

## 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)

*Editor's Note: Under the Administrative Procedure Act, the Office of the Secretary of State did not publish the Sections in this rulemaking package from Article 3 because a docket opening was not filed for those Sections. The Department has informed this Office that it intends to terminate this notice.*

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 36. DEPARTMENT OF BUILDING AND FIRE SAFETY

[R06-218]

#### PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| Article 2<br>R4-36-201      | Amend<br>Amend           |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 41-2146(C)  
Implementing statutes: A.R.S. Title 41, Chapter 16
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 12 A.A.R. 1563, May 12, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: John Rowlinson  
Address: Department of Building and Fire Safety  
1110 W. Washington, Suite #100  
Phoenix, AZ 85007  
Telephone: (602) 364-1079  
Fax: (602) 364-1084
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The State Fire Safety Committee reviewed these rules as it committed to do in a five-year review report approved by the Governor's Regulatory Review Council on June 5, 2001. Since the last code adoption, requirements for compliance with the American with Disabilities Act and state licensing and permitting time-frames have been enacted. The International Fire Code is consistent with the American with Disabilities Act (ADA) with regard to fire and life safety and thus inherently provides compliance with the ADA. The agency is adopting as part of the State Fire Code a provision for a time-frame of 65 days maximum issuance of a permit once plans have been submitted.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None

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**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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

The following definitions are applicable to all articles: "minimal" means \$5,000 or less; "moderate" means \$5,000 to \$10,000; "substantial" means \$10,000 or more.

The State Fire Code provides for fire and life safety protection throughout the state of Arizona. R4-36-201 hasn't been amended since our last Five-Year Rule Review. The economic impact of code adoption to the agency was and is minimal and consists primarily of printing of rules, the cost of code books, and training. A major benefit is derived from being allowed to use the most recent technologies in construction and fire suppression methods to ensure fire and life safety for the public at a reasonable cost. This also leads to consistency with most agencies/jurisdictions that are current with nationally accepted codes.

Basic economic principles, such as inflation and market forces affecting the price of materials, have caused a minimal increase in cost to consumers/private persons. Impact on small business has been minimal because the code has lesser requirements for small business based on size of the building and volume of stored material. The public will benefit from the higher product quality and increased safety provided by the updated code.

**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: John Rowlinson  
Address: Department of Building and Fire Safety  
1110 W. Washington, Suite #100  
Phoenix, AZ 85007  
Telephone: (602) 364-1079  
Fax: (602) 364-1084

**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 proceedings are scheduled.

Written comments will be accepted by the Department Monday through Friday, 8 a.m. to 5 p.m. addressed to the person listed in item #4.

**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:**

International Fire Code 2003 Edition in R4-36-201

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 36. DEPARTMENT OF BUILDING AND FIRE SAFETY**

**ARTICLE 2. STATE FIRE SAFETY COMMITTEE ARIZONA STATE FIRE CODE**

Section

R4-36-201. ~~Arizona State Fire Code~~ Incorporation by Reference of the International Fire Code

**ARTICLE 2. STATE FIRE SAFETY COMMITTEE ARIZONA STATE FIRE CODE**

**R4-36-201. ~~Arizona State Fire Code~~ Incorporation by Reference of the International Fire Code**

**A. All persons** ~~Unless otherwise provided by law, any person residing, doing business, or who are is physically present within the state of Arizona shall comply with the provisions and regulations of the Uniform International Fire Code (1988 Ed. 2003 Edition), including D102.1 and D107.1 of Appendix D and all provisions of Appendices B, C, E, F, and G, determined which is published by the International Conference of Building Officials Code Council, and the Western Fire Chiefs Association, which is declared to be a part of this regulation as if set forth in full herein, incorporated by reference as the State Fire Code, subject to the deletions, modifications and amendments contained in subsection (B); and modified~~

by Article 3. Copies of the Uniform Fire Code (1988 Ed.) and copies of the Uniform Fire Code Standards (1988 Ed.), the Uniform Building Code (1988 Ed.), the Uniform Mechanical Code (1988 Ed.), and the Uniform Plumbing Code (1988 Ed.), referenced in the Uniform Fire Code (1988 Ed.), are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do The incorporated material does not include any later amendments or editions of the incorporated matter. Copies of these uniform codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. Copies of the International Fire Code are available from the International Code Council, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and a copy is available for inspection at the Office of the State Fire Marshal.

