

# 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 9. HEALTH SERVICES

#### CHAPTER 16. DEPARTMENT OF HEALTH SERVICES OCCUPATIONAL LICENSING

#### PREAMBLE

- 1. Sections Affected**

	<u>Action</u>
R9-16-203	Amend
R9-16-204	Amend
R9-16-206	Amend
R9-16-210	New Section
R9-16-303	Amend
R9-16-307	Amend
R9-16-316	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)(18), and 36-136(F)  
Implementing statutes: A.R.S. §§ 36-1902(B)(5), 36-1904(B), and 36-1908
- 3. The effective date of the rules:**

July 3, 2004
- 4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 4458, October 17, 2003  
Notice of Proposed Rulemaking: 9 A.A.R. 5523, December 26, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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

A.R.S. § 36-1908 requires the Department to set fees for, and collect license fees from, audiologists, speech-language pathologists, and hearing aid dispensers. In this rulemaking the Department set the six types of fees authorized by the legislation:

Application fee for an initial license other than an initial hearing aid dispenser license by examination -- \$100;

License fee for an initial license -- \$100;

Application fee for an initial hearing aid dispenser license by examination -- \$250;

Renewal license fee -- \$100;

Duplicate license fee -- \$25; and

Late fee -- \$25.

The Department made new Section R9-16-210 to set the duplicate license fee for audiologists and speech-language pathologists and new Section R9-16-316 to set the duplicate license fee for hearing aid dispensers. The Department reorganized the two existing rules that deal with hearing aid dispenser fees, R9-16-303 and R9-16-307, by replacing the license renewal provisions in R9-16-303(C) and R9-16-303(D) with new provisions in R9-16-307 for renewal of organization hearing aid dispenser licenses and of temporary hearing aid dispenser licenses. The Department also revised R9-16-303 and R9-16-307 according to the five-year review report of 9 A.A.C. 16, Article 3 approved by the Governor's Regulatory Review Council on November 6, 2001.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, any analysis of each study and other supporting material:**

Not applicable

**8. 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:**

None

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

The Department set the fees for audiologists, speech-language pathologists, and hearing aid dispensers as required by A.R.S. § 36-1908. The Department currently licenses approximately 2500 audiologists, speech-language pathologists, and hearing aid dispensers.

Former A.R.S. § 36-1929 established the previous fee ceilings in 1991. In the intervening 12 years, Arizona's population has grown and costs have increased. Laws 2003, Chapter 249, § 2, effective September 18, 2003, appropriated \$130,000 to the Department for regulation of audiologists, speech-language pathologists, and hearing aid dispensers and exempted the appropriation from the provisions on lapsing of appropriations in A.R.S. § 35-190. The Department will receive the appropriation annually.

The fees determined by the Department are based on the Department's costs for licensing and regulating audiologists, speech-language pathologists, and hearing aid dispensers, including the costs for giving hearing aid dispenser examinations. These fees are consistent with the Arizona licensing fees for some other occupations and professions. The fee increases represent minimal costs to individuals and organizations within the regulated community.

The increased fees will allow the Department to efficiently license and regulate audiologists, speech-language pathologists, and hearing aid dispensers while annually providing approximately \$130,000 more revenue for the state general fund. Therefore, the fee increase is revenue-neutral for the state.

The following individuals, groups, or entities bear the cost of the fees set by the Department:

Individual audiologists, speech-language pathologists, hearing aid dispensers, and businesses that apply for or hold an organization hearing aid dispenser license

The fees double the current \$50 application fee for applications other than applications for a hearing aid dispenser license by examination, the \$50 license fee, and the \$50 renewal license fee. The fees increase by 2.5 times the current \$10 duplicate license fee and the \$10 late fee. As mandated by A.R.S. § 36-1908(3), the Department set a separate application fee for a hearing aid dispenser license by examination. This \$250 fee reflects the Department's costs for giving hearing aid dispenser examinations. The fees set by the Department represent minimal costs to the regulated community.

Audiologists, speech-language pathologists, and hearing aid dispensers may pass along some or all of the fee increases to consumers and third parties that pay for the products and services provided by audiologists, speech-language pathologists, and hearing aid dispensers.

Arizona State Schools for the Deaf and Blind, school districts, and businesses that employ audiologists, speech-language pathologists, or hearing aid dispensers

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If an employer of audiologists, speech-language pathologists, or hearing aid dispensers pays license-related fees for these employees, the employer will incur minimal increased costs per employee. Like individual audiologists, speech-language pathologists, and hearing aid dispensers, and businesses applying for or holding an organization hearing aid dispenser license, the employer may pass along some or all of the fee increases to consumers and third-party payers.

Consumers and third-party payers

Consumers and third-party payers may have an increase in the charges for products and services provided by audiologists, speech-language pathologists, and hearing aid dispensers. This increase represents a minimal cost to consumers and a moderate to substantial aggregate cost to third-party payers.

The regulated community, consumers, and third-party payers benefit from efficient licensing and regulation by the Department. The \$130,000 appropriation provides resources for the Department to perform the duties mandated by A.R.S. Title 36, Chapter 17. The fees set by the Department will return approximately the amount of the appropriation to the state general fund. The benefits from the increased fees outweigh the costs.

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

The Department made the technical changes described in the table.

<b>Section</b>	<b>As Published in the Notice of Proposed Rulemaking</b>	<b>As Changed in the Notice of Final Rulemaking</b>
R9-16-206(B)	shall apply for a license by submitting the application packet required in R9-16-203(A).	<del>shall apply for</del> <u>may obtain</u> a license by submitting the application packet required in R9-16-203(A)/
R9-16-303(A)(1)(b)	<u>If applicable, the name of applicant's employer and the employer's business address; and business telephone number.</u>	<u>If applicable, the name of the applicant's employer and the employer's business address; and business telephone number;</u>
R9-16-303(A)(1)(c)	<u>of a felony or a misdemeanor</u>	<u>of a felony or of a misdemeanor</u>
R9-16-303(A)(3)(a)	<u>that the applicant does not meet the requirements of A.R.S. § 36-1923(A) and subsection (A)(1); or</u>	<u>that the applicant does not meet the requirements of A.R.S. § 36-1923(A) and subsection (A)(1) and the Department denies a regular hearing aid dispenser license to the applicant; or</u>
R9-16-303(A)(6)	<u>The applicant may reapply by timely submitting the application fee and information required in subsection (A)(1).</u>	<u>The applicant may reapply by submitting the application fee and information required in subsection (A)(1) at least 75 days before the Department gives a hearing aid dispenser examination.</u>
R9-16-303(A)(9)	<u>An applicant who fails the examination three times</u>	<u>An applicant who fails the hearing aid dispenser examination three times</u>
R9-16-303(B)(1)(c)	<u>For each state named in subsection (B)(1)(a)(i):</u>	<u>For each state named in subsection (B)(1)(b)(i):</u>
R9-16-303(B)(2)	<u>Based on the information submitted under subsections (B)(1)(b) and (B)(1)(c).</u>	<u>Based on the information submitted under subsections (B)(1)(b) and (B)(1)(c).</u>
R9-16-303(C)(3)(a)(ii)	<u>That the Department denies an regular hearing aid dispenser license to the organization;</u>	<u>That the Department denies a regular hearing aid dispenser license to the organization;</u>

