OF ARIZONA
CERTIFICATION

ANNUAL LIST OF EXEMPT LIFE, ANNUITY, AND DISABILITY FORMS

I have reviewed or supervised the preparation of the enclosed list of exempt forms available for issue in Arizona. I hereby certify that to the best of my knowledge, information and belief, the information provided is correct and complete, that none of these forms are deceptive and misleading and none of these forms contain exceptions or conditions that unreasonably or deceptively affect the risk purported to be assumed in the general coverages of the policy. I certify that the forms listed comply with all applicable laws, regulations, and bulletins and that the use of any form listed in this report will be discontinued in the event of future changes in laws or regulations which would prohibit the use of such a form.

Signature of designated representative.
Please type or print name of person whose
signature appears above.

Date: _____

Exhibit B

STATE OF ARIZONA
ACTUARIAL CERTIFICATION

ANNUAL LIST OF EXEMPT LIFE AND ANNUITY FORMS
CERTIFICATION

I have reviewed or supervised the review of the actuarial formulae for policies exempt from filing. I certify that the nonforfeiture benefits for these policies, for every age and face amount combination, meet the nonforfeiture requirements of the Arizona Insurance Code. I certify that to the best of my knowledge the policies are not actuarially deceptive or misleading and do not contain exceptions or conditions that unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the policies.

Signature of Actuary
Please type or print name of person whose
signature appears above.

Date: _____