**B.** The Uniform Fire Code (1988 Ed.) is modified as follows:

1. Pages xxvi, xxvii, xxviii and xxix are deleted.
2. Where the term "Corporation Counsel" is used in the Uniform Fire Code, it shall mean the legal counsel of the jurisdiction or its fire department, or of the State Fire Marshal, as the context requires.
3. Wherever the terms "Chief," "Chief of the Fire Department" or "Building Official" are used in the Uniform Building Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the State Fire Marshal or designated representative, unless the context otherwise requires.
4. Wherever the terms "fire department," "department," "fire prevention engineer," or "bureau of fire prevention" are used in the Uniform Fire Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the Office of State Fire Marshal, unless the context otherwise requires.
5. Sec. 1.102(b) is modified to include "The National Fire Code Standard and its appendices, published by the National Fire Protection Association (NFPA) as listed below, are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. Copies are available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269."
  - "i. NFPA #10 Portable Fire Extinguishers (1988 Ed.);
  - "ii. NFPA #12A Halon 1301 Fire Extinguishing Systems (1987 Ed.);
  - "iii. NFPA #12B Halon 1211 Fire Extinguishing Systems (1985 Ed.);
  - "iv. NFPA #13 Installation of Sprinkler Systems (1989 Ed.);
  - "v. NFPA #13A Inspection, Testing and Maintenance of Sprinkler Systems (1987 Ed.);
  - "vi. NFPA #13R Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height (1989 Ed.);
  - "vii. NFPA #14 Standpipe & Hose Systems (1986 Ed.);
  - "viii. NFPA #15 Water Spray Fixed Systems (1985 Ed.);
  - "ix. NFPA #16 Foam Water Spray Systems (1986 Ed.);
  - "x. NFPA #17 Dry Chemical Extinguishing Systems (1985 Ed.);
  - "xi. NFPA #17A Wet Chemical Extinguishing Systems (1986 Ed.);
  - "xii. NFPA #20 Centrifugal Fire Pumps (1987 Ed.);
  - "xiii. NFPA #22 Water Tanks for Private Fire Protection (1987 Ed.);
  - "xiv. NFPA #24 Private Fire Service Mains (1987 Ed.);
  - "xv. NFPA #26 Valves Controlling Water Supplies for Fire Protection (1988 Ed.);
  - "xvi. NFPA #51B Cutting & Welding Processes (1984 Ed.);
  - "xvii. NFPA #58 Liquefied Petroleum Gases (1989 Ed.);
  - "xviii. NFPA #70 National Electrical Code (1987 Ed.);
  - "xix. NFPA #71 Installation, Maintenance and Use of Central Station Signaling Systems (1987 Ed.);
  - "xx. NFPA #72A Local Protective Signaling Systems (1987 Ed.);
  - "xxi. NFPA #72B Auxiliary Protective Signaling Systems (1986 Ed.);
  - "xxii. NFPA #72C Remote Station Protective Signaling Systems (1986 Ed.);
  - "xxiii. NFPA #72D Proprietary Protective Signaling Systems (1986 Ed.);
  - "xxiv. NFPA #72E Automatic Fire Detectors (1987 Ed.);
  - "xxv. NFPA #72H Testing Procedures for Local, Auxiliary, Remote Station and Proprietary Protective Signaling Systems (1988 Ed.);
  - "xxvi. NFPA #80 Fire Doors and Windows (1986 Ed.);
  - "xxvii. NFPA #86 Ovens and Furnaces, Design, Location, and Equipment (1985 Ed.);
  - "xxviii. NFPA #90A Air Conditioning and Ventilating Systems (1985 Ed.);
  - "xxix. NFPA #91 Blower and Exhaust Systems (1983 Ed.);
  - "xxx. NFPA #96 Removal of Smoke and Grease Laden Vapors from Commercial Cooking Equipment (1987 Ed.);
  - "xxxi. NFPA #231 Indoor General Storage (1987 Ed.);
  - "xxxii. NFPA #231C Rack Storage of Materials (1986 Ed.);
  - "xxxiii. NFPA #303 Fire Protection Standard for Marinas and Boatyards (1986 Ed.);
  - "xxxiv. NFPA #407 Aircraft Fuel Servicing (1985 Ed.);
  - "xxxv. NFPA #409 Aircraft Hangars (1985 Ed.);

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“xxxvi.NFPA #490 Ammonium Nitrate, Storage of (1986 Ed.);  
 “xxxvii.NFPA #498 Explosives Motor Vehicle Terminals (1986 Ed.);  
 “xxxviii.NFPA #651 Aluminum and Magnesium Powder (1987 Ed.);  
 “xxxix.NFPA #704 Identification of the Fire Hazards of Materials (1985 Ed.);  
 “xxxx.NFPA #1231 Water Supplies for Rural & Suburban Fire Fighting (1984 Ed.)”

