

Arizona Administrative Register
Notices of Proposed Rulemaking

R2-11-404	New Section
R2-11-405	New Section
R2-11-406	New Section
R2-11-407	New Section
R2-11-408	New Section
R2-11-409	New Section
Article 5	New Article
R2-11-501	New Section

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

Authorizing statutes: A.R.S. §§ 41-621, 41-791, and 41-796

Implementing statutes: A.R.S. §§ 41-621, 41-791, and 41-796

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 9 A.A.R. 105, January 10, 2003

Notice of Rulemaking Docket Opening: 9 A.A.R. 732, February 28, 2003

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

Name:	Charles E. Miller	Rob Smook
Address:	1700 W. Washington, B15 Phoenix, AZ 85007	100 N. 15th Avenue, 4th Floor Phoenix, AZ 85007
Telephone:	(602) 542-4508	(602) 542-1623
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5. An explanation of the rules, including the agency's reasons for initiating the rules:

The submitted rules were allowed to expire under A.R.S. § 41-1056(E) (see 2 A.A.C. 6). They are being submitted for reinstatement with the removal of archaic language and other necessary revisions.

6. 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:

Not applicable

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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 economic impact of the new rulemaking will closely resemble the past experience under the expired rules. The previous rules had been in place for years before they expired. Article 1 rules are used to regulate the conduct of employees and the public on state property. The estimated actual impact of these rules would be to discipline or terminate a state employee or citing members of the public. The impacted parties under these rules are state employees or members of the public. In addition, the Article 1 rules prohibit agencies under the Department of Administration's building system from repairing, replacing or conducting any other work on the plumbing, electrical, heating and cooling systems in those buildings without authorization from the Department. The impacted parties are state agencies, state employees, and members of the public.

Article 2 rules regulate traffic and parking on state property. The rules will have a negative impact on those who break the rules governing parking on ADOA controlled property that is patrolled by the Capitol Police. The actual estimated impact for violations of these rules includes fines ranging from \$16.00 to \$50.00 as described in the provisions of these rules. The impacted parties under these rules are the parking public (including state employees, members of the public, and businesses providing services to the state), the Capitol Police, the Office of Administrative Hearings, and the Management Services Division of the ADOA.

The proposed rules under Articles 3 through 5 regulate the use of state property for solicitation and gatherings for special events. The estimated economic impact of the special events rules arise from the requirement for special event insurance to be purchased by the event organizer. The estimated cost is between five and twenty dollars per thousand dollars of coverage. This was brought forth by Risk Management in order to limit the liability of the state. The estimated economic impact of the rules on solicitation may be adverse. There is a possibility that office solicitations may be reduced or impinge on sales of cosmetics (i.e. Avon, Mary Kay, etc.), or other small business solicitations. The administrative costs of compliance are estimated to be minimal to the Department. There are no viable alternative

Arizona Administrative Register
Notices of Proposed Rulemaking

methods of compliance that would apply to small businesses. The impacted parties under the rules for solicitation and special events are state employees, members of the public, small business, the Department, protestors and event organizers.

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:	Charles E. Miller	Don Goldwater
Address:	1700 W. Washington, B15, Phoenix, AZ 85007	1700 W. Washington, 146 Phoenix, AZ 85007
Telephone:	(602) 542-4508	(602) 542-1797
Fax:	(602) 542-0368	
E-mail:	charlie.miller@ad.state.az.us	don.goldwater@ad.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

No oral proceeding is scheduled at this time. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item #4 within 30 days after publication of this notice.

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

None

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

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 11. DEPARTMENT OF ADMINISTRATION
PUBLIC BUILDINGS MAINTENANCE

ARTICLE 1. GENERAL

Section

<u>R2-11-101.</u>	<u>Definitions</u>
<u>R2-11-102.</u>	<u>Alcoholic Beverages</u>
<u>R2-11-103.</u>	<u>Altering Buildings or Grounds</u>
<u>R2-11-104.</u>	<u>Animals</u>
<u>R2-11-105.</u>	<u>Bicycles, Rollerblades, Rollerskates, and Skateboards</u>
<u>R2-11-106.</u>	<u>Electrical or Plumbing Systems</u>
<u>R2-11-107.</u>	<u>Heating or Cooling Equipment</u>
<u>R2-11-108.</u>	<u>Noise</u>
<u>R2-11-109.</u>	<u>Plants</u>
<u>R2-11-110.</u>	<u>Roofs</u>
<u>R2-11-111.</u>	<u>Signs</u>
<u>R2-11-112.</u>	<u>Smoking</u>
<u>R2-11-113.</u>	<u>Waste</u>
<u>R2-11-114.</u>	<u>Windows</u>

ARTICLE 2. TRAFFIC AND PARKING

Section

<u>R2-11-201.</u>	<u>Definitions</u>
<u>R2-11-202.</u>	<u>General Provisions</u>
<u>R2-11-203.</u>	<u>Parking Prohibitions</u>
<u>R2-11-204.</u>	<u>Parking Decals</u>
<u>R2-11-205.</u>	<u>Operation of Vehicles on State Property</u>
<u>R2-11-206.</u>	<u>Penalties</u>
<u>R2-11-207.</u>	<u>Hearings</u>
<u>R2-11-208.</u>	<u>Rehearing</u>
<u>R2-11-209.</u>	<u>Removal of Vehicles from State Property</u>

ARTICLE 3. SOLICITATION

<u>Section</u>	
<u>R2-11-301.</u>	<u>Definitions</u>
<u>R2-11-302.</u>	<u>Unauthorized Solicitation Prohibited</u>
<u>R2-11-303.</u>	<u>Application</u>
<u>R2-11-304.</u>	<u>Processing Procedure</u>
<u>R2-11-305.</u>	<u>Permit Issuance; Denial</u>
<u>R2-11-306.</u>	<u>Bulletin Boards</u>
<u>R2-11-307.</u>	<u>State Resources</u>
<u>R2-11-308.</u>	<u>Work Sites</u>
<u>R2-11-309.</u>	<u>Exemptions</u>
<u>R2-11-310.</u>	<u>Suspension or Revocation</u>
<u>R2-11-311.</u>	<u>Review of Denial or Summary Suspension</u>