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R9-16-303(D)(1)	and an application <del>form</del> <u>on forms</u> provided by the Department <del>which that</del> contains the following:	and an application <del>form</del> <u>on forms</u> provided by the Department <del>which contains the following that contain:</del>
R9-16-307(A)(1)	before the <del>license</del> expiration date of the <del>previous license</del> , the following:	before the license expiration date, <del>the following:</del>
R9-16-307(A)(1)(b)	and <del>(D)</del> R9-16-308(D); and	and <del>(D)</del> ; R9-16-308(D), and
R9-16-307(A)(1)(c)(iv)	<u>Whether the hearing aid dispenser has ever been convicted of a felony or a misdemeanor involving moral turpitude;</u>	<u>Whether the hearing aid dispenser has been convicted of a felony or of a misdemeanor involving moral turpitude since the hearing aid dispenser's previous license application;</u>
R9-16-307(A)(1)(c)(vi)	<u>by the hearing aid dispenser; and;</u>	<u>by the hearing aid dispenser; and</u>
R9-16-307(A)(4)(a)(i)	<u>According to R9-16-301 and Table 1.</u>	<u>According to R9-16-315 and Table 1.</u>
R9-16-307(C)(2)	<u>According to A.R.S. § 36-1926(E) and 36-1926(F).</u>	<u>According to A.R.S. §§ 36-1926(E) and 36-1926(F).</u>

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

No comments were received.

**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. Were these rules previously made as emergency rules?**

No

**15. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES  
OCCUPATIONAL LICENSING**

**ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS**

Section

- R9-16-203. License Application
- R9-16-204. License Application Time-frames
- R9-16-206. License Renewal
- R9-16-210. ~~Reserved~~ Duplicate License Fee

**ARTICLE 3. LICENSING HEARING AID DISPENSERS**

Section

- R9-16-303. ~~Licensure Processes~~ Licensing Process
- R9-16-307. ~~Regular~~ License Renewal
- R9-16-316. Duplicate License Fee

**ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS**

**R9-16-203. License Application**

- A. No change
  - 1. No change
    - a. No change

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- b. No change
- c. No change
- d. No change
- e. No change
- f. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. An application fee of ~~\$50~~ \$100.
- B.** No change
  - 1. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
- C.** No change
  - 1. No change
  - 2. No change
- D.** No change
  - 1. No change
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  - 4. An application fee of ~~\$50~~ \$100.

**R9-16-204. License Application Time-frames**

- A.** No change
- B.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- C.** No change
  - 1. No change
    - a. No change
    - b. No change
  - 2. No change
- D.** After receiving the written notice of approval in subsection (C)(2), an applicant shall send a ~~\$50~~ \$100 license fee to the Department. If the applicant does not submit the license fee within 30 days of ~~or~~ after the date the Department sends the written notice of approval to the applicant, the Department shall consider the application withdrawn.

**R9-16-206. License Renewal**

- A.** No change
  - 1. A license renewal fee of ~~\$50~~ \$100;
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
- B.** A licensee who submits the information and fee in subsection (A)(1) no later than 30 days after the license expiration date shall submit a ~~\$10~~ \$25 late fee in addition to the information and fee required by subsection (A). A licensee who does not submit the information and the fee in subsection (A)(1), within 30 days after the license expiration date, ~~shall apply for~~

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may obtain a license by submitting the application packet required in R9-16-203(A).

- C. When renewing a temporary license, a licensee shall submit a license renewal fee of ~~\$50~~ \$100 and a form provided by the Department containing:
1. No change
  2. No change
  3. No change
  4. No change
  5. No change

**R9-16-210. ~~Reserved~~ Duplicate License Fee**

An individual licensed under 9 A.A.C. 16, Article 2, may obtain a duplicate license by submitting to the Department a request for a duplicate license containing the individual's name and address, the number and expiration date of the license to be duplicated, the individual's signature, and a \$25 duplicate license fee.

**ARTICLE 3. LICENSING HEARING AID DISPENSERS**

**R9-16-303. ~~Licensure Processes~~ Licensing Process**

A. ~~Licensure by examination~~ For a hearing aid dispenser license by examination:

1. ~~An~~ At least 75 days before the date the Department gives a hearing aid dispenser examination, an applicant for a hearing aid dispenser license shall submit to the Department a nonrefundable \$50 \$250 application fee and an application on a form provided by the Department, which that contains the following:
  - a. ~~Name, The applicant's name, social security number, home address, and home telephone number of the applicant;~~
  - b. ~~Name of employer, If applicable, the name of the applicant's employer and the employer's business address; and business telephone number;~~
  - c. ~~Statement certified under penalty of perjury which shall contain the acknowledgement that the applicant has never been convicted of a criminal offense or a listing of all criminal convictions. Whether the applicant has been convicted in any state of a felony or of a misdemeanor involving moral turpitude and a list that includes each conviction;~~
  - d. ~~Physician's written statement or health card obtained within 30 days prior to application that declares the applicant is free of contagious or infectious disease. Whether the applicant currently has or had, within the five years before the application date, a condition that impairs the applicant's ability to dispense hearing aids safely;~~
  - e. ~~Proof of a minimum education level as evidenced by a high school diploma or a general education diploma. A statement that the applicant completed at least a four-year course in an accredited high school or passed the general education development tests and:~~
    - i. ~~A list of each high school and post-secondary school attended; and~~
    - ii. ~~A copy of the applicant's high school diploma, general education development diploma, or post-secondary degree;~~
  - f. ~~Identification of past and current licensure as a hearing aid dispenser in any other state; and A list of each state that has issued the applicant a hearing aid dispenser license;~~
  - g. ~~Statement certified under penalty of perjury of any suspension or revocation of a hearing aid dispenser license in any state within the past 2 years and notification of current ineligibility for licensure in any state due to prior revocation or suspension. Whether:~~
    - i. ~~Any state has, within the two years before the application date, suspended or revoked a hearing aid dispenser license issued to the applicant; and~~
    - ii. ~~The applicant currently is not eligible to apply for a hearing aid dispenser license in any state due to a suspension or revocation; and~~
  - h. ~~A statement signed by the applicant verifying the truthfulness of the information provided on the application form.~~
2. ~~An applicant shall file the completed application form with the Department by the 15th day of the month prior to the month of examination. One~~ The Department shall give one hearing aid dispenser examination shall be given in August and may give additional examinations may be given at other times by the Department according to A.R.S. § 36-1923(C).
3. ~~The Director~~ According to R9-16-315 and Table 1, the Department shall notify each an applicant:
  - a. ~~by~~ By certified mail of the status of the applicant's eligibility to the applicant's address on the application, that the applicant does not meet the requirements of A.R.S. § 36-1923(A) and subsection (A)(1) and the Department denies a regular hearing aid dispenser license to the applicant; or to take the examination not later than 15 days prior to the examination.
  - b. ~~Those applicants who have complied with the prerequisites~~ By regular mail to the applicant's address on the application, that the applicant meets the requirements of A.R.S. § 36-1923(A) and of this subsection (A)(1) shall also be provided, and the date, time, and place of the examination.