6. Sec. 1.102(e) is modified to read “Wherever in the code reference is made to the appendix, only the following appendices shall be part of this code:  
 “Appendix I-A with the exception of Section 1(b);  
 “Appendix II-A,  
 “Appendix II-B,  
 “Appendix II-C with the exception of Section 2;  
 “Appendix II-E,  
 “Appendix IV-A,  
 “Appendix V-A,  
 “Appendix VI-A,  
 “Appendix VI-D,  
 “Appendix VI-E.”
7. Sec. 2.304(a) is modified by adding the following: “To the extent that the Uniform Fire Code Standards (1988 Ed.) incorporate NFPA Standards which are consistent with NFPA Standards incorporated by reference in Sec. 1.102(b), the version incorporated in Sec 1.102(b) shall control.”
8. Sec. 4.101 is modified to read: “The authority having jurisdiction may require permits as provided for in Sec. 4.108 of this code.”
9. Sec. 11.204 is modified to include “educational occupancies.”
10. Add Sec. 11.210 to read: “Bed mattresses used in institutional occupancies where the personal liberties of inmates are restrained shall be permanently flame resistant and low-smoke producing. Urethane foam materials shall be aged before the following tests are conducted. The method of aging shall be by American Society for Testing and Materials (ASTM) D3574 86 Test J1” (1986 Ed.) which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. All materials shall meet the following criteria: \_\_\_\_\_

TEST	ACCEPTABLE VALUES	TEST METHOD
Oxygen Index %O <sub>2</sub>	50 min.	ASTM D-2863-87
Smoke Density Flaming DS @ 90 Sec. & nonflaming DS @ 4 minutes	4 in-75 max. 4 in-175 max.	ASTM E-662-83
Radiant Panel	Flame Spread 5 or less No melt, no drip	ASTM E-162-87”

11. Sec. 12.110 is added to Article 12 to read: “Fire exit drills shall be conducted in accordance with Chapter 31 of the NFPA #101, Life Safety Code” (1988 Ed.), which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.”
12. Sec. 14.102. Modify the definition of alarm system to read: “Alarm system is a combination of a control unit and approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signal in the event of fire or system activation.”
13. Sec. 14.103(b) is modified to read: “Fire alarm systems installed in educational, institutional, state or county owned occupancies shall be designed and installed in such a manner that the failure, removal, or destruction of any single alarm-actuating or alarm-indicting device or a break in the wiring circuit will not interfere with the normal operation of any other such devices.”