ARTICLE 4. SPECIAL EVENTS

<u>Section</u>	
<u>R2-11-401.</u>	<u>Definitions</u>
<u>R2-11-402.</u>	<u>Unauthorized Special Event Prohibited</u>
<u>R2-11-403.</u>	<u>Application</u>
<u>R2-11-404.</u>	<u>Processing Procedure</u>
<u>R2-11-405.</u>	<u>Permit Issuance; Denial</u>
<u>R2-11-406.</u>	<u>Monitors</u>
<u>R2-11-407.</u>	<u>Risk Management</u>
<u>R2-11-408.</u>	<u>Suspension or Revocation</u>
<u>R2-11-409.</u>	<u>Review of Denial or Summary Suspension</u>

ARTICLE 5. SEVERABILITY

<u>Section</u>	
<u>R2-11-501.</u>	<u>Validity of Rules</u>

ARTICLE 1. GENERAL

R2-11-101. Definitions

The following definitions apply in this Chapter:

1. "Agency" has the meaning in A.R.S. § 41-1001.
2. "Department" means the Department of Administration.
3. "Director" means the Director of the Department of Administration or the Director's designated agent.
4. "Person" has the meaning in A.R.S. § 1-215 but includes an agency, unless the agency is listed in A.R.S. § 41-791(B)(3).
5. "State building" means a building under the jurisdiction of the Director.
6. "State property" means all real property and buildings under the jurisdiction of the Department, as prescribed by A.R.S. § 41-791.

R2-11-102. Alcoholic Beverages

A person shall not possess or consume alcoholic beverages on state property.

R2-11-103. Altering Buildings or Grounds

A person shall not alter, remodel, or redecorate state property without prior approval from the Director.

R2-11-104. Animals

A person shall not bring an animal, other than an animal guide or service animal, onto state property without prior approval from the Director.

R2-11-105. Bicycles, Rollerblades, Rollerskates, and Skateboards

A person shall not use or operate bicycles, rollerblades, rollerskates, or skateboards on state property, unless that person is an on-duty police officer on bicycle patrol or a state employee using a bicycle for transportation to and from work.

R2-11-106. Electrical or Plumbing Systems

A person shall not install or modify an electrical or plumbing system on state property, or any part of such a system, without prior approval from the Director.

Arizona Administrative Register
Notices of Proposed Rulemaking

R2-11-107. Heating or Cooling Equipment

A person shall not tamper with or adjust heating or cooling equipment or controls on state property without prior approval from the Director.

R2-11-108. Noise

A person shall not create loud noises on state property that interfere with the work of an employee or daily business of an agency.

R2-11-109. Plants

A person shall not pick, cut, or remove flowers, shrubs, trees, or other plants or parts of plants from state property without prior approval from the Director.

R2-11-110. Roofs

A person shall not be on the roof of a state building without prior approval from the Director.

R2-11-111. Signs

A person shall not install a sign of any type on state property without prior approval from the Director.

R2-11-112. Smoking

A person shall not smoke in a state building unless the person is in a designated smoking area or exempt under A.R.S. § 36-601.02(B).

R2-11-113. Waste

- A.** A person shall not leave garbage, litter, trash, human or animal waste, or any other kind of waste on state property unless the waste is deposited in a container the Department maintains for that kind of waste.
- B.** A person shall not deposit waste collected from a private residence or commercial business on state property.

R2-11-114. Windows

A person shall not open windows in air-conditioned state buildings without prior approval from the Director.

ARTICLE 2. TRAFFIC AND PARKING

R2-11-201. Definitions

The following definitions apply in this Article:

1. "Citation" means a document, issued by the Department's Capitol Police under A.R.S. § 41-796, that contains a notice to appear.
2. "Decal" means a graphic designed label, placard, sticker, or tag that, when properly displayed, authorizes preferential parking privileges in state parking lots for the driver of a vehicle.
3. "Designate" means to identify with signs or markings.
4. "Employee" means any person elected, appointed, or employed by the state, either on a part-time or full-time basis, whether paid by payroll or under contract.
5. "Loading zone" means an area that is painted yellow, designating a place for business pickups and deliveries.
6. "No-parking zone" means an area that is painted red, designating a place where parking is not permitted.
7. "Parking" means stopping or placing a vehicle in an area, regardless of whether the vehicle is attended or unattended.
8. "Parking space" means an area that the Department outlines with painted white lines, designating a place for parking a vehicle.
9. "Reserved parking space" means any parking space designated for a special purpose or a special class, such as physically disabled persons, travel reduction program participants, or visitors.
10. "Safety zone" means an area or space that is both:
 - a. Officially set apart within a roadway for the exclusive use of pedestrians; and
 - b. Protected, marked, or indicated by adequate signs as to be plainly visible at all times.
11. "Vehicle" has the meaning in A.R.S. § 28-101 and includes a "motor vehicle", a term also defined in A.R.S. § 28-101.
12. "Visitor" means any person other than an employee.

R2-11-202. General Provisions

- A.** The state is not responsible for the care and protection of any vehicle or its contents at any time the vehicle is operated or parked on state property.
- B.** The person to whom a parking permit is issued is responsible for all parking violations involving the person's vehicle.
- C.** If parking lot or area reservation hours are altered, the Department shall post notices at the parking lot or area, and the changes are effective immediately.

R2-11-203. Parking Prohibitions

- A.** A person shall not park a vehicle in a:
1. Bicycle rack or area;
 2. Loading zone, unless the person is making a pickup or delivery and the person's vehicle has commercial license plates or is state owned. Loading zone parking is permitted during the time the person is actually engaged in loading or unloading;
 3. Location that is not designated as a parking space;
 4. No parking zone;
 5. Reserved parking space without authorization, unless the person is a visitor using parking reserved for visitors; or
 6. Safety zone.
- B.** A person shall not obstruct any of the following with a vehicle:
1. Building entrance,
 2. Driveway,
 3. Fire lane,
 4. Loading dock, or
 5. Properly parked vehicle.
- C.** A person shall not drive or park a vehicle:
1. On a pedestrian path or sidewalk; or
 2. In any area on state property closed by barricades, chain, tape, rope, traffic cones, or other traffic-control devices.
- D.** A person shall not park outside of the area designated by painted white lines when using a parking space.
- E.** In an emergency the Department may impose parking limitations or prohibitions required by the particular circumstances.
- F.** For special events the Department may impose parking limitations or prohibitions based on all of the following factors:
1. Previous experience with similar events, and
 2. Risk data.