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4. ~~The Director~~ According to R9-16-315 and Table 1, the Department shall notify ~~each~~ an applicant whose examination results do not meet the requirements in R9-16-305:
  - a. ~~By certified mail to the applicant's address on the application, unless the applicant provided a different address at the examination;~~
  - b. ~~Of the applicant's test examination results by certified mail within 30 days following the examination; and~~
  - c. ~~That the Department denies a regular hearing aid dispenser license to the applicant.~~
5. According to R9-16-315 and Table 1, the Department shall notify an applicant whose examination results meet the requirements in R9-16-305:
  - a. By regular mail to the applicant's address on the application, unless the applicant provided a different address at the examination;
  - b. Of the applicant's examination results; and
  - c. That the Department approves a regular hearing aid dispenser license for the applicant.
- ~~5-6.~~ The Department shall issue a regular hearing aid dispenser license to an applicant who passes the examination in accordance with R9-16-305 is notified under subsection (A)(5) and who submits to the Department a \$50 non-refundable \$100 license fee to the Department. If the applicant does not submit the license fee within 30 days after the date of the notification in subsection (A)(5), the Department shall consider the application withdrawn. The applicant may reapply by submitting the application fee and information required in subsection (A)(1) at least 75 days before the date the Department gives a hearing aid dispenser examination.
7. If an applicant who was notified under subsection (A)(3)(b) does not take the examination on the date provided in the notification, the Department shall consider the application withdrawn. The applicant may reapply by submitting the application fee and information required in subsection (A)(1) at least 75 days before the date the Department gives a hearing aid dispenser examination.
- ~~6-8.~~ An Except for an applicant who fails the hearing aid dispenser examination three times, an applicant who fails an examination may reapply to take the next scheduled exam examination by completing a new application and submitting to the Department a non-refundable \$50 the application fee and information required in subsection (A)(1) at least 75 days before the date the Department gives a hearing aid dispenser examination to the Department, except that an applicant failing 3 consecutive examinations shall be ineligible to reapply for 1 year.
9. An applicant who fails the hearing aid dispenser examination three times may reapply by submitting the application fee and information required under subsection (A)(1) no earlier than one year after the date of the third examination failed by the applicant.
- ~~7-10.~~ An applicant who is denied licensure a regular hearing aid dispenser license based on test results by examination may appeal the decision pursuant denial according to A.R.S. § 41-1065 A.R.S. Title 41, Chapter 6, Article 10.
- B. Licensure by reciprocity For a hearing aid dispenser license by reciprocity:
  1. An individual desiring to qualify for a license by reciprocity shall applicant shall submit to the Department an application packet that contains:-
    - a. Submit to the Department a \$50 A nonrefundable \$100 application fee and a \$50 \$100 license fee;
    - b. Submit to the Department a completed An application on a form provided by the Department with the information required in subsections (A)(1)(a) through (A)(1)(h) and:
      - i. The name of each state that issued the applicant a current hearing aid dispenser license.
      - ii. The license number of each current hearing aid dispenser license, and
      - iii. The date each current hearing aid dispenser license was issued; and
    - c. Request that the regulatory body responsible for issuing hearing aid licenses in the applicant's state of licensure provide to the Department copies of the following For each state named in subsection (B)(1)(b)(i):
      - i. Written A statement, on the letterhead of the government agency that issued the hearing aid dispenser license and signed by an officer of the government agency, that the individual applicant holds a current hearing aid dispenser license in good standing;
      - ii. Statutes A copy of the state statutes and administrative rules pertaining to for hearing aid dispensing in that state dispensers;
      - iii. Application form filed with that state for licensure;
      - ~~iv-iii.~~ Written A copy of the written and practical portions of any a hearing aid dispenser examination taken by the applicant; or a detailed descriptions thereof; and description of each portion of the examination;
      - ~~v-iv.~~ Applicant's The government agency's statement of the applicant's score on each section of the a hearing aid dispenser examination taken by the applicant, and of the criteria for passing- minimum passing score for each section, and of the minimum passing score for the examination; and
      - v. A copy of the applicant's current license.
  2. The Based on the information submitted under subsections (B)(1)(b) and (B)(1)(c), the Department shall determine if the information outlined in subsection (B)(1) indicates the following whether:
    - a. Content The content of the a hearing aid dispenser examination taken by the applicant is substantially the same as or superior to the content of the Arizona Department's examination as described in R9-16-306;

