

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE AGRICULTURAL COUNCILS AND COMMISSIONS

PREAMBLE

- 1. Section Affected:** **Rulemaking Action**
R3-9-302 New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S § 3-1083
Implementing statute: A.R.S § 3-1086(B)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Larry Antilla

Address: Arizona Cotton Research and Protection Council
3721 E. Wier Ave.
Phoenix, AZ 85040-2933

Telephone: (602) 438-0059, Ext. 24

Fax: (602) 438-0407

E-mail: lantilla@azcotton.com

or

Name: Mary Sommers

Address: Arizona Cotton Research and Protection Council
3721 E. Wier Ave.
Phoenix, AZ 85040-2933

Telephone: (602) 438-0059, Ext. 17

Fax: (602) 438-0407

E-mail: msommers@azcotton.com
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
A.R.S § 3-1086(B) requires the Arizona Cotton Research and Protection Council to prescribe a form for cotton producers to use to register each acre of non-Bt cotton. The rule describes the detailed reporting requirements for non-Bt cotton acreage registration.
- 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**

Notices of Proposed Rulemaking

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:

There is no significant economic, small business and consumer impact as a result of prescribing reporting forms.

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: Larry Antilla

Address: Arizona Cotton Research and Protection Council
3721 E. Wier Ave.
Phoenix, AZ 85040-2933

Telephone: (602) 438-0059, Ext. 24

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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. Under A.R.S. § 41-1023(C) an oral proceeding will be scheduled if a written request is submitted to either person listed in item 4 or 9 above 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 rule follows:

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE
AGRICULTURAL COUNCILS AND COMMISSIONS

ARTICLE 3. ARIZONA COTTON RESEARCH AND PROTECTION COUNCIL

Section

R3-9-302. Non-Bt Cotton Acreage Registration Form

ARTICLE 3. ARIZONA COTTON RESEARCH AND PROTECTION COUNCIL

R3-9-302. Non-Bt Cotton Acreage Registration Form

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- A.** Each December the Arizona Cotton Research and Protection Council shall send the Non-Bt Cotton Acreage Registration Form and a fee schedule to the cotton producers for which the Farm Service Agency (FSA) certified cotton acreage during the same year. A producer who has not certified cotton acreage with the FSA office may obtain the report form and a fee schedule from the Arizona Cotton Research and Protection Council office.
- B.** Thirty days after the tillage deadline established by R3-4-204 of each year, the producer shall complete the following report and submit it to the Arizona Cotton Research and Protection Council:
1. The producer name, mailing address, telephone and facsimile number;
 2. The Farm Service Agency (FSA) farm number;
 3. The cultural zone;
 4. The crop year;
 5. The intended non-Bt cotton acreage;
 6. The lender name, mailing address, telephone and facsimile number who guarantees payment.

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-9-109 | Amend |
| R4-9-110 | Amend |
| R4-9-112 | Amend |
| R4-9-115 | Amend |
| R4-9-116 | Amend |
- 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. §§ 32-1104(5) and (6); § 32-1125 and 32-1152
Implementing statutes: A.R.S. §§ 32-1104(5) and (6); § 32-1125 and 32-1152
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 1203, April 11, 2003
Notice of Rulemaking Docket Opening: 10 A.A.R. 1894, May 7, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Alan Felber, Chief of Licensing |
| Address: | Registrar of Contractors
800 W. Washington, 6 th Fl.
Phoenix, AZ 85007 |
| Telephone: | (602) 542-1525 |
| Fax: | (602) 542-7852 |
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**
- R4-9-109 Name of Licensee or Applicant: the objective of this rule is to minimize the possible confusion of the public regarding licensees with similar names and to ensure that licensees use the name as it appears on their license.
- R4-9-110 Change of Legal Entity and Cancellation of License: There are two objectives for this rule. They are:
1. To notify licensees that a contractor's license is not transferable from one entity to another.
 2. To explain the acceptable method of canceling a license and prevent licensees from canceling their licenses in order to avoid responsibility for statutory violations by giving the registrar the discretion to deny the cancellation.
- R4-9-112 Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bonds and Deposits: the objective of this rule is to provide a graduated dollar amount of bonding required for a contractor's license based on the contractor's anticipated gross volume of work and within the limits set by A.R.S. § 32-1152(B).
- R4-9-115 Posting: the objectives of this rule are to establish a process for posting names of applicants and personnel of applicants, a method for waiving part of the posting period, and a process for denying a license if an applicant is not qualified.