R2-11-204. Parking Decals

- A.** Unless a person is a visitor using parking reserved for visitors, the person shall properly display a reserved parking space decal in the manner prescribed in this Section to be authorized to park in a reserved parking space.
- B.** To park in a parking space reserved for the physically disabled, a person shall obtain a removable windshield placard or special plates, bearing the international symbol of access, from the Department of Transportation, Motor Vehicle Division, and display the placard or plates as prescribed by rules of the Department of Transportation.
- C.** A person with a decal for any other kind of reserved parking space shall display the decal from the rearview mirror, attach the decal to the left side of the windshield, or display the decal on the left side of the dashboard. The person shall ensure that the decal is visible through the windshield so it can be read by someone standing outside the vehicle.

R2-11-205. Operation of Vehicles on State Property

- A.** On state property the Department shall enforce all state laws governing the operation of vehicles.
- B.** A person driving or parking a vehicle on state property shall obey posted traffic and parking signs.
- C.** The Department's Capitol Police shall enforce a maximum speed limit of five miles per hour in all state parking lots under the Department's jurisdiction.
- D.** Any person who has been in an accident involving a moving vehicle on state property shall immediately report the accident to the Department's Capitol Police.

R2-11-206. Penalties

- A.** The registered owner of a vehicle involved in a violation of R2-11-203, R2-11-204, or R2-11-205 shall pay the monetary penalties prescribed in this Section.
- B.** Capitol Police officers or Capitol Police security aides shall issue citations, containing the notice to appear described in A.R.S. § 41-796(E), according to the following schedule:
1. Parking in a bicycle rack or area: \$16.00.
 2. Parking in a loading zone: \$20.00.
 3. Parking in a location that is not designated as a parking space: \$20.00.
 4. Parking in a no parking zone: \$20.00.
 5. Unauthorized parking in a space reserved for the physically disabled: \$50.00.
 6. Unauthorized parking in any other kind of reserved parking space: \$16.00.
 7. Parking in a safety zone: \$20.00.
 8. Obstructing a building entrance, driveway, fire lane, loading dock, or properly parked vehicle: \$20.00.
 9. Driving or parking on a pedestrian path or sidewalk: \$25.00.
 10. Driving or parking in any area on state property closed by barricades, chain, tape, rope, traffic cones, or other traffic-control devices: \$25.00.
 11. Parking outside of parking space lines: \$16.00.

Arizona Administrative Register
Notices of Proposed Rulemaking

- 12. Improperly displaying a parking decal: \$10.00.
- 13. Failing to obey a state law governing the operation of a vehicle while on state property: \$16.00.
- 14. Failing to obey posted traffic or parking signs on state property: \$16.00.
- 15. Exceeding the maximum speed limit of five miles per hour in a state parking lot: \$16.00.
- 16. Failing to immediately report an accident involving a moving vehicle on state property to the Department's Capitol Police: \$16.00.

- C.** For the purposes of this Article, service of a notice to appear is complete when the police officer or security aide issuing the citation secures it to the vehicle in a conspicuous place.
- D.** Within 10 business days from the issuance date of a citation, the registered owner of the vehicle shall pay the appropriate monetary penalty to the Department, admitting the violation or indicating no contest, or contest the citation under A.R.S. § 41-796(E) and the procedures in R2-11-207. The registered owner may pay the penalty by checking the appropriate box and mailing the payment and citation to the Department, using the address printed on the citation.
- E.** If the registered owner does not pay the monetary penalty within 10 business days of the citation date and fails to request a hearing under R2-11-207, the Department shall treat the failure to respond as an admission of the violation, declare the penalty to be in default, and serve a notice of default on the registered owner with a bill for the amount of the original penalty and an additional monetary penalty of \$20.00 for failure to respond. The Department may take appropriate action to collect these monetary penalties, based on the resources available for pursuing collection.

R2-11-207. Hearings

- A.** If a registered owner wishes to contest a citation, the registered owner shall request a hearing within 10 days after issuance of the notice to appear described in A.R.S. § 41-796(E) by checking the appropriate box and mailing the citation to the Department, using the address printed on the citation.
- B.** Upon receipt of a request for hearing, the Department shall schedule a hearing and serve notice of the hearing, according to A.R.S. § 41-1092.05.
- C.** The Director or an administrative law judge from the Office of Administrative Hearings shall conduct each hearing as a contested case, in the manner prescribed in A.R.S. Title 41, Chapter 6, Article 10. The Department shall serve its decision on the registered owner. If the Director or the administrative law judge determines that a violation has occurred and imposes a monetary penalty, a bill for the amount of the penalty shall be served with the decision. The registered owner shall pay the monetary penalty within 10 business days from the date on the decision or within the time prescribed by the administrative law judge. If the registered owner does not pay the monetary penalty within this time, the registered owner shall pay an additional monetary penalty of \$20.00. The Department may take appropriate action to collect any monetary penalty imposed, based on the resources available for pursuing collection.

R2-11-208. Rehearing

- A.** A party in a contested case before the Department may file a motion for rehearing or review within 30 days after service of the final administrative decision, as prescribed in A.R.S. § 41-1092.09. The party shall attach a supporting memorandum, specifying the grounds for the motion. A party is not required to file a motion for rehearing or review of the final administrative decision to exhaust the party's administrative remedies.
- B.** An opposing party may file a response within 15 days after the date the motion for rehearing or review is filed. The party shall support the response with a memorandum discussing relevant legal and factual issues.
- C.** Any party may request oral argument.
- D.** The Director may grant a rehearing or review for any of the following causes materially affecting a party's rights:
 - 1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived the moving party of a fair hearing;
 - 2. Misconduct of the Department, the administrative law judge, or the prevailing party;
 - 3. Accident or surprise that could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding;
 - 7. That the findings of fact or decision are not justified by the evidence or are contrary to law.
- E.** The Director may affirm or modify the decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order, and any rehearing shall cover only those matters specified. The Director may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- F.** Not later than 15 days after the date of the decision, the Director may grant a rehearing or review on the Director's own initiative for any reason for which the Director might have granted relief on motion of a party.

Arizona Administrative Register
Notices of Proposed Rulemaking

- G.** If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within five days after service, serve opposing affidavits.
- H.** The Director shall rule on the motion as prescribed in A.R.S. § 41-1092.09. If a rehearing is granted, the Department shall hold the rehearing within 30 days after the date on the order granting the rehearing.