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- b. ~~Applicant's~~ The applicant's scores on the written and practical portions of ~~the~~ a hearing aid dispenser examination ~~taken by the applicant~~ meet or exceed Arizona's passing criteria ~~the requirements in R9-16-305 for passing the Department's hearing aid dispenser examination;~~ and
  - c. ~~Meets~~ The applicant meets the requirements in A.R.S. §§ 36-1922 and 36-1923(A) and subsections (B)(1), (B)(2)(a), and (B)(2)(b) for ~~licensure~~ a regular hearing aid dispenser license by reciprocity.
  3. If an applicant meets the requirements in the statutes and rules listed in subsection (B)(2)(c), the Department shall:
    - a. According to R9-16-315 and Table 1, notify the applicant:
      - i. By regular mail to the applicant's address on the application, and
      - ii. That the Department approves a regular hearing aid dispenser license by reciprocity for the applicant; and
    - b. ~~The Director shall issue~~ Issue a regular hearing aid dispenser license by reciprocity pursuant to A.R.S. § 36-1922 to the applicant who meets the requirements of this subsection.
  4. If an applicant does not meet a requirement in the statutes and rules listed in subsection (B)(2)(c), the Department shall:
    - a. According to R9-16-315 and Table 1, notify the applicant:
      - i. By certified mail to the applicant's address on the application, and
      - ii. That the Department denies a regular hearing aid dispenser license by reciprocity to the applicant; and
    - b. Return the license fee to the applicant.
  - 4.5. ~~If the information provided indicates that the applicant does not meet the requirements of this subsection, the Director shall deny the applicant's request for licensure and return the \$50 license fee to the applicant. The~~ An applicant who is denied a regular hearing aid dispenser license by reciprocity may:
    - a. ~~file an appeal of~~ Appeal the decision pursuant to A.R.S. § 41-1065 denial according to A.R.S. Title 41, Chapter 6, Article 10; and
    - b. Apply for:
      - i. A regular hearing aid dispenser license by examination by submitting the application fee and information required in subsection (A)(1) at least 75 days before the date the Department gives a hearing aid dispenser examination, or
      - ii. A temporary hearing aid dispenser license by submitting the application fee and information required in subsection (D)(1).
- C. Licensure for business organizations ~~For an organization hearing aid dispenser license:~~
1. ~~A corporation, partnership, trust, unincorporated association, or other organization maintaining an established with an Arizona business address in Arizona and desiring to engage in the practice of fitting and dispensing hearing aids in Arizona shall submit to the Department a nonrefundable \$50 \$100 application fee, a \$50 \$100 license fee, and an application on a form provided by the Department which that contains the following:~~
    - a. ~~Name~~ The name of the organization;
    - b. ~~The organization's Arizona business name, address, phone and telephone number, and title of the individual responsible for the operation of the business organization in Arizona;~~
    - c. ~~Name~~ The name, address, and phone telephone number of the individual responsible for receiving authorized by the organization to receive service of process in Arizona ~~on behalf of~~ for the organization;
    - d. ~~Name~~ The name, business phone telephone number, and Arizona hearing aid dispenser license number of each hearing aid dispenser employed by the organization in Arizona; ~~and~~
    - e. ~~Statement under penalty of perjury that~~ Whether the business organization or a hearing aid dispenser working for the organization has not had a hearing aid dispensing dispenser license revoked or suspended or revoked by a any state within the past 2 two years before the application date;
    - f. Whether the organization or a hearing aid dispenser working for the organization currently is presently not ineligible eligible for licensure licensing in any state due to prior a revocation or suspension or revocation; and
    - g. A statement verifying the truthfulness of the information provided on the application form and signed by:
      - i. If the organization is a corporation, two officers;
      - ii. If the organization is a partnership, two partners;
      - iii. If the organization is a trust, the trustee, or two trustees if the trust has multiple trustees;
      - iv. If the organization is an unincorporated association, two officers;
      - v. If the organization is a limited liability company, the designated manager, or two members if a manager is not designated;
      - vi. If the organization is a political subdivision or government agency, the political subdivision head or agency head; or
      - vii. If the organization is a sole proprietorship, the owner.
  2. If an organization meets the requirements in A.R.S. § 36-1910 and subsection (C)(1), the Department shall:
    - a. According to R9-16-315 and Table 1, notify the organization:
      - i. By regular mail to the organization's Arizona business address on the application, and
      - ii. That the Department approves a regular hearing aid dispenser license for the organization; and

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- b. ~~If the information provided indicates that the applicant meets the requirements for licensure, the Director shall issue a regular hearing aid dispenser license pursuant to A.R.S. § 36-1928 to the organization.~~
- 3. ~~A business desiring to renew the license shall submit the application form outlined in subsections (C)(1)(a) through (C)(1)(g) and a \$50 renewal fee. A \$10 late fee shall be assessed for a renewal application filed late in accordance with A.R.S. § 36-1927(A).~~
- 3. If an organization does not meet the requirements in A.R.S. § 36-1910 and subsection (C)(1), the Department shall:
  - a. According to R9-16-315 and Table 1, notify the organization:
    - i. By certified mail to the organization's Arizona business address on the application, and
    - ii. That the Department denies a regular hearing aid dispenser license to the organization; and
  - b. Return the license fee to the organization.
- 4. An organization notified under subsection (C)(3) may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**D. Temporary For a temporary hearing aid dispenser license:**

- 1. ~~An applicant for an initial temporary license shall submit to the Department a nonrefundable \$50 \$100 application fee and an application form on forms provided by the Department which contains the following that contain:~~
  - a. ~~Information specified The information required in subsection (A)(1) subsections (A)(1)(a) through (A)(1)(h);~~
  - b. ~~Sponsor's The sponsor's name, business address, business telephone number, and Arizona hearing aid dispenser license number; and~~
  - c. ~~Sponsor's signature indicating A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's testing, fitting, and dispensing activities hearing aid dispenser practice.~~
- 2. ~~The Director According to R9-16-315 and Table 1, the Department shall determine whether the applicant meets the minimum requirements for a temporary licensure as outlined in subsection (D)(1) and shall notify the applicant in writing of the Director's decision.~~
  - a. ~~An applicant who does not meet the requirements in A.R.S. § 36-1926 and subsection (D)(1):~~
    - i. ~~By certified mail to the applicant's address on the application, and~~
    - ii. ~~That the Department denies a temporary hearing aid dispenser license to the applicant; or~~
  - b. ~~An applicant who meets the requirements in A.R.S. § 36-1926 and subsection (D)(1):~~
    - i. ~~By regular mail to the applicant's address on the application, and~~
    - ii. ~~That the Department approves a temporary hearing aid dispenser license for the applicant.~~
- 3. ~~The Director Department shall issue a temporary hearing aid dispenser license to an eligible applicant who is notified under subsection (D)(2)(b) after the applicant and who submits to the Department a nonrefundable \$50 \$100 license fee and proof of sponsorship. If the applicant does not submit the license fee within 30 days after the date of the notification in subsection (D)(2)(b), the Department shall consider the application withdrawn. The applicant may reapply by submitting the application fee and information required in subsection (D)(1).~~
- 4. ~~A temporary dispenser may renew the license without taking the next regularly scheduled examination.~~
- 4. An applicant notified under subsection (D)(2)(a) may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.
- 5. ~~A temporary license shall expire in accordance with A.R.S. § 36-1926(B) or (D).~~
- 6. ~~A temporary dispenser shall be allowed 1 renewal of the license as authorized by A.R.S. § 36-1926(F) by submitting to the Department a nonrefundable \$50 renewal fee and a renewal form provided by the Department which contains the following:~~
  - a. ~~Applicant's name, home address, and phone number;~~
  - b. ~~Employer's name, business address, and phone number;~~
  - e. ~~Sponsor's name, business address, telephone number, and license number; and~~
  - d. ~~Sponsor's signature indicating that the sponsor is a licensed dispenser who agrees to train, supervise, and be responsible for the applicant's testing, fitting, and dispensing activities.~~

**R9-16-307. Regular License Renewal**

A. This subsection applies to renewal of a hearing aid dispenser license initially issued under R9-16-303(A) or R9-16-303(B).

- ~~A.1. The A hearing aid dispenser shall submit to the Department, before the license expiration date, the following:~~
  - 1-a. ~~Nonrefundable A nonrefundable \$100 license renewal fee of \$50,~~
  - 2-b. ~~Confirmation of CE hours as referenced in according to R9-16-308(C) and (D); R9-16-308(D), and~~
  - 3-c. ~~Renewal A license renewal application on a form provided by the Department which that contains the following:~~
    - a-i. ~~Dispenser's The hearing aid dispenser's name, home address, and phone home telephone number;~~
    - b-ii. ~~Employer's If applicable, the name, of the hearing aid dispenser's employer and the employer's business address; and phone business telephone number; and~~
    - e-iii. ~~Dispenser's The hearing aid dispenser's license number and date of expiration date;~~
    - iv. ~~Whether the hearing aid dispenser has been convicted of a felony or of a misdemeanor involving moral tur-~~



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41, Chapter 6, Article 10.