Notices of Proposed Rulemaking

R4-9-116 License Renewal: the objectives of this rule are to assign responsibility for timely renewal to the licensees and provide a process for timely license renewal.

The above 5 rules are being amended to make them gender neutral and more clear, concise, and understandable.

- 6. A reference to any study relevant to the rules that the agency reviewed and either did 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

- 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 Registrar of Contractors views this as only an editorial change that will not impact the economy, small business, or 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: Alan Felber, Chief of Licensing

Address: Registrar of Contractors
800 W. Washington, 6th Fl.
Phoenix, AZ 85007

Telephone: (602) 542-1525

Fax: (602) 542-7852

- 10. The time, place, and nature of the proceedings for the adoption, 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:**

The agency will accept written comments submitted not later than 5:00 p.m. September 22, 2004 to the person listed in paragraphs #4 and #9.

Oral proceedings at which members of the public may appear and make comments regarding the rules or the economic, small business, and consumer impact statement will occur as follows:

Date: September 22, 2004

Time: 9:00 a.m.

Location: Industrial Commission of Arizona
Auditorium
800 W. Washington
Phoenix, AZ 85007

- 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:**

Not applicable

- 13. The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

ARTICLE 1. GENERAL PROVISIONS

Section

R4-9-109. Name of Licensee or Applicant

R4-9-110. Change of Legal Entity and Cancellation of License

R4-9-112. Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bonds and Deposits

R4-9-115. Posting

Notices of Proposed Rulemaking

R4-9-116. License Renewal

ARTICLE 1. GENERAL PROVISIONS

R4-9-109. Name of Licensee or Applicant

- A. ~~A~~ The licensee must shall do business under the name ~~in which his~~ on the license is issued and ensure that the same name ~~must is used~~ appear on the license bond.
- B. If a corporation is doing business in the name of a division or using a trade name, ~~both~~ the licensee shall ensure that all names must be clearly are shown on the application.
- C. ~~When~~ If applying for a license or a name change, a corporation, ~~if requested,~~ must shall submit written evidence that it is in good standing with or that the new name has been filed with the Arizona Corporation Commission.
- ~~D.~~ A licensee may secure a name change so long as there is no change in the legal entity by submitting a written request for a name change together with the required fee per license and a rider for the bond or cash deposit reflecting the name change.
- ~~D.~~ The Registrar shall grant a request for name change if there is no change in the legal entity, the name is available, and the request is submitted in writing, together with the required fee per license and a cash deposit or bond rider, that reflects the name change.
- ~~E.~~ The registrar may not accept an application, issue a license, or change the name of an existing license if the proposed name is identical with, or in the opinion of the registrar, so similar it may cause confusion with a name on a pending application or existing license.
- ~~E.~~ The Registrar may elect to reject an application, refuse to issue a license, or deny the name change of an existing licensee based on a review of whether the proposed name is identical or so similar to that of an existing licensee or license applicant that it may cause confusion.
- ~~F.~~ No application will be accepted or license issued which contains the name of building trade or craft for which the contractor is not duly qualified.
- ~~F.~~ The Registrar shall not accept an application or issue a license if it contains the name of a building trade or craft for which the contractor is not qualified.

R4-9-110. Change of Legal Entity and Cancellation of License

- ~~A.~~ Any change in the legal entity of a licensee to include any change in the ownership of a sole proprietorship or change of a partner in a partnership or creation of a new corporate entity requires a new application and license.
- ~~A.~~ A licensee shall submit an application for a new license if there is any change in the legal entity. For example: a change in ownership of a sole proprietorship, a change of partner in a partnership, or the creation of a new corporate entity.
- B. A license may be cancelled upon the written request of the owner of a sole proprietorship, a partner of a partnership, or in the case of a corporation or a limited liability company any person with written evidence of his authority to request such cancellation ~~cancel~~ the license.
- ~~C.~~ The registrar may at his discretion refuse to accept voluntary cancellation of a contractor's license when in his opinion good cause may exist for a hearing for disciplinary purposes.

