

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF PROPOSED EXEMPT RULEMAKING

TITLE 13. PUBLIC SAFETY

CHAPTER 11. BOARD OF FINGERPRINTING

PREAMBLE

1. Sections Affected

R13-11-101
R13-11-102
R13-11-102
R13-11-103
R13-11-104
R13-11-105
R13-11-106
R13-11-107

Rulemaking Action

Amend
Re-number
New Section
Re-number
Re-number
Re-number
Re-number
New Section

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

Authorizing statute: A.R.S. § 41-619.53(A)(2)

Implementing statute: A.R.S. § 41-619.53(A)(5) (see Laws 2003, Ch. 214 § 17 [first regular session])

3. The effective date of the rules:

The rules become effective immediately upon filing the Notice of Final Exempt Rulemaking with the Office of the Secretary of State.

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

Not applicable

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

Name: Dennis Seavers, Executive Director
Address: Arizona Board of Fingerprinting
Mail Code 185, Post Office Box 6129
Phoenix, AZ 85005-6129
Telephone: (602) 223-2809
Fax: (602) 223-2959

6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:

The proposed rule implements a \$3.00 fee for all individuals applying to the Department of Public Safety for a fingerprint clearance card. The Board of Fingerprinting is initiating the rule to generate funds for its operations. The Department of Public Safety will collect the fee at the same time and in the same payment as the fees it collects for its own operations for processing fingerprint clearance card applications and for the Federal Bureau of Investigations criminal records check. The proposed rule will have the effect of increasing the fee for a fingerprint clearance card to \$41.00 from \$38.00 for volunteers' applications and to \$47.00 from \$44.00 for all other applications.

This fee rule is exempted from A.R.S. Title 41, Chapter 6. The Board of Fingerprinting will allow time for reasonable public notice and comments on the rules and file the final rule with the Office of the Secretary of State.

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7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each 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 preliminary summary of the economic, small business, and consumer impact:

Not applicable (see A.R.S. § 41-619.53(A)(2))

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

Not applicable (see A.R.S. § 41-619.53(A)(2))

11. A summary of the comments made regarding the rule and the agency response to them:

The Board of Fingerprinting will wait 30 days to receive public comment before filing the Notice of Final Exempt Rulemaking with the Office of the Secretary of State.

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 made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 13. PUBLIC SAFETY

CHAPTER 11. BOARD OF FINGERPRINTING

ARTICLE 1. BOARD OF FINGERPRINTING

Section

R13-11-101. Applicability

R13-11-102. Definitions

~~R13-11-102.~~ R13-11-103. Good Cause Exception Hearings

~~R13-11-103.~~ R13-11-104. Notification of Decision for Good Cause Exception Hearing

~~R13-11-104.~~ R13-11-105. Requests for Good Cause Exception – No Disposition

~~R13-11-105.~~ R13-11-106. Confidentiality

R13-11-107. Fees

ARTICLE 1. BOARD OF FINGERPRINTING

R13-11-101. Applicability

This Article applies to activities and persons identified in A.R.S. Title 41, Chapter 3, Article 12, except that R13-11-107 applies to all persons applying to the Department of Public Safety for a fingerprint clearance card pursuant to A.R.S. § 41-1758.03.

R13-11-102. Definitions

In this Article, the following definitions apply, unless the context otherwise requires:

1. “Applicant” means a person who applies for a fingerprint clearance card pursuant to A.R.S. § 41-1758.03.
2. “Board” means the Board of Fingerprinting.
3. “Department” means the Department of Public Safety.
4. “Department’s notice” means the notice of denial or suspension of a fingerprint clearance card that the Department sends to an applicant pursuant to A.R.S. § 41-1758.04.

~~R13-11-102.~~ R13-11-103. Good Cause Exception Hearings

A. No change

B. No change

1. No change

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- 2. No change
- C. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- E. No change
- F. No change

~~R13-11-103.~~ **R13-11-104.** Notification of Decision for Good Cause Exception Hearing

- A. No change
- B. No change

~~R13-11-104.~~ **R13-11-105.** Requests for Good Cause Exception – No Disposition

No change

~~R13-11-105.~~ **R13-11-106.** Confidentiality

No change

R13-11-107. Fees

- A.** The Department shall collect proper fees for good cause exceptions from all applicants and shall transmit the fees to the state Treasurer. A fee of \$3.00 is established for good cause exceptions.
- B.** Fees shall be paid in addition to and in the same payment as fees paid to the Department for a fingerprint clearance card application. Fees shall be paid by money order, cashier's check, or check drawn on a business account. If a state agency is paying the fees, the state agency may transfer the funds to the Department by using a companion transaction transfer form.
- C.** If the financial institution does not clear a check offered in payment for services pursuant to subsection (B), the Department shall notify the applicant to pay the fees by money order or cashier's check. If a fingerprint clearance card has been issued, the Department shall suspend the fingerprint clearance card until the fees are paid by money order or cashier's check. If a fingerprint clearance card has not been issued, the Department shall not issue a fingerprint clearance card or the Department's notice until the fees are paid by money order or cashier's check.