5. If an organization does not submit to the Department, within 30 days after the expiration of the previous license, the renewal fee and information required in subsection (B)(1) and the \$25 late fee, the license is nonrenewable. The organization may apply for a new organization hearing aid dispenser license according to subsection R9-16-303(C)(1).
- C. This subsection applies to renewal of an initial temporary hearing aid dispenser license issued under R9-16-303(D).
  1. An individual whose temporary hearing aid dispenser license expires according to A.R.S. §§ 36-1926(B) or 36-1926(G) may renew the license according to subsection (C)(2) without taking the next hearing aid dispenser examination.
  2. According to A.R.S. §§ 36-1926(E) and 36-1926(F), the Department shall allow one renewal of a temporary hearing aid dispenser license by submitting to the Department, by the expiration date of the initial temporary hearing aid dispenser license, a nonrefundable \$100 renewal fee and the following:
    - a. The individual's name, home address, and home telephone number;
    - b. The name, of the individual's employer and the employer's business address and business telephone number; and
    - c. The information required in R9-16-303(D)(1)(a) through R9-16-303(D)(1)(c).
  3. If an individual meets the requirements in A.R.S. § 36-1926 and subsection (C)(2), the Department shall:
    - a. Notify the individual:
      - i. According to R9-16-315 and Table 1,
      - ii. By regular mail to the individual's address on the renewal application, and
      - iii. That the Department approves a renewal license for the individual; and
    - b. Issue a renewal license to the individual.
  4. If an individual does not meet the requirements in A.R.S. § 36-1926 and subsection (C)(2), the Department shall and notify the individual:
    - a. According to R9-16-315 and Table 1,
    - b. By certified mail to the individual's address on the renewal application, and
    - c. That the Department denies a renewal license to the individual.
  5. An individual notified under subsection (C)(4) may appeal the denial of a renewal license according to A.R.S. Title 41, Chapter 6, Article 10.
  6. If an individual does not submit the renewal fee and information required in subsection (C)(2) by the expiration date of the initial temporary hearing aid dispenser license, the license is nonrenewable. The individual may apply for a new temporary hearing aid dispenser license by submitting the application fee and information required in R9-16-303(D)(1).
  7. An individual whose initial temporary hearing aid dispenser license terminates according to A.R.S. § 36-1926(D) may apply for a new temporary hearing aid dispenser license by submitting the application fee and information required in subsection R9-16-303(D)(1).

**R9-16-316. Duplicate License Fee**

- A. An individual licensed under 9 A.A.C. 16, Article 3, may obtain a duplicate license by submitting to the Department a request for a duplicate license containing the individual's name and address, the number and expiration date of the license to be duplicated, the individual's signature, and a nonrefundable \$25 duplicate license fee.
- B. An organization licensed under 9 A.A.C. 16, Article 3, may obtain a duplicate license by submitting to the Department a request for a duplicate license containing the organization's name and address, the number and expiration date of the license to be duplicated, the titles and signatures of the individuals specified in R9-16-303(C)(1)(g) for the type of organization requesting the duplicate license, and a nonrefundable \$25 duplicate license fee.

**NOTICE OF FINAL RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS**

**PREAMBLE**

**1. Sections Affected:**

Article 8  
R17-3-801  
R17-3-802  
R17-3-803  
R17-3-803  
R17-3-804

**Rulemaking Action:**

Amend  
Amend  
Amend  
Repeal  
New Section  
Repeal

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R17-3-804	New Section
R17-3-805	Amend
R17-3-806	Amend
R17-3-807	Amend
R17-3-808	Repeal
R17-3-808	New Section
R17-3-809	Repeal

**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. §§ 28-366, 41-518

Implementing statute: A.R.S. §§ 41-512 through 41-518

**3. The effective date of the rules:**

July 6, 2004

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

Notice of Docket Opening: 9 A.A.R. 3149, July 18, 2003

Notice of Proposed Rulemaking: 10 A.A.R. 196, January 9, 2004

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

Name: Wendy S. LeStarge, Rules Analyst

Address: Arizona Department of Transportation  
206 S. 17th Ave., MD 004R  
Phoenix, AZ 85007

Telephone: (602) 712-4142

Fax: (602) 712-3380

E-mail: [wlestarge@dot.state.az.us](mailto:wlestarge@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](http://www.dot.state.az.us/about/rules/index.htm).

**6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

In 1982, Arizona enacted legislation for creating parkways, and historic and scenic roads. A.R.S. §§ 41-512 through 41-518. This legislation responded to national concerns about preserving the natural, scenic, and ecologically-sound corridors along America's highways. Under A.R.S. § 41-514, the Arizona Department of Transportation ("ADOT") is responsible for implementing the parkways, and historic and scenic roads program. The statutes establish an advisory committee, comprised of members from various state agencies and the general public, to review, decide, and advise ADOT's director on establishing a highway as a parkway, or historic or scenic road.

This rulemaking arises from proposed agency action in the 5-year review report approved by the Governor's Regulatory Review Council on May 2, 2000 (F-00-0402). The rulemaking updates the procedures and criteria that the advisory committee uses in deciding to recommend establishing or designating a highway as a parkway, or historic or scenic road. It also recognizes some changes for federal funding, which began as a federal program in 1991. The rulemaking amends the language so that it is clear, concise, and understandable, and complies with the Secretary of State's rulemaking standards.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its justification for the rules or did not rely on in its evaluation of or justification for the rules, 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 rules are 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:**

The effects of this rulemaking are minimal on ADOT and other state agencies. ADOT incurs costs for administering the program, but statutes mandate participation in this program. One benefit of having a scenic highways program, and the rules to implement it, is the possibility for federal funding for designated roads.

The rulemaking does not directly effect political subdivisions, or businesses or people along a designated road. However, in choosing to seek designation of a road, a political subdivision, business, or individuals along the road face both costs and benefits. Because of the community support requirement, involved entities have the opportunity to decide whether the benefits outweigh the costs of seeking designation. Costs can include development standards or

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development limitations. Benefits include increased tourism of people traveling to see the area, and possible federal funding for the designated road.

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

Grammatical and organizational changes were made at the suggestion of the Governor's Regulatory Review Council's staff.

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

ADOT did not receive any comments.

**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:**

In R17-3-806, subsection (B)(1):

Federal Highways Administration's Notice of FHWA interim policy, published in the Federal Register, 60 F.R. 26759, May 18, 1995.