R4-9-112. Bond Limits; Applications; Renewals; Increases and Decreases of Bond Amounts; Effective Date of Bond and Deposits

- A. Bond limits. In accordance with the provisions of A.R.S. §32-1152, ~~contractor's~~ license bonds are established in the following amounts, based upon the estimated gross annual volume of work ~~contemplated~~ anticipated by the licensee within the State of Arizona for the ensuing fiscal year:

License Category	Contemplated <u>Estimated</u> Gross Annual <u>Gross Annual</u> Volume (Per License Category)	Bond Amount
1. General Commercial Contracting and Engineering Contracting	Less than \$150,000 or less	\$5,000
	In excess of \$150,000 or more, but not more less than \$500,000	\$10,000
	In excess of \$500,000 or more, but not more less than \$1,000,000	\$15,000
	In excess of \$1,000,000 or more, but not more less than \$5,000,000	\$40,000
	In excess of \$5,000,000 or more, but not more less than \$10,000,000	\$65,000
	More than \$10,000,000 or more	\$90,000

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2. Specialty Commercial Contracting	Less than \$150,000 or less	\$2,500
	In excess of \$150,000 or more , but not more less than \$500,000	\$5,000
	In excess of \$500,000 or more , but not more less than \$1,000,000	\$10,000
	In excess of \$1,000,000 or more , but not more less than \$5,000,000	\$20,000
	In excess of \$5,000,000 or more , but not more less than \$10,000,000	\$32,500
	More than \$10,000,000 or more	\$45,000
3. General Residential Contracting	Less than \$150,000 or less	\$5,000
	In excess of \$150,000 or more , but not more less than \$750,000	\$9,000
	More than \$750,000 or more	\$15,000
4. Specialty Residential Contracting	Less than \$100,000 or less	\$1,000
	In excess of \$100,000 or more , but not more less than \$375,000	\$4,250
	More than \$375,000 or more	\$7,500

5. General Dual License Contracting.

The amount of a General Dual Licensed Contracting bond ~~shall be~~ is determined under subsection (A)(3), based on the contractor's estimated volume of general residential contracting, and subsection (A)(1), based on the contractor's estimated volume of general commercial contracting. The contractor shall ~~assure~~ ensure that the bond issuer ~~specify~~ separately specifies on the bond the ~~amount~~ bond amount applicable to general residential contracting and ~~the bond amount applicable to~~ general commercial contracting.

6. Specialty Dual License Contracting.

- A. ~~The amount of a Specialty Dual Licensed Contractors Contracting bond shall be~~ is determined under subsection (A)(4), based on the contractor's estimated volume of specialty residential contracting, and subsection (A)(2), based on the contractor's estimated volume of specialty commercial contracting. The contractor shall ~~assure~~ ensure that the bond issuer ~~specify~~ separately specifies on the bond the ~~amount~~ bond amount applicable to specialty residential contracting and ~~the bond amount applicable to~~ specialty commercial contracting.
- B. New applications licenses. On ~~all new applications~~ an application for a new license for any ~~category of license~~ category listed above, ~~the an applicant shall estimate anticipated gross their annual volume of work within the State of Arizona for the remainder of the present fiscal year and shall be governed by~~ comply with the bond requirements of this Section as they apply to the applicant's particular for the relevant category of license. ~~The filing of a bond or deposit in a specified amount shall be deemed to be the equivalent of submitting a volume estimate within the dollar limitations applicable for such bond amount. The Registrar considers the filing of a bond or deposit in a specified amount to be the equivalent of submitting a volume estimate within the dollar limitations applicable for the bond amount.~~
- C. Renewal. All ~~estimates made for~~ renewals of licenses shall be made on a form acceptable to the Registrar of Contractors. ~~The Contractor's filing a new bond or continuation of a bond or deposit in a specified amount shall be the equivalent of submitting a volume estimate within the dollar limitations applicable for such bond amount. The Registrar of Contractors is not responsible for over or under estimates of volume of work made by the licensee or for the sufficiency of any bond or deposit. A gross underestimate knowingly made by a licensee shall be construed as a material misrepresentation and could subject the licensee to suspension or revocation of license.~~
- D. Increases and decreases of bond amounts. ~~The Based on the actual amount of the contractor's license bond may be increased gross volume of work a contractor may increase the bond amount at any time, during the fiscal year. However, a~~ A surety bond or cash deposit in lieu of bond cannot be decreased except at the time of the license renewal. ~~for the ensuing fiscal year.~~
- E. Effective date of bonds and deposits. ~~Surety bonds~~ A license bond or cash deposits shall ~~deposit is not become operative until filed with the registrar's not effective until the licensee files it at a Registrar of Contractors office. If a surety license bond is filed before the effective date of indicated on the bond, the bond becomes operative effective on the effective indicated date.~~