14. Sec. 14.103(e) is modified to read: "Equipment. Systems and components shall be listed and approved for the purpose for which installed."
15. Sec. 14.103(d) is modified to read: "Acceptance Test. Upon completion of the installation or alteration, a satisfactory test of the entire fire alarm system shall be made in the presence of the Chief. All functions of the fire alarm system or alteration shall be tested."
16. Sec. 14.103(e) is modified to read: "The permittee shall provide written certification to the Chief that the system has been installed in accordance with the approved plans, component specifications and the manufacturer's minimum requirements."
17. Sec. 14.104(b)(1) is modified to include paragraph D: "Group B, Division 2 occupancies owned by the state or county at the discretion of the Fire Marshal."
18. Sec. 14.104(b)(3) is modified to include paragraph D: "An automatic system shall be required when construction includes internal corridors which serve as egress pathways. Approved smoke detectors shall be installed in internal corridors in accordance with R4-36-201(B)(5)(xxiv)."
19. Sec. 14.104(e), first paragraph, is modified to read: "Group R, Division 1 Occupancies. A manual and automatic fire alarm system shall be installed in apartment houses three or more stories in height or containing more than 16 dwelling units and in hotels three or more stories in height or containing 20 or more guest rooms." Remaining paragraphs are unchanged.
20. Sec. 14.104(e), fourth paragraph, is modified to read: "An approved and listed system type heat detector shall be installed within common areas such as recreational rooms, laundry rooms and furnace rooms of buildings containing Group R, Division 1 Occupancies."
21. Sec. 14.104(e) is modified to read: "Smoke detectors in dwelling units and guest rooms. Smoke detectors shall be installed as required by the Building Code Section 1210(a) in dwelling units and hotel or lodging house guest rooms. When such detectors are connected to a fire alarm system, they shall not sound a general alarm."
22. Sec. 14.105(d) is added to read: "Return wires of aboveground fire alarm system wiring shall be physically separated from outgoing wires by a distance of not less than six feet or by a minimum of one-hour fire resistive construction. The six-foot separation shall not apply to underground installation. EXCEPTION: When making connections to the panel."
23. Sec. 14.106(a) is modified to read: "Maintenance and Testing. All fire alarm systems shall be maintained and tested as set forth in this Article and in accordance with nationally recognized standards. All fire alarm and detection systems shall be tested as set forth in R4-36-201(B)(5)(xxv)."
24. Sec. 14.108 is modified to read: "Accidental Alarms. In the event of temporary failure of the alarm system or an excessive number of accidental alarm activations, the Chief may require the building owner or occupant to provide standby personnel as defined by Sec. 25.117 until the system is restored."
25. Sec. 14.109 is added to read: "Fire alarm systems installed in buildings used for public accommodation as defined in A.R.S. § 34-402(20) shall meet the requirements of A.R.S. § 34-431."
26. Add a new Division V of Article 25 to read: "Division V. Grounds of Carnivals and Fairs."
27. Sec. 25.501 is added to read: "Scope. The grounds of carnivals and fairs, including concession booths, shall conform to the requirements of this division and all other applicable requirements of this code."
28. Sec. 25.502 is added to read: "Permits. For a permit to operate a carnival or fair, see Sec. 4.108."
29. Sec. 25.503 is added to read: "General Requirements. Grounds shall comply with the following:
  1. Fire apparatus access roads shall be provided in accordance with Sec. 32.105.
  2. Fire fighting appliances shall be provided for the entire midway, as required by the chief.
  3. Maximum travel distance to a portable fire extinguisher shall not exceed 75 feet.
  4. All electrical equipment and installations shall comply with the National Electrical Code."
30. Sec. 25.504 is added to read: "Concession stand requirements. Concession stands shall comply with the following:
  1. Concession stands utilized for cooking shall have a minimum of 10 feet of clearance on two sides and shall not be located within 10 feet of amusement rides or devices.
  2. A 40 B:C rated dry chemical fire extinguisher shall be provided where deep fat fryers are in use."
31. Sec. 25.505 is added to read: "Internal combustion power sources, including motor vehicles, generators and similar equipment shall comply with the following:
  1. Fuel tanks shall be of adequate capacity to permit uninterrupted operation during normal operating hours. Refueling shall be conducted only when the ride is not in use.
  2. Internal combustion power sources shall be isolated from contact with the public by either physical guards, fencing or enclosures.
  3. At least one fire extinguisher with a rating of not less than 2-A:10B:C shall be provided."
32. Add a new Division VI of Article 25 to read: "Division VI Liquid or Gas-Fueled Vehicles or Equipment Used for Display or Competition Within Assembly Buildings."
33. Sec. 25.602 is added to read: "Scope. Liquid or gas-fueled vehicles or equipment used for display competition or demonstration within an assembly building shall comply with the requirements of this division and all other applica-

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ble requirements of this code.”