**14. Were these rules previously adopted as emergency rules?**

No

**15. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS

**ARTICLE 8. ESTABLISHMENT OF SPECIAL HIGHWAYS ARIZONA PARKWAYS AND HISTORIC AND SCENIC ROADS**

Sections

- R17-3-801. General Provisions
- R17-3-802. Meetings and Organization of the Advisory Committee PHSRAC
- R17-3-803. Duties of Officers Request to Designate a Road
- R17-3-804. Request to Establish or Designate a Highway or Area PHSRAC's Process
- R17-3-805. Reconsideration of Requests to Establish or Designate a Highway or Area PHSRAC's Decision
- R17-3-806. Review of Existing Designated Parkway, or Historic or Scenic Road
- R17-3-807. Approvals and Agreements Between Agencies for Designation
- R17-3-808. Aquisition of Land for Parkways, Historic, and Scenic Roads Construction and Maintenance Standards; Signing
- R17-3-809. Construction and Maintenance with Protection and Enhancement of Special Features

**ARTICLE 8. ESTABLISHMENT OF SPECIAL HIGHWAYS ARIZONA PARKWAYS AND HISTORIC AND SCENIC ROADS**

**R17-3-801. General Provisions**

Definitions. In A.R.S. §§ 41-512 through 41-518 and these rules, unless context otherwise requires, the following definitions shall apply:

- 1. "Advisory Committee" means the Arizona Parkways, Historic and Scenic Roads Advisory Committee.
- 2. "Department" means the Arizona Department of Transportation (ADOT).
- 3. "Resources" means the cultural, natural, scenic, and historic qualities significant to the designation. A parkway, historic, or scenic road may contain one or more of these qualities.

The following definitions apply:

"Corridor Management Plan (CMP)" means a written document developed with public involvement that specifies the actions, procedures, controls, operational practices, and administrative responsibilities and strategies to manage and protect the resources of a designated road.

"Department" means the Arizona Department of Transportation.

"Designate" means to grant status as a parkway, historic road, or scenic road to certain physical boundaries of a road or area under A.R.S. §§ 41-512 through 41-518.

"Interstate highway" has the meaning in A.R.S. § 28-7901(4).

"PHSRAC" means the Arizona Parkways, and Historic and Scenic Roads Advisory Committee.

"Road" means any federal, state, county, Indian, or municipality roadway or right-of-way.

"Request" means a written statement submitted to PHSRAC by an agency, group, or individual to ask PHSRAC to

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consider an initial assessment to recommend certain road segments for a designated road.

“Resources” means the cultural, natural, scenic, or historic qualities of a requested parkway or historic or scenic road.

“State highway” has the meaning in A.R.S. § 28-101(47).

“Viewshed” means the three visual areas that can be seen from a specific stopping point on or near a roadway, comprised of the:

Foreground (the area up to one-third mile from the edge of the roadway where individual parts of a plant are distinguishable);

Middleground (the area beginning one third from the edge of the roadway and extending to three miles from the roadway where individual plants are distinguishable); and

Background (the area more than three miles from the roadway, where individual plants are indistinguishable but are visible as vegetative cover).

**R17-3-802. Meetings and Organization of ~~the Advisory Committee~~ PHSRAC**

~~A. Advisory Committee meetings shall be held at least once each six months at a time and place designated by the chairman. The chairman, the vice chairman with the chairman’s approval, or any six members of the Advisory Committee may call such other meetings as necessary to conduct the business of the Advisory Committee. A quorum shall consist of six or more members of the Advisory Committee being present at a legally convened meeting.~~

~~1. All meetings shall be noticed as provided in the Open Meetings Law.~~

~~2. At the first meeting of the fiscal year, the Advisory Committee shall elect a chairman and vice chairman. They shall assume the duties of their offices at the close of the meeting.~~

~~B. If an Advisory Committee chairman or vice chairman resigns or vacates his or her position prior to expiration of office, the Advisory Committee may elect a replacement to serve the remainder of the year.~~

**A. Chairperson.**

1. At the first meeting of the fiscal year, PHSRAC shall elect a chairperson and vice chairperson. The chairperson and vice chairperson shall assume the duties of office at the close of the first meeting.

2. If the chairperson or vice chairperson resigns or vacates the office before the term expires, PHSRAC shall elect a replacement to serve the remainder of the term at the next scheduled meeting.

3. The chairperson shall preside at all meetings, appoint subcommittees of PHSRAC, and perform other duties as necessary to the office of chairperson.

4. If the chairperson is absent or incapacitated, the vice chairperson shall exercise the duties of the chairperson.

**B. Meetings.**

1. PHSRAC shall meet at least once each six months at a time and place designated by the chairperson.

2. The chairperson, the vice chairperson with the chairperson’s approval, or any six members of PHSRAC may call a meeting as necessary to conduct PHSRAC’s business.

3. PHSRAC shall notice all meetings as prescribed in A.R.S. Title 38, Article 3.1.

**C. PHSRAC’s decisions become effective by a majority vote of attending members if a quorum is present. A quorum consist of six or more members of PHSRAC present at a meeting convened under A.R.S. Title 38, Article 3.1.**

**R17-3-803. ~~Duties of Officers~~ Request to Designate a Road**

~~The chairman shall preside at all meetings, appoint subcommittees of the Advisory Committee, and perform all duties pertaining to the office of chairman. The vice chairman shall, in the absence or incapacity of the chairman, exercise the duties of the chairman.~~

**A. Any agency, group, or individual may request PHSRAC to recommend that the Transportation Board designate a road. An applicant agency, group, or individual shall submit a written request to the Chairman of PHSRAC, care of the Department. The request shall identify the applicant and state the road segment to be included in a proposed designated road.**

**B. At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall conduct an initial assessment of the request based on the factors in R17-3-804(A). PHSRAC shall decide by majority vote whether to allow the applicant to submit an application and report as described in subsection (C).**

**C. If PHSRAC approves an initial assessment, PHSRAC shall provide the applicant with a copy of the “Application Procedures for Designation of Parkway and Historic or Scenic Roads in Arizona.” The applicant shall submit the following:**

1. A written letter of support for designation of the road by the entity having jurisdiction over the road. If the proposed designated road is a state highway, a local community group shall submit the letter of support; and

2. A report that includes the following for the proposed designated road:

a. Recommended road segment to be designated;

b. Area on either side of the road necessary to protect the historic, cultural, or visual resources of the proposed designated road;

c. Adjacent land ownerships;

d. Existing major land use along the proposed designated road;

e. Area zoning;

f. Still photos or other supportive material of outstanding and representative scenery, or other resources;



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or her concurrence and presentation to the Transportation Board as to those highways or areas that have been considered and determined appropriate for designation as parkways, historic, or scenic roads. The Advisory Board's decision-making procedures include the following:

1. Discussion and approval and denial of recommendations shall be made at public open meetings. Recommendations shall be made if passed by vote of the Advisory Committee of a majority of members in attendance and when a quorum is present.
2. The accepted recommendation for designation shall be sent to the Director for his or her concurrence and presentation to the Transportation Board for consideration.
3. Highways or areas proposed for designation which receive less than a majority of the votes of the Advisory Committee shall have no recommendation sent to the Director. They may be reconsidered at a later date.