R2-11-209. Removal of Vehicles from State Property

The Department shall remove any vehicle on state property parked in a barricaded area, abandoned, or parked in a manner that constitutes a hazard or impediment to vehicular or pedestrian traffic or to the movement and operation of emergency equipment. The registered owner of the vehicle shall pay for all costs of removal.

ARTICLE 3. SOLICITATION

R2-11-301. Definitions

The following definitions apply in this Article:

1. “Solicitation” means any activity that can be interpreted as being for the promotion, sale, or transfer of products, services, memberships, or causes. Distribution or posting of advertising, circulars, flyers, handbills, leaflets, posters, or other printed information for these purposes is solicitation.
2. “Solicitation material” means advertising, circulars, flyers, handbills, leaflets, posters, or other printed information.
3. “Solicitor” means a person conducting a solicitation.
4. “Work site” means any location within a state building where public employees or officers conduct the daily business of an agency. Cafeterias and break rooms are not work sites.

R2-11-302. Unauthorized Solicitation Prohibited

A person shall not conduct a solicitation on state property without express written permission from the Director.

R2-11-303. Application

- A.** Any person who would like to conduct a solicitation on state property may apply for a permit by filing, either in person or by mail, a Department-approved solicitation application form with the Director’s Office.
- B.** The completed application form shall be submitted at least 15 days before the desired date of the solicitation. A completed application form is one that is legible and contains, at a minimum, all of the following information:
1. The name, address, and telephone number of the solicitor;
 2. The proposed date of the solicitation and the approximate starting and concluding times;
 3. The specific, proposed location for the solicitation;
 4. A general description of the solicitation’s purpose; and
 5. Copies of solicitation materials to be used.

R2-11-304. Processing Procedure

- A.** Within three days of receiving an application, the Department shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
- B.** An applicant with an incomplete application shall supply the missing information within five days after the date of the notice. If the applicant fails to do so, the Department may deny the permit.
- C.** Upon receipt of all missing information within five days, as specified in subsection (B), the Department shall notify the applicant that the application is complete.
- D.** The Department shall not process an application for a permit until the applicant has fully complied with R2-11-303.
- E.** The Director shall render a permit decision no later than three days after receipt of a complete application. The date of receipt is the postmark date of the notice advising the applicant that the application is complete.
- F.** For the purpose of A.R.S. § 41-1073, the Department establishes the following permit time-frames:
1. Administrative completeness review time-frame: three days.
 2. Substantive review time-frame: three days.
 3. Overall time-frame: six days.

R2-11-305. Permit Issuance; Denial

- A.** Before issuing a permit, the Director shall review the application.
- B.** After consideration of the factors in subsection (C), the Director may issue a permit to an applicant who has complied with the application requirements in R2-11-303.
- C.** The Director may deny a permit for one or more of the following reasons:
1. The solicitation interferes with the work of an employee or daily business of an agency;
 2. The solicitation conflicts with the time, place, manner, or duration of other events or solicitations for which permits have been issued or are pending;
 3. The solicitation creates a risk of injury or illness to persons or risk of danger to property; or
 4. The applicant or solicitation fails to comply with the requirements of this Article.
- D.** A permit shall not be issued earlier than 60 days before the solicitation.

Arizona Administrative Register
Notices of Proposed Rulemaking

- E.** If the Director denies a permit, the Department shall send the applicant a written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules.
 2. The applicant's right to seek a hearing to challenge the denial.
 3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06, and
 4. The time periods for appealing the denial.

R2-11-306. Bulletin Boards

- A.** The Director shall designate at least one bulletin board for solicitation material in each state building.
B. A person conducting a solicitation shall post solicitation material only on bulletin boards designated under subsection (A).
C. The Department shall remove solicitation material that is outdated or improperly posted.

R2-11-307. State Resources

A person shall not use state materials, supplies, or equipment or other resources, such as payroll stuffing or interoffice mail, to conduct a solicitation.

R2-11-308. Work Sites

Except for posting solicitation material on a bulletin board designated under R2-11-306, a person shall not conduct a solicitation at a work site.

R2-11-309. Exemptions

This Article does not apply to the following state programs:

1. The State Deferred Compensation Program;
2. The State Employees Charitable Campaign;
3. The U.S. Savings Bond Drive;
4. The United Blood Services Blood Drive;
5. The Capitol Rideshare Commuter Club;
6. The Capitol Rideshare Clean Air Campaign;
7. The Employee Wellness Program.
8. Employee recognition programs of each agency subject to these rules.

R2-11-310. Suspension or Revocation

- A.** The Director may suspend or revoke a permit for failure to comply with this Article or other applicable laws.
B. Before the Director suspends or revokes a permit, the Department shall send the solicitor written notice, explaining:
1. The reason for suspension or revocation, with citations to supporting statutes or rules;
 2. The solicitor's right to a hearing before suspension or revocation;
 3. The time and place of the hearing concerning the suspension or revocation.
- C.** If the Director finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in the order, the Director may summarily suspend the permit pending proceedings for revocation or other action, based on circumstances of the emergency.

R2-11-311. Review of Denial or Summary Suspension

- A.** Under A.R.S. Title 41, Chapter 6, Article 10, an applicant or solicitor may obtain a hearing on a denial or summary suspension.
B. An applicant appealing a denial shall file a notice of appeal with the Department within 30 days after receiving the notice prescribed in R2-11-305(E).
C. If the Director has summarily suspended a permit under R2-11-310(C), the Department shall promptly prepare and serve a notice of hearing under A.R.S. § 41-1092.05.
D. The Department shall notify the Office of Administrative Hearings, which shall schedule and conduct the hearing.

ARTICLE 4. SPECIAL EVENTS

R2-11-401. Definitions

The following definitions apply in this Article:

1. "Special event" or "event" means an assembly, ceremony, demonstration, display, festival, gathering, parade, press conference, rally, or any other distinct activity.
2. "Sponsor" means the person holding a special event.

R2-11-402. Unauthorized Special Event Prohibited

A person shall not use state buildings or grounds for a special event without express written permission from the Director.

R2-11-403. Application

- A.** Any person who would like to hold a special event may apply for a permit by filing, either in person or by mail, a Department-approved event application form with the Office of Special Events.

