

NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING

STATE REAL ESTATE DEPARTMENT

- 1. Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 28, State Real Estate Department
Articles and their headings: 1, General Provisions
3, Licensure
5, Advertising
10, Franchises and Fictitious Names
11, Professional Conduct
13, Administrative Procedures
Section numbers: R4-28-101, R4-28-104, Table 1, R4-28-301, R4-28-302,
R4-28-303, R4-28-502, R4-28-504, R4-28-1001, R4-28-1101,
R4-28-1103, R4-28-1307
Sections may be added, deleted, or modified as necessary.
- 2. Subject matter of the proposed rule:**
Pursuant to meetings of Department staff and stakeholders (representatives of the regulated public) as part of its five-year rule review of existing rules and recommendations for new rules, the Department proposes to amend or adopt the rules identified above. Some of the definitions, fees, and license time-frames in Article 1 need to be adjusted. Clarifying changes to improve understanding are needed for some rules in Articles 3, 5, and 10. Some subsections will be relocated within Article 11, and a Section in Article 13 that the Administrative Procedures Act and the Office of Administrative Hearing's Rules has made redundant will be repealed. As the rulemaking progresses, additional changes which need to be made to these Articles may be identified.
- 3. A citation to all published notices relating to the proceeding:**
None
- 4. Name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Cindy Wilkinson
Address: Arizona Real Estate Department
2910 N. 44th Street, Suite 100
Phoenix, AZ 85018
Telephone: (602) 468-1414, ext. 120
Fax: (602) 468-0562
E-mail: cwilkinson@re.state.az.us
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
Oral comments: During the public hearing, not yet scheduled
Written comments: 8:00 a.m. to 5:00 p.m., Monday through Friday
Arizona Real Estate Department
2910 N. 44th Street, Suite 100
Phoenix, AZ 85018
- 6. A timetable for agency decisions or other action in the proceeding:**
The Department plans to conclude the rulemaking by December 2004.

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NOTICE OF RULEMAKING DOCKET OPENING

STATE BOARD OF EDUCATION

1. **Title and heading:** 7, Education
Chapter and its heading: 2, State Board of Education
Article and its heading: 7, Adjudications
Section numbers: R7-2-708
2. **The subject matter of the proposed rule:**
Elimination of the default proceeding in the administrative hearing process administered by the State Board of Education Professional Practices Advisory Committee upon failure of an individual to appear at a hearing or review.
3. **A citation to all published notices relating to the proceedings:**
Notice of Proposed Rulemaking: 10 A.A.R. 1017, March 19, 2004 (in this issue)
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Christy Farley
Address: 1535 W. Jefferson
Phoenix, AZ 85007
Telephone: (602) 542-5057
Fax: (602) 542-3046
E-mail: cfarley@ade.az.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
Written comments may be submitted to Christy Farley, Executive Director, State Board of Education, at the address above. Written comments will be accepted until May 12, 2004. A public hearing will be held on May 12, 2004 to receive public testimony. The public meeting will be posted at 1535 W. Jefferson, first floor.
6. **A timetable for agency decisions or other action on the proceeding, if known:**
A Notice of Proposed Rulemaking was considered by the State Board of Education at the same monthly meeting as the opening of this docket, on Monday, February 23, 2004.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF WATER RESOURCES

1. **Title and its heading:** 12, Natural Resources
Chapter and its heading: 15, Department of Water Resources
Article and its heading: 8, Well Construction and Licensing of Well Drillers
Section numbers: R12-15-830 through R12-15-849
As part of this rulemaking, the Department may add, delete, or modify sections as necessary.
2. **The subject matter of the proposed rule:**
The Department proposes to develop criteria for the location and spacing of wells and for assessing well impacts under A.R.S. §§ 45-544, 45-592, 45-597, 45-598, 45-601, 45-603, 45-834.01, 45-1041, and 45-1052.
3. **A citation to all published notices relating to the proceeding:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 2114, May 10, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 2682, June 28, 2002
Notice of Termination of Rulemaking: 10 A.A.R. 777, March 7, 2003
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Dennis Kimberlin Jenny Pelton
Address: Water Management Division Legal Division
500 N. Third St. 500 N. Third St.
Phoenix, AZ 85004 Phoenix, AZ 85004
Telephone: (602) 417-2445 (602) 417-2420
Fax: (602) 417-2423 (602) 417-2415
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
The Department will schedule an oral proceeding when it publishes a Notice of Proposed Rulemaking.