R4-9-115. Posting

- ~~A. Except as hereinafter provided, no licenses shall be issued. The Registrar shall not issue a license until the expiration of said the posting period in A.R.S. §32-1104(C).~~
- ~~B. Applicants who have previously undergone the 20-day posting period may apply to the registrar in writing for a waiver of part of the posting period.~~
- ~~B. Persons that have previously undergone the 20-day posting period, may appeal to the Registrar in writing for a reduction of the 20-day posting period.~~
- ~~C. If, prior to the issuance of the license, information brought to the attention of the registrar concerning the qualifications of the applicant is such that in the registrar's discretion it might be proper to deny the license, the registrar may forthwith notify the applicant that his license is denied and that he may request a hearing if he so desires to be conducted in accordance with the provisions of Title 41, Chapter 6 of the Arizona Revised Statutes.~~
- ~~C. If the Registrar determines that an applicant is not qualified for a license based on information available to the Registrar before the license is issued, the Registrar shall deny or reject the license application. If the application is denied, the Registrar shall notify the applicant about the denial and the applicant may request a hearing in accordance with the provisions of A.R.S. Title 41, Chapter 6, Article 10.~~

R4-9-116. License Renewal

~~It is the sole duty and responsibility of the licensee to timely renew his license on fully and accurately completed forms as prescribed by the registrar. Incomplete and inaccurately completed renewal forms shall be rejected. Neither the need for additional time to accurately complete renewal forms as prescribed by the registrar nor failure to receive renewal forms in the mail will be a justifiable excuse for the late renewal of a license without payment of a late fee.~~

- ~~A. To renew a license the licensee shall submit the following information to the Registrar and advise the Registrar of any change in the information within 30 days of the change:
 - ~~1. If the licensee is a corporation or a limited liability company, evidence that the entity is in good standing with the Arizona Corporation Commission.~~
 - ~~2. The licensee's current privilege license number issued under A.R.S. §42-5005.~~~~
- ~~B. A licensee shall renew each license on or before the renewal date. Failure to comply results in suspension of the license on the day following the renewal date by operation of law. The Registrar shall collect a \$50.00 late fee if renewal is completed after the renewal date. Based on the severity of the violation, the Registrar may refuse to renew a license after determining that a licensee has committed or been found guilty of any act listed in A.R.S. §32-1154(A).~~
- ~~C. To renew a contracting license, a licensee shall submit an application for renewal to the Registrar, accompanied by the required renewal fee. Timely submission of an application is evidenced by the date stamped on the documents by the Registrar or the date on "postage prepaid" documents if the submission is deposited in the United States mail, postage prepaid, on or before the renewal date. Timely submission authorizes the licensee to operate as a contractor until actual issuance of the renewal license.~~
- ~~D. If a license has been suspended by operation of law for failure to renew, a licensee may still renew the license within one year of its suspension by submitting an application for renewal and paying the applicable renewal fee and a \$50.00 late fee. If a license has been suspended for one or more years for failure to renew, the former licensee shall submit an application for a new license.~~