Arizona Administrative Register
Notices of Proposed Rulemaking

- B.** The completed application form shall be submitted at least two days before the desired date of the special event. A completed application form is one that is legible and contains, at a minimum, all of the following information:
1. The name, address, and telephone number of the sponsor;
 2. The proposed date of the event and the approximate starting and concluding times;
 3. The specific, proposed location for the event;
 4. A general description of the event, including equipment and facilities to be used;
 5. Approximate number of persons expected to be in attendance;
 6. The name, address, and telephone number of the person responsible for clean-up of the area after the activity, if different from the person in subsection (B)(1);
 7. The name, address, and telephone number of any chief monitor who will be designated to direct the event;
 8. A description of the badge or article of clothing used to identify monitors;
 9. A copy of any insurance policy for the special event; and
 10. A copy of any contract for medical, sanitary, and security services.
- C.** The Director may accept a completed application form submitted less than two days before a press conference if the Director determines that enforcing the two-day requirement would nullify the need for the press conference. In this situation, R2-11-404 does not apply.

R2-11-404. Processing Procedure

- A.** Within one day of receiving an application, the Department shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
- B.** An applicant with an incomplete application shall supply the missing information within five days after the date of the notice. If the applicant fails to do so, the Department may deny the permit.
- C.** Upon receipt of all missing information within five days, as specified in subsection (B), the Department shall notify the applicant that the application is complete.
- D.** The Department shall not process an application for a permit until the applicant has fully complied with R2-11-403.
- E.** The Director shall render a permit decision no later than one day after receipt of a complete application. The date of receipt is the postmark date of the notice advising the applicant that the application is complete.
- F.** For the purpose of A.R.S. § 41-1073, the Department establishes the following permit time-frames:
1. Administrative completeness review time-frame: one day.
 2. Substantive review time-frame: one day.
 3. Overall time-frame: two days.

R2-11-405. Permit Issuance; Denial

- A.** Before issuing a permit, the Director shall review the application.
- B.** After consideration of the factors in subsection (C), the Director may issue a permit to an applicant who has:
1. Complied with the application requirements in R2-11-403;
 2. Posted any deposit necessary under R2-11-407;
 3. Obtained any insurance necessary under R2-11-407; and
 4. Submitted evidence that the applicant will provide any medical, sanitary, and security services necessary under R2-11-407. Submission of a copy of the contract for these services will satisfy this requirement.
- C.** The Director may deny a permit for one or more of the following reasons:
1. The event interferes with the work of an employee or daily business of an agency;
 2. The event conflicts with the time, place, manner, or duration of other events for which permits have been issued or are pending;
 3. The event creates a risk of injury or illness to persons or risk of danger to property; or
 4. The applicant or permit fails to comply with the requirements of this Article.
- D.** A permit shall not be issued earlier than 60 days before the special event.
- E.** If the Director denies a permit, the Department shall send the applicant a written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a hearing to challenge the denial;
 3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
 4. The time periods for appealing the denial.

R2-11-406. Monitors

The sponsor shall designate one monitor for every 50 persons expected to be in attendance. The monitors shall wear a uniform, distinctive badge, or article of clothing at all times during the event for identification purposes.

Arizona Administrative Register
Notices of Proposed Rulemaking

R2-11-407. Risk Management

- A.** The Director may take one or more of the following actions to the extent it is necessary and in the best interests of the state:
1. Impose conditions on the conduct of the event in the permit;
 2. Require the applicant to post a deposit against damage and clean-up expense;
 3. Require the applicant to carry liability insurance and provide the certificate of insurance; and
 4. Require the applicant to provide medical, sanitary, and security services.
- B.** The Director shall consider all of the following criteria to determine whether one or more of the actions in subsection (A) is necessary and in the best interests of the state:
1. Previous experience with similar events;
 2. Deposits required for similar events in Arizona;
 3. Risk data;
 4. Medical, sanitary, and security services required for similar events in Arizona and the cost of those services; and
 5. The applicant's ability to pay a deposit, an insurance premium, or a service provider.
- C.** The Department shall not provide insurance or guarantee against damage to equipment or personal property of any person using state buildings or grounds.
- D.** If the Director requires insurance for a special event, the sponsor shall list the state of Arizona and the Department of Administration as additional insured entities.
- E.** The sponsor is liable to the state for any injury done to its property and for any expense arising out of the sponsor's use of state buildings or grounds.

R2-11-408. Suspension or Revocation

- A.** The Director may suspend or revoke a permit for failure to comply with this Article, permit conditions, or other applicable laws.
- B.** Before the Director suspends or revokes a permit, the Department shall send the sponsor written notice, explaining:
1. The reason for suspension or revocation, with citations to supporting statutes or rules;
 2. The sponsor's right to a hearing before suspension or revocation;
 3. The time and place of the hearing concerning the suspension or revocation.
- C.** If the Director finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in the order, the Director may summarily suspend a permit pending proceedings for revocation or other action, based on the circumstances of the emergency.

R2-11-409. Review of Denial or Summary Suspension

- A.** Under A.R.S. Title 41, Chapter 6, Article 10, an applicant or sponsor may obtain a hearing on a denial or summary suspension.
- B.** An applicant appealing a denial shall file a notice of appeal with the Department within 30 days after receiving the notice prescribed in R2-11-405(E).
- C.** The Department shall notify the Office of Administrative Hearings, which shall schedule and conduct the hearing.
- D.** If the Director has summarily suspended a permit under R2-11-408(C), the Department shall promptly prepare and serve a notice of hearing under A.R.S. § 41-1092.05.

ARTICLE 5. SEVERABILITY

R2-11-501. Validity of Rules

If a rule or portion of a rule contained in this Chapter is held unconstitutional or invalid, the holding does not affect the validity of the remaining rules.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 4. DEPARTMENT OF HEALTH SERVICES
NONCOMMUNICABLE DISEASES**

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R9-4-401.01 | New Section |
| R9-4-404 | 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. § 36-136(F)
Implementing statute: A.R.S. § 36-133
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 137, January 17, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
- | | |
|------------|--|
| Name: | Georgia Yee, Office Chief |
| Address: | Arizona Department of Health Services
Bureau of Public Health Statistics
Office of Health Registries
1740 W. Adams, Room 410
Phoenix, AZ 85007 |
| Telephone: | (602) 542-7308 |
| E-mail: | geyee@hs.state.az.us |
| | or |
| Name: | Kathleen Phillips
Rules Administrator |
| Address: | Arizona 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. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Arizona Department of Health Services (Department) rules concerning cancer reporting are located in Title 9, Chapter 4, Articles 1 and 4, of the *Arizona Administrative Code*. The rules specify that cancer is a reportable disease. The rules meet the requirements of A.R.S. § 36-133 that the Department establish procedures for reporting incidence of cancer. The rules also respond to the public's need for a system that monitors the yearly incidence rates of cancer. The information compiled by the Department is used by researchers to identify effective treatments and used by other health care professionals to provide intervention and prevention of cancer.