34. Sec. 25.602 is added to read: “Permits. For permits to use liquid or gas fueled vehicles or equipment for competition or display inside an assembly building, see Sec. 4.108.”
35. Sec. 25.603 is added to read: “Display. Display of liquid or gas fueled vehicles or equipment inside an assembly building shall comply with the following:
- “1. Batteries shall be disconnected in an approved manner.
  - “2. Vehicles or equipment shall not be fueled or defueled within the building.
  - “3. Fuel in the fuel tank shall not exceed one quarter of the tank capacity or five gallons, whichever is less.
  - “4. Fuel systems shall be inspected for leaks.
  - “5. Fuel tank openings shall be locked and sealed to prevent the escape of vapors.
  - “6. The location of such vehicles or equipment shall not obstruct or block exits.”
36. Sec. 25.604 is added to read: “Competition or Demonstrations. Liquid or gas fueled vehicles or equipment used for competition or demonstration within an assembly building shall comply with the following:
- “1. Fuel for the vehicles or equipment shall be stored in approved containers in an approved location outside of the building.
  - “2. Refueling shall be performed outside of the building at an approved site.
  - “3. All fuel spills shall be cleaned up immediately.”
37. Sec. 80.101. Add a paragraph to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid hazardous materials in Group B, Division 2 retail sales occupancies, see Sec. 80.109.”
38. Sec. 80.109 is added to read: “Retail display. When in accordance with this section, the aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials permitted within a single control area of a Group B, Division 2 retail sales occupancy may exceed the exempt amounts specified in Division III, Table Nos. 80.306-A, 80.309-A, 80.310-A, 80.312-A, 80.314-A and 80.315-A. The maximum allowable quantity in pounds or gallons permitted within a single control area of a retail sales occupancy shall be the amount derived from the formula:
- “ $ER = E \times p \times A$
- “WHERE:
- “ER = exempt amount permitted in a single control area of a retail sales occupancy.
- “E = exempt amount specified in Division III exempt amount tables.
- “p = density factor from Table No. 80.109.
- “A = square footage area of the hazardous material retail display or storage.
- The maximum aggregate floor area for hazardous material retail display or storage over which the density factor may be applied shall not exceed 1500 square feet per control area.”
- “The area of storage or display shall also comply with the following requirements:
- “1. Display of solids shall not exceed 200 pounds per square foot of floor area actually occupied by the solid merchandise.
  - “2. Display of liquids shall not exceed 20 gallons per square foot of floor area actually occupied by the liquid merchandise.
  - “3. Display height shall not exceed six feet.
  - “4. Individual containers less than five gallons or less than 25 pounds shall be stored on pallets, racks or shelves.
  - “5. Storage racks and shelves shall be in accordance with the provisions of Sec. 80.301(i).
  - “6. Containers shall be approved for the use intended.
  - “7. Individual containers shall not exceed 100 pounds or five gallon capacity.
  - “8. Incompatible materials shall be separated in accordance with the provisions of Sec. 80.301(n).
  - “9. Floors shall be in accordance with the provisions of Sec. 80.301(z).
  - “10. Aisles four feet in width shall be maintained on three sides of the display area.
  - “11. Hazard identification signs shall be provided in accordance with the provisions of Sec. 80.104(e).”
39. Add Table No. 80.109 to read: \_\_\_\_\_

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"TABLE 80.109

DENSITY FACTORS FOR EXEMPT AMOUNTS IN RETAIL SALES

HAZARD CATEGORIES †	CLASS	DENSITY FACTOR ‡
PHYSICAL HAZARDS: Oxidizers; unstable (reactive) materials; water reactive materials	Class 4 Class 3 Class 2 Class 1	N.P. 0.075 0.006 0.003
HEALTH HAZARDS: Toxic or highly toxic solids and liquids; corrosives; other health hazard solids, liquids and gases.	All	0.0013

NP – Not permitted

† Hazard categories are as specified in Division II. Density factors shall not apply to categories other than those listed."

40. Sec. 80.306(a)(1). Add an exception to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid Class 1, Class 2 and Class 3 oxidizers, see Sec. 80.109."
41. Table No. 80.306-A. Revise the footnotes to read:
- "1) No exempt amount of Class 4 oxidizers are permitted in Group R Occupancies, offices or retail sales portions of Group B Occupancies.
  - "2) No exempt amounts of Class 4 oxidizers are permitted in Group A, E, I or M Occupancies, or in classrooms of Group B Occupancies unless storage is within a hazardous material storage cabinet containing no other storage.
  - "3) A Maximum quantity of 200 pounds of solid or 20 gallons of liquid Class 3 oxidizers may be permitted in Groups I, M and R occupancies when such materials are necessary for maintenance purposes or operation of equipment. The oxidizers shall be stored in approved containers and in a manner approved by the chief."
42. Sec. 80.309(a). Revise the exceptions to read:
- "1. Detonatable, unstable (reactive) materials shall be stored in accordance with Article 77.
  - "2. For retail display of nonflammable solid and nonflammable or noncombustible liquid unstable (reactive) materials, see Sec. 80.109."
43. Sec. 80.310(a). Add an exception to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid water reactive materials, see Sec. 80.109."
44. Sec. 80.312(a)(1). Add an exception to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid toxic or highly toxic materials, see Sec. 80.109."
45. Sec. 80.314(a)(1). Add an exception to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid corrosive materials, see Sec. 80.109."
46. Sec. 80.315(a)(1). Add an exception to read: "For retail display of nonflammable solid and noncombustible or nonflammable liquid other than health hazard materials, see Sec. 80.109."
47. Sec. 80.401(b)(3F)(v). Add an exception to read: "Automatic shutdown need not be provided for reactors utilized for the production of toxic or highly toxic gases when such reactors are:
- "1. Operated at pressures less than 15 psig.
  - "2. Constantly attended.
  - "3. Provided with readily accessible emergency shutoff valves."
48. Sec. 80.402(e)(8C). Add an exception to read: "Automatic shutdown need not be provided for reactors utilized for the production of toxic or highly toxic gases when such reactors are:
- "1. Operated at pressures less than 15 psig.
  - "2. Constantly attended.
  - "3. Provided with readily accessible emergency shutoff valves."