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

The Department plans to schedule public outreach meetings with stakeholders in the various active management areas of the state during the fall of 2004, with the goal of publishing a notice of proposed rulemaking in early 2005. This schedule is subject to change as necessary. The Department will publish notice of any stakeholder meetings in the *Arizona Administrative Register*. Persons wishing to receive direct notice of any stakeholder meeting should contact one of the agency personnel listed in item #4.

NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF WATER RESOURCES

1. Title and its heading:

Chapter and its heading:

Articles and their heading:

12, Natural Resources
15, Department of Water Resources
1, Definitions, Fees, Procedural Rules for Hearings
4, Licensing Time-frames
7, Assured and Adequate Water Supply
9, Water Measurement
10, Reporting Requirements for Annual Reports, Annual Accounts, Operating Flexibility Accounts, and Conveyances of Groundwater Rights
11, Inspections and Audits
Section numbers: R12-15-151; R12-15-401; R12-15-701; R12-15-703; R12-15-705; R12-15-705.02; R12-15-904; R12-15-1001 through R12-15-1016; R12-15-1101
As part of this rulemaking, the Department may add, delete, or modify additional Sections as necessary.

2. The subject matter of the proposed rule:

The primary purpose of this rulemaking is to adopt rules relating to the use of groundwater for remediation actions as required by Laws 1997, Ch. 287, § 52. The Department also intends to amend its rules by correcting or repealing citations, cross-references, and parts of rules made obsolete by changes to statute. The Department also will amend Article 10 to clarify the language used in setting forth the accounting and reporting requirements under this Chapter.

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

None

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

Name: Jenny J. Pelton, Deputy Counsel
Address: Legal Division
500 N. Third St.
Phoenix, AZ 85004
Telephone: (602) 417-2420
Fax: (602) 417-2415

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

To be announced in the Notice of Proposed Rulemaking

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

To be announced in the Notice of Proposed Rulemaking

NOTICE OF RULEMAKING DOCKET OPENING
BANKING DEPARTMENT

1. Title and its heading:

Chapter and its heading:

Article and its heading:

Section numbers:

20, Commerce, Banking, and Insurance
4, Banking Department
12, Rules of Practice and Procedure before the Superintendent
R20-4-1209

2. The subject matter of the proposed rule:

The subject Section concerns the procedure and timing of an answer to a notice of hearing. The existing language requires that a party file an answer within 20 days after issuance of a notice of hearing. This creates two problems for users of the rules. It has been suggested to the Department that a change, counting the time to answer from the date of service rather than issuance, solves both problems.

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First, since only the Department issues notices of hearing, only the Department knows when the party's time to answer begins to run. A person involved in a proceeding may not even know a hearing is scheduled, but that person's time to answer has already begun to run. This is unfair to all parties, and might be attacked with due process and equal protection challenges. Changing the word "issuance" to "service" solves this problem because the party's time to answer then begins to run as soon as it learns it is required to answer.

Second, because the existing Section times events from the date of issuance rather than the date of service, it is unclear whether OAH's rule on dates of filing and service, specifically R2-19-108(F)(2), would apply to documents mailed by the Department upon issuance. This problem is solved if the Section is amended to change "issuance" to "service" because the change will make service the crucial event, and make it clear that service by mail is effective five days after the date of mailing, exactly as in R2-19-108. After the change, all parties will still have 20 days from service to answer, and any party can more precisely determine the date of service under the language in the proposed change.

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

There are no previous published notices relating to this proceeding.

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

Name: John P. Hudock
Address: Banking Department
2910 N 44th Street, Suite 310
Phoenix, AZ 85018-7270
Telephone: (602) 255-4421, ext. 167
Fax: (602) 381-1225
E-mail: jhudock@azbanking.com

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

The Department accepts written comments during business hours at the address stated in item #4 of this Notice. Comments are welcome at any time until the close of the record in this proceeding. The date for closure of the record depends on the publication date of the actual proposed rules, which has not yet occurred. Notice of any opportunity to make public oral comment will be published as required by law.

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

No timetable has been projected or established. In March, 2005 the Department expects to submit the text of proposed rules for publication.