The Department is adding a new Section, R9-4-401.01, that adds pathology laboratories as a cancer case reporting source. Under the Clinical Laboratory Improvement Act (CLIA) laboratories can release confidential case information when it is required by state law. The inclusion of laboratories as a cancer reporting source will provide them the necessary legal authority to release such confidential information. The Department is also repealing R9-4-404 that specifies the effective date. This is not information that should be included in rules.
- 6. 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

Arizona Administrative Register
Notices of Proposed Rulemaking

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:

As used in this summary, "minimal" economic impact means less than \$1,000 per year, "moderate" means between \$1,000 and \$10,000 per year, and "substantial" means greater than \$10,000 per year.

The public will benefit substantially from a complete population-based cancer reporting system that may lead to a reduction in the number of individuals who develop cancer and who may die of cancer. The information gathered and compiled by the Department is used by researchers to identify effective treatments for cancer and used by other health care professionals to provide intervention programs for individuals with cancer.

There is no increase cost to the Department or to pathology laboratories as the Department has been collecting information from pathology laboratories on a voluntary basis since 1995. However, the current cost to the Department to obtain this information from the pathology laboratories is substantial. The current cost to pathology laboratories to provide the Department with the requested information is minimal to moderate.

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: Georgia Yee
Office Chief

Address: Arizona Department of Health Services
Bureau of Public Health Statistics
Office of Health Registries
1740 W. Adams, Room 410
Phoenix, AZ 85007

Telephone: (602) 542-7308

E-mail: geyee@hs.state.az.us

or

Name: Kathleen Phillips
Rules Administrator

Address: Arizona 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

10. The time, place, and nature of the proceedings for the adoption, 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 has not scheduled any oral proceedings at this time. A person may submit written comments or a request for an oral proceeding on the proposed rules no later than 5:00 p.m., March 31, 2003, to the individuals listed in items #4 and #9.

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 9. HEALTH SERVICES

**CHAPTER 4. DEPARTMENT OF HEALTH SERVICES
NONCOMMUNICABLE DISEASES**

Arizona Administrative Register
Notices of Proposed Rulemaking

ARTICLE 4. CANCER REGISTRY

Section

R9-4-401.01. Pathology laboratory reporting
R9-4-404. ~~Effective date~~ Repealed

ARTICLE 4. CANCER REGISTRY

R9-4-401.01. Pathology laboratory reporting

- A.** For the purposes of this Section, "pathology laboratory" means a location where human cells or tissue are examined for the purpose of diagnosing cancer.
- B.** A pathology laboratory shall permit the Department to review pathology reports once every 90 days to collect information necessary to complete a case report as specified in R9-4-401.

R9-4-404. Effective date Repealed

~~The rules in this Article and the related definitions in R9-4-104 shall take effect on January 1, 1992.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 11. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: RATES AND CHARGES**

PREAMBLE

1. Sections Affected

Article 4
R9-11-401
R9-11-402

Rulemaking Action

New Article
New Section
New Section

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

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A), and 36-136(F)
Implementing statute: A.R.S. § 36-125.05

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 2642, June 21, 2002

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

Name: Kathleen Phillips, Rules Administrator
Address: Arizona Department of Health Services
1740 W. Adams, Suite 102
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

or

Name: Joe Brennan, Economist III
Address: Arizona Department of Health Services
Office of Epidemiology & Statistics
1647 E. Morten, Suite 130
Phoenix, AZ 85020

Telephone: (602) 674-9710

Fax: (602) 395-8910

E-mail: jbreanna@hs.state.az.us

Arizona Administrative Register
Notices of Proposed Rulemaking

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

A.R.S. § 36-125.05 includes requirements for a uniform patient reporting system and statistical and demographic reports. Before 1996, the reporting requirements applied to hospitals and included information concerning the provision of inpatient services. A.R.S. § 36-125.05 was amended by Laws 1996, Ch. 295 to include specific reporting requirements for outpatient services provided by hospitals and outpatient surgical centers. The Department is making rules to implement the changes consistent with current statutory authority, industry standards, Department policies, and rulemaking format and style requirements.

6. 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

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:

Cost/benefit to ADHS

The proposed rulemaking will require additional resources to process and store the 6,000,000 additional records generated by the proposed rulemaking. ADHS plans to employ an additional person and ADHS' costs for the additional staff and for storage related to the proposed rulemaking will be substantial. The collection of the additional records will reduce ADHS' reaction time to emerging health care epidemics and increase ADHS' ability to provide consumers and the health care industry with health care information.

Cost/benefit to hospitals and outpatient surgical centers

The proposed rules would affect approximately 250 hospitals and outpatient surgical centers located across the state. Most of these facilities already collect the information required in the proposed rules for other purposes. The proposed rules will specify the format for submitting the information, which may be different than the format the facilities are currently using. The majority of costs to adjust to the required format will be a one-time computer programming cost. The primary benefit to hospitals and outpatient surgical centers will be an increase in the facility's ability to access information about what and where outpatient services are being provided and the value of outpatient services provided.

Cost/benefit to consumers

Although consumers will not experience an immediate direct increase or decrease in costs, they will benefit in several ways. Health care facilities will more likely be located in areas where the reported usage is high and less likely to be located in areas where there is already an over-saturation of facilities, which could lead to a reduction in consumer costs. Insurance companies will have access to actual financial and utilization data before negotiating contracts with health care providers. This may result in lower health care insurance premiums for consumers.

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: Kathleen Phillips, Rules Administrator
Address: Arizona Department of Health Services
1740 W. Adams, Suite 102
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us
or
Name: Joe Brennan, Economist III
Address: Arizona Department of Health Services
Office of Epidemiology & Statistics
1647 E. Morten, Suite 130
Phoenix, AZ 85020
Telephone: (602) 674-9710
Fax: (602) 395-8910

Arizona Administrative Register
Notices of Proposed Rulemaking

E-mail: jbrenna@hs.state.az.us

10. The time, place, and nature of the proceedings for the adoption, 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 has scheduled the following oral proceeding:

Date: Wednesday, April 2, 2003

Time: 10:30 a.m.