**A.** After receiving all information requested in R17-3-803(C) and (D), PHSRAC shall evaluate the extent and quality of the resources for the proposed designated road. PHSRAC shall consider the following factors in deciding to recommend designation to the Transportation Board:

1. The memorability of the visual impression from contrasting landscaping elements;
2. The integrity of the visual order in the natural and human-built landscape, and the extent to which the landscape is free from visual encroachment;
3. The degree to which visual aspects of the landscape elements join to form a harmonious, composite, and visual pattern;
4. Degree of the historical or cultural contribution to the area, state, or nation;
5. Proximity and access of the proposed designated road to the historical place or area;
6. Sufficient land area for a parkway to accommodate visitor facilities; and
7. Evaluation by the Arizona Historical Advisory Committee.

**B.** At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall discuss and vote on a recommendation for designation of a road to the Transportation Board. PHSRAC shall:

1. Approve and recommend a designation by a majority vote, or
2. Deny a request for designation.

**C.** If PHSRAC approves and recommends designation, PHSRAC shall submit the recommendation to the Director to present to the Transportation Board. The Transportation Board has sole authority to designate a road as a parkway, historic, or scenic road

**R17-3-805. Reconsideration of ~~Requests to Establish or Designate a Highway or Area~~ PHSRAC's Decision**

**A.** ~~Only highways receiving favorable recommendation shall be forwarded for designation. Those receiving a non-favorable recommendation or those recommended for deletion by the Advisory Committee shall be reconsidered upon presentation of additional substantive information to the Advisory Committee by the agency having jurisdiction.~~

**B.** ~~Additional substantive information shall be presented to the Advisory Committee within 60 calendar days of its decision and shall include the development of data that would affect the Committee's evaluation of the extent and quality of the resources being considered. Emphasis shall be placed on the road's unique features or special qualities that could be protected or enhanced. If no additional information is submitted, no further consideration shall be made on the proposal.~~

**C.** ~~Reconsideration of a request for a recommendation to establish or designate a highway or area as a parkway, historic, or scenic road shall conform to information and evaluation procedures of R17-3-804.~~

**A.** If PHSRAC denies a request to designate a proposed road at the initial assessment stage, as described in R17-3-803(B), the agency, group, or individual that requested designation may prepare and submit an application and report under R17-3-803(C) to PHSRAC at its own cost. The agency, group, or individual shall submit the application and report within one year from the date of PHSRAC's decision denying the request.

**B.** If PHSRAC denies an application to designate a road, the agency, group, or individual may request that PHSRAC reconsider its decision:

1. The entity requesting reconsideration has 60 days from the date of PHSRAC's decision to present additional information to PHSRAC. Additional information includes data that emphasizes the factors PHSRAC considers in R17-3-804(A), and emphasizes the road's unique features or special qualities that could be protected or enhanced. The Department shall prepare the additional information if the road is a state highway.
2. PHSRAC shall not reconsider its decision if the entity requesting reconsideration does not submit additional information.

**C.** If additional information is presented, PHSRAC shall discuss and vote on the request for reconsideration at a meeting convened under A.R.S. Title 38, Article 3.1.

**R17-3-806. Review of Existing Designated Parkway, ~~or~~ Historic or Scenic Road**

**A.** ~~The Advisory Committee may review established or designated parkways, historic, or scenic roads because of changes in the extent and quality of the resources. The review may be initiated by the Committee or at the request of the agency having jurisdiction. The Advisory Committee shall compare the present or modified conditions with the information report and other criteria of certain special qualities that were to be protected or enhanced which resulted in the highway or area~~

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being designated.

- ~~B.~~ The decision to recommend continuation or deletion of a designation of a parkway, historic, or scenic road shall be made at a public open meeting. The body having jurisdiction of a designated parkway, historic, or scenic road recommended for deletion may appeal as per R17-3-805.
- ~~C.~~ A recommendation for deletion shall be sent to the Director for his or her concurrence and presentation to the Transportation Board. The Transportation Board shall then vote on the recommendations of the Advisory Committee for deletion of an established or designated parkway, historic, or scenic road. The Board's decisions shall have the following impact:
  - 1. A decision for continuation shall require no action by the Department or the agency having jurisdiction.
  - 2. A decision for deletion shall require the Board to cancel the agreement with the body having jurisdiction over the designated road.
- ~~A.~~ Review.
  - 1. PHSRAC shall review a designated road to compare and ensure that the present conditions and resources comply with the conditions and resources that existed at the time the road was designated in order to ensure continued designation.
  - 2. PHSRAC shall conduct a review:
    - a. At least every five years from initial designation.
    - b. At the design stage of any construction or reconstruction proposed by the Department or the entity having jurisdiction of the designated road, or
    - c. If the entity having jurisdiction or a local community group recommend deletion of the designated road.
- ~~B.~~ Corridor Management Plan ("CMP").
  - 1. The Department incorporates by reference the Federal Highways Administration's Notice of FHWA interim policy, published in the Federal Register, 60 F.R. 26759, May 18, 1995, and no later amendments or editions. The incorporated material is on file with the Department.
  - 2. The entity having jurisdiction or any member of the public shall use the guidelines outlined in the Notice of FHWA interim policy, incorporated by reference in R17-3-806(B)(1), to prepare a CMP.
  - 3. The entity having jurisdiction or any member of the public shall submit a CMP to PHSRAC as stated in R17-3-803(A), for PHSRAC's review.
  - 4. At a meeting convened under A.R.S. Title 38, Article 3.1, PHSRAC shall discuss and vote on whether to recommend to the Department or the entity having jurisdiction to adopt and implement the CMP, using the guidelines outlined in the Federal Highways Administration's Notice of FHWA interim policy.
- ~~C.~~ Deletion.
  - 1. Based on its review conducted under subsection (A), PHSRAC shall discuss and vote on a recommendation for deletion of a designated road at a meeting convened under A.R.S. Title 38, Article 3.1.
  - 2. Reconsideration. The entity having jurisdiction of a designated road or a local community group may request that PHSRAC reconsider its decision if PHSRAC recommends deletion of a designated road.
    - a. The entity requesting reconsideration has 60 days from the date of PHSRAC's decision to present additional information to PHSRAC. Additional information includes data that emphasizes the factors PHSRAC considers in R17-3-804(A), and emphasizes the road's unique features or special qualities that could be protected or enhanced. The Department shall prepare the additional information if the road is a state highway.
    - b. PHSRAC shall not reconsider its decision if the entity requesting reconsideration does not submit additional information.
    - c. PHSRAC shall use the procedures described in R17-3-805 to reconsider its decision.
  - 3. PHSRAC shall submit a recommendation for deletion to the Director for the Director to present to the Transportation Board.