Location: 1740 W. Adams, Conference Room 309
Phoenix, AZ 85007

A person may submit written comments on the proposed rules no later than the close of record, 5:00 p.m., Wednesday, April 2, 2003 to the individuals listed in items #4 and #9.

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

None

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 11. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: RATES AND CHARGES**

ARTICLE 4. OUTPATIENT SERVICES REPORTING

Section

R9-11-401. Definitions

R9-11-402. Reporting Requirements

ARTICLE 4. OUTPATIENT SERVICES REPORTING

R9-11-401. Definitions

1. “Charge” means the same as “rate or charge” in R9-11-101.
2. “Diagnosis” means a determination of an individual’s disease or injury, made by a health care provider authorized by law to make the determination.
3. “Diagnostic related group code” means one numeric or alpha-numeric identifier that may be assigned by the Center for Medicare and Medicaid Services to two or more outpatient services that are provided to an individual with a specific diagnosis.
4. “Hospital” has the same meaning as in A.A.C. R9-10-201.
5. “Hospital identification number” has the same meaning as in R9-11-301.
6. “Outpatient” has the same meaning as in A.A.C. R9-10-201.
7. “Outpatient services” means:
 - a. Hospital services as defined in A.A.C. R9-10-201 provided to an outpatient by a hospital; and
 - b. Outpatient surgical services as defined in A.A.C. R9-17-1701 provided to an individual by an outpatient surgical center.
8. “Outpatient surgical center” has the same meaning as in A.R.S. § 36-401.
9. “Patient certificate or social security number” has the same meaning as “patient certificate/social security number” in R9-11-301.
10. “Patient control number” has the same meaning as in R9-11-301.
11. “Payor code” has the same meaning as in R9-11-301.
12. “Procedure” means a surgical operation or technique.
13. “Tax ID number” means the numeric identifier that a person uses to report financial information to the United States Internal Revenue Services.
14. “Total patient charges” has the same meaning as in R9-11-301.

R9-11-402. Reporting Requirements

A governing authority of a hospital or an outpatient surgical center shall submit the following information for each outpatient according to the requirements in 9 A.A.C. 11, Article 3:

Arizona Administrative Register
Notices of Proposed Rulemaking

1. An identification number:
 - a. For a hospital, the hospital identification number; or
 - b. For an outpatient surgical center, the outpatient surgical center's tax ID number;
2. The patient control number;
3. The patient's certificate or social security number;
4. The patient's address, city, state, and zip code;
5. The patient's date of birth;
6. The patient's sex;
7. The date outpatient services were initiated;
8. The date outpatient services were terminated;
9. The diagnostic related group code;
10. The total patient charges;
11. The payor code;
12. The principal diagnosis;
13. The second diagnosis;
14. The third diagnosis;
15. The fourth diagnosis;
16. The fifth diagnosis;
17. The sixth diagnosis;
18. The seventh diagnosis;
19. The eighth diagnosis;
20. The ninth diagnosis;
21. External cause of injury;
22. Second external cause of injury;
23. The date of the principal procedure;
24. The principal procedure;
25. The second procedure;
26. The third procedure;
27. The fourth procedure;
28. The fifth procedure; and
29. The sixth procedure.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATION**

PREAMBLE

- | | |
|--|--|
| 1. <u>Sections Affected</u>
R17-1-203 | <u>Rulemaking Action</u>
Amend |
| 2. <u>The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>
Authorizing statute: A.R.S. § 28-366
Implementing statutes: A.R.S. §§ 28-372, 28-2161, 28-2162, 28-3301, and 44-6852 | |
| 3. <u>A list of all previous notices appearing in the Register addressing the proposed rule:</u>
Notice of Rulemaking Docket Opening: 9 A.A.R. 735, February 28, 2003 | |

Arizona Administrative Register
Notices of Proposed Rulemaking

4. 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 85014-5079
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 at www.dot.state.az.us/about/rules/index.htm.

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

The agency is amending this Section to clarify provisions for assessing a returned check service charge to include specific financial institution or agency reasons for dishonoring check payment. The Department will also impose a statutory penalty on a person's driver license, identification license, or vehicle registration if intended payment resulted in a returned check that exceeds 45 days without resolution. This rulemaking does not arise from a five-year rule review.

6. 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:

The agency will not rely on any study for this rulemaking.

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 economic impact of the service charge prescribed in this Section is unchanged from the Section's original making effective November 13, 2000. The inclusion of additional language concerning when the agency will assess a returned check service charge constitutes clarification for an affected person. The license cancellation or registration non-renewal penalty has the potential to cost an affected person in lost time, inconvenience, decreased earnings, or possible civil sanctions resulting from law enforcement citations. The prescribed penalties are not new; they have long been codified in statute. The penalties are included specifically in this rulemaking to underscore that a writer of a returned check must resolve the payment within 45 days after departmental notification.

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:

An interested person may communicate with the agency official listed in item #4 concerning the economic impact statement.

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 proceeding is scheduled for this rulemaking. A request for an oral proceeding may be made to the agency official listed in item #4. If no oral proceeding is requested, the public record for this rulemaking will close at 4:30 p.m. on Friday, April 4, 2003.

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:

Arizona Administrative Register
Notices of Proposed Rulemaking

TITLE 17. TRANSPORTATION

**CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATION**

ARTICLE 2. FEES

Section

R17-1-203. Returned Check Service Charge; Penalty

ARTICLE 2. FEES

R17-1-203. Returned Check Service Charge; Penalty

A. Service charge assessment.

1. The Department shall assess a service charge for each check, draft, or order returned because of:
 - a. Insufficient monies;
 - b. Stop payment;
 - c. Closed account; or
 - d. Payment denied for any of the following reasons:
 - i. Check amount less than minimum;
 - ii. Check drawn against uncollected funds;
 - iii. Credit limit exceeded;
 - iv. Post-dated;
 - v. Stale-dated;
 - vi. Refer to maker; or
 - vii. Unable to locate account.
2. A service charge under this subsection shall include:
 - a. A \$25 returned check, draft, or order service charge,
 - b. Any applicable financial institution charge prescribed under A.R.S. § 44-6852, and
 - c. Any applicable late title and registration penalty prescribed under A.R.S. § 28-2162.

B. Remedial remittance.

1. The Department shall require service charge payment for a returned check, draft, or order by:
 - a. Cash, or
 - b. Other certified means.
2. A remittance under this subsection shall include:
 - a. The original remittance amount, and
 - b. Any charge assessed under subsection (A)(2).

C. Penalty. If a person does not resolve a returned check within 45 days after the date of the Department's written notice, the Department shall impose a penalty on the person's credential that was insufficiently funded as follows:

1. A driver license or permit as prescribed under A.R.S. § 28-3301(A);
2. A nonoperating identification license as prescribed under A.R.S. § 28-3301(F); or
3. A vehicle registration as prescribed under A.R.S. § 28-2161(A)(1).

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

PREAMBLE

1. Sections Affected

R17-5-408

Rulemaking Action

New Section

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

Authorizing statutes: A.R.S. §§ 28-366 and 28-4537

Implementing statutes: A.R.S. §§ 28-4538 and 28-4554

Arizona Administrative Register
Notices of Proposed Rulemaking

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 9 A.A.R. 183, January 24, 2003

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

Name: Troy A. Walters, Rules Analyst
Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079
Telephone: (602) 712-6722
Fax: (602) 241-1624
E-mail: twalters@dot.state.az.us

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

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

R17-5-408 is a new rule proposed by the Division. It prescribes the Division's responsibilities for two types of suspensions. The first is a dealer or manufacturer license plate suspension. A.R.S. § 28-4538(A) authorizes the Division to suspend any or all dealer license plates issued to a dealer for not more than three months if a dealer violates A.R.S. §§ 28-4532 through 28-4537. The rule will state that the Division shall, upon notification from a law enforcement agency of a violation, suspend the applicable dealer license plates for three months if a dealer violates A.R.S. §§ 28-4532 through 28-4537. A.R.S. § 28-4538(B) authorizes the Division to suspend the right of a dealer or manufacturer to use a dealer or manufacturer license plate that was provided to the dealer or manufacturer pursuant to A.R.S. §§ 28-4533, 28-4540, or 28-4544, if the dealer or manufacturer license plate is displayed on a work or service vehicle, a vehicle used for private use, or a vehicle for hire. The rule will state that the Division shall, upon notification from a law enforcement agency of an improperly displayed license plate, suspend the applicable dealer or manufacturer license plate improperly displayed. The second type of suspension is the temporary registration plate "TRP" issue authority suspension. A.R.S. § 28-4554(A) authorizes the Division to suspend the right of a dealer to issue TRPs, if the dealer has not complied with A.R.S. §§ 28-4546 through 28-4553, as prescribed in A.R.S. § 28-4554. The rule will state that the Division shall, upon notification from a law enforcement agency of non-compliance or violation, suspend the right of a dealer to issue TRPs if the dealer has not complied with or is in violation of status A.R.S. §§ 28-4546 through 28-4553. The appeals process for these suspensions is provided in 17 A.A.C. 1, Article 5. This rule will incorporate the requirements of both the Secretary of State and the Governor's Regulatory Review Council for language that is clear, concise, and understandable.

6. 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:

The agency did not rely on any study in this rulemaking.

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:

Suspensions, levied upon notification of a violation as prescribed under A.R.S. § 28-4538, limit dealer and manufacturer business objectives for three months. The impact may be minimal to significant depending on the number of dealer or manufacturer license plates suspended. When there is a notification and suspension, as prescribed by A.R.S. § 28-4554 of a motor vehicle business's ability to issue a TRP, there may be a potentially significant economic impact to the business.

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:

Questions concerning the economic impact statement may be directed to the agency official listed in item #4.

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:

An oral proceeding is not scheduled for this rule. Two oral proceedings were conducted during a previous attempt at this rulemaking (October 10, 2001 and November 5, 2001). Due to substantial changes to the rule, it was terminated on October 11, 2002 and a new docket opening was published on January 24, 2003. Written, faxed, or internet comments on this rulemaking may be made by contacting the rules analyst listed in item #4 between 8:00 a.m. and 4:30 p.m., Monday through Friday, except legal holidays. The rulemaking's public record will close on April 11, 2003, at 4:30 p.m.

Arizona Administrative Register
Notices of Proposed Rulemaking

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

None

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 4. DEALERS

Section

R17-5-408. Suspension of a Dealer or Manufacturer License Plate; Temporary Registration Plate "TRP" Issue Authority; Hearing

ARTICLE 4. DEALERS

R17-5-408. Suspension of a Dealer or Manufacturer License Plate; Temporary Registration Plate "TRP" Issue Authority; Hearing

A. Dealer or manufacturer license plate suspension.

1. Upon notification from a law enforcement agency that a violation of statutes A.R.S. §§ 28-4532 through 28-4537, as prescribed in A.R.S. § 28-4538(A) has occurred:
 - a. The Division shall issue a notice of suspension. The notice of suspension shall identify and suspend the applicable dealer license plate for three months and include the date the suspension ends.
 - b. Hearing. A dealer that has had a dealer license plate suspended per Administrative Rule R17-5-408(A)(1)(a), may submit a written hearing request to the Division's Executive Hearing office within 15 days after receiving the notice of suspension.
2. Upon notification from a law enforcement agency that a dealer or manufacturer license plate provided pursuant to A.R.S. §§ 28-4533, 28-4540, or 28-4544, is displayed on a work or service vehicle, a vehicle used for private use, or a vehicle for hire, as prescribed in A.R.S. § 28-4538(B):
 - a. The Division shall issue a notice of suspension. The notice of suspension shall identify and suspend the dealer or manufacturer license plate improperly displayed.
 - b. A dealer or manufacturer that has had a dealer or manufacturer license plate suspended per Administrative Rule R17-5-408(A)(2)(a), may submit a written hearing request to the Division's Executive Hearing office within 30 days after receiving the notice of suspension.

B. Temporary Registration Plate "TRP" issue authority suspension.

1. Upon notification from a law enforcement agency that a dealer has not complied with or is in violation of statutes A.R.S. §§ 28-4546 through 28-4553, as prescribed in A.R.S. § 28-4554, the Division shall issue a notice of suspension which identifies and suspends the applicable dealer's authority to issue TRPs.
2. A dealer that has had its authority to issue TRPs suspended per Administrative Rule R17-5-408(B)(1), may submit a written request to the Division's Executive Hearing office within 30 days after receiving the notice of suspension.