**R17-3-807. Approvals and Agreements Between Agencies for Designation**

- ~~A.~~ Prior to consideration by the Advisory Committee, proposals for establishment or designation of a parkway, historic, or scenic road which is not a state highway or route shall require the body having jurisdiction to provide notice of interest for such establishment or designation. Such notice shall be provided in writing.
- ~~B.~~ Establishment or designation by the Transportation Board shall not become effective until an interagency agreement between the Department and the agency body having jurisdiction has been completed and is filed with the Secretary of State.
- ~~C.~~ The interagency agreement may include the following:
  - 1. The resource information included by the Advisory Committee in its recommendations to the Director for his or her concurrence and presentation to the Transportation Board;
  - 2. Requirements or recommendations for protection of unique features and resources;
  - 3. Provisions for Parkway, Historic, or Scenic Road Designation Signing approved by the Department for established or designated roads;
  - 4. Restrictions for access roads intersecting parkways and bordering subdivisions approval requirements as provided in A.R.S. § 41-514;

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5. Statements to clarify the conditions of the establishment or designation;
6. Requirements in the event of a decision for deletion and cancellation of the agreement by the Transportation Board;
7. Provisions that neither the Arizona Department of Transportation, the Arizona Parks Board, nor the Arizona Historical Society undertakes or assumes any financial or legal responsibilities of other agencies or units of government by the establishment or designation of a highway or areas as parkways, historic, or scenic roads.

If the Transportation Board designates a road that is not a state highway, the designation becomes effective after the Department and the entity having jurisdiction complete an interagency agreement and file the agreement with the Secretary of State. The agreement shall include the following:

1. PHSRAC's resource listing and evaluation for designation as recommended to the Director for the Director's presentation to the Transportation Board.
2. Requirements or recommendations for protecting unique features and resources.
3. Provisions for Department-approved signing.
4. Provisions for an access road or subdivision access to a parkway as restricted under A.R.S. § 41-514(F).
5. Statements regarding the conditions of the designation.
6. Provisions if the Transportation Board deletes a road and cancels an agreement, or
7. Provisions that the Department, the Arizona Parks Board, or the Arizona Historical Society do not have any financial or legal responsibility for another agency or government unit by designating a highway as a parkway or historic or scenic road.

**R17-3-808. ~~Acquisition of Land for Parkways, Historic, and Scenic Roads~~ Construction and Maintenance Standards; Signing**

The Director may acquire title, either in fee simple or a lesser estate, over lands for the establishment or improvement of a state highway designated as a parkway, historic, or scenic road. Acquisitions shall be accomplished in accordance with A.R.S. § 28-1865 and rules and procedures established by the Department including the following:

1. Land other than state highway may be acquired for designated parkways, historic, or scenic roads by the body having jurisdiction. Acquisitions shall be accomplished in accordance with the applicable state laws and its established rules and procedures.
  2. Acquisition by the Department or other body having jurisdiction may not be accomplished by exercising the power of eminent domain.
- A.** Under A.R.S. § 41-516, the Department or entity having jurisdiction may allow a design exception effecting construction or maintenance in order to protect and enhance a special feature or unique resource of the designated road, based on engineering judgment and the current standards of the American Association of State Highway and Transportation Officials.
- B.** The Department or entity having jurisdiction shall provide signing to identify the designated road, based on the current edition of the Manual on Uniform Traffic Control Devices adopted under A.R.S. § 28-641, and the following criteria:
1. A logo associated with a sign that identifies a designated road shall not be used without PHSRAC's written permission.
  2. The Department shall provide signing identifying a designated state highway depending on the level of fiscal constraint and available funding.
  3. The Department shall not allow signing identifying a designated road on an interstate highway.
  4. PHSRAC and the Director shall review any other signing related to identifying a designated road, such as historical markers, in order to ensure the signing conforms to Department standards and resource character of the road.
  5. A sign shall not visually interfere with or distract from an adjacent traffic control device, or the historic or scenic quality of an area.
  6. Signing identifying the designated road should be as close as practicable to the established termini. Within the designated road, signing shall be at least five miles apart. If the termini of the designated road are less than ten miles apart, no additional signing shall be installed within the designated road.
  7. If a designated road begins or ends at a junction or intersection of another road, the signing for the designated road shall be located beyond the junction and beyond any signing that is installed immediately after the junction or intersection. Signing for the designated road may be incorporated with or into advance guide signing for the other road if spacing allows.
  8. If an intersecting road is a designated road, and the beginning or end is not immediately adjacent to the junction or intersection, any signing shall be located only on the designated road.
  9. If the Transportation Board deletes a road, the Department or entity having jurisdiction shall remove all designation signing.

**R17-3-809. ~~Construction and Maintenance with Protection and Enhancement of Special Features~~**

- A.** Established or designated parkways, historic, or scenic roads may allow exemptions from standards normally applied to the construction and maintenance of the route to ensure the protection and enhancement of the special features or unique resources. Parkway, Historic, or Scenic Roads designation signing shall be provided as a means of identification of established or designated parkways, historic, or scenic roads. The following construction and signing standards shall apply;

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based on professional engineering discretion:

1. Exemptions allowed to ensure the protection and enhancement of special features or unique resources shall be specified for those features or resources. The revised construction procedures may be allowed if approved by the Department of Transportation, the Federal Highway Administration, the county, city, or other body having jurisdiction or involvement in the design, construction or maintenance of the road.
2. Revisions from standards for construction and maintenance for designated parkways, historic, or scenic roads shall be accomplished using procedures, standards, and practices to reasonably provide for the safe use and service of the traveling public.
3. Established or designated parkways, historic, or scenic roads or areas shall be signed using parkway, historic or scenic road designation signing approved by the Department on state, county, or city rights-of-way of the route, in accordance with the following criteria:
  - a. Locations shall be selected which neither will cause visual interference with or distraction from adjacent traffic control devices nor detract from the historic or scenic quality of an area.
  - b. Signing of the established or designated parkway, historic, or scenic road or area should be as close as practicable to the established termini. Interterminal signing may be installed at not less than five mile intervals. Where the termini are less than ten miles apart, interterminal signing shall not be installed.
  - c. Where a parkway, historic, or scenic road has a terminal at a junction or intersection of a state or other route, signing for such designated routes shall normally be located beyond the junction and beyond the normal complement of signing installed immediately after the junction or intersection. Where appropriate, such signing may be incorporated with or into advance guide signing for the junction or intersection.
  - d. Where an intersecting roadway is established or designated a parkway, historic, or scenic road and such facility has a designated terminal not immediately adjacent to the junction or intersection, signing may be installed only on the designated road.
  - e. Parkway, historic, or scenic road designation signing for an established or designated parkway or historic or scenic road shall conform to the Arizona Department of Transportation approved design, color, and mounting standards and shall be reflectorized. Other signing shall be approved by the Parkways, Historic and Scenic Roads Advisory Committee and the Director.
  - f. Historical markers and other related signing shall be in accordance with the Arizona Department of Transportation policies, guides, and procedures of the governmental entity having jurisdiction and are available from the Department upon request.
  - g. Roads deleted as established or designated parkways, historic, or scenic roads shall have all designation signing removed.