49. Appendix VI-D is modified to include the following after Table 42-B: "Carpeting on walls or ceilings. When used as interior wall or ceiling finish, carpeting and similar materials having napped, tufted, looped or similar surface shall meet the criteria set forth in Enclosed Corner Burn Test, Underwriters Laboratory Subject Outline 1715 (1989 Ed.), which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from Underwriters Laboratory, Inc. Publication Department, 1655 Scott Boulevard, Santa Clara, CA 95050."

## NOTICE OF PROPOSED RULEMAKING

### TITLE 9. HEALTH SERVICES

#### CHAPTER 10. DEPARTMENT OF HEALTH SERVICES HEALTH CARE INSTITUTIONS: LICENSING

[R06-217]

#### PREAMBLE

- |   |  |
|---|--|
| <b>1. <u>Sections Affected</u></b><br>R9-10-203 | <b><u>Rulemaking Action</u></b><br>Amend |
|---|--|
- 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. §§ 36-132(A) and 36-136(F)  
Implementing statute: A.R.S. § 36-405
- 3. A list of previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 12 A.A.R. 1343, April 21, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Kathy McCanna, Program Manager   |
| Address:   | Arizona Department of Health Services<br>Medical Facilities Licensing<br>150 N. 18th Ave., Suite 450<br>Phoenix, AZ 85007-3233 |
| Telephone: | (602) 364-3030   |
| Fax:       | (602) 364-4764   |
| E-mail:    | mccannk@azdhs.gov  |
| or         |  |
| Name:      | Kathleen Phillips, Rules Administrator   |
| Address:   | Arizona Department of Health Services<br>1740 W. Adams St., Suite 202<br>Phoenix, AZ 85007-3233                                |
| Telephone: | (602) 542-1264   |
| Fax:       | (602) 364-1150   |
| E-mail:    | phillik@azdhs.gov  |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The purpose of this rulemaking is to amend minimum qualifications for a hospital administrator.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
The Department did not review or rely on any study related to this rulemaking package.

**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:**

Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenue.

**Cost bearers**

There are no cost bearers.

**Beneficiaries**

Hospitals will experience a minimal to moderate benefit by an increase in the number of individuals who are qualified to be a hospital administrator.

An individual who was not previously qualified to be a hospital administrator may now be qualified and would experience a minimal to moderate benefit if the individual accepted a position as a hospital administrator

**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: Kathy McCanna, Program Manager  
Address: Arizona Department of Health Services  
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150 N. 18th Ave., Suite 450  
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Telephone: (602) 364-3030  
Fax: (602) 364-4764  
E-mail: mccannk@azdhs.gov

or

Name: Kathleen Phillips, Rules Administrator  
Address: Arizona Department of Health Services  
1740 W. Adams St., Suite 202  
Phoenix, AZ 85007-3233  
Telephone: (602) 542-1264  
Fax: (602) 364-1150  
E-mail: phillik@azdhs.gov

**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:**

Date: August 4, 2006  
Time: 1:00 p.m.  
Place: Arizona Department of Health Services  
150 N. 18th Ave., 4th Floor Training Room  
Phoenix, AZ 85007  
Close of record: 5:00 p.m. on August 4, 2006

A person may submit written comments on the proposed rules or the preliminary summary of the economic, small business, and consumer impact no later than 5:00 p.m., August 4, 2006, to the individuals listed in items #4 and #9. Persons with a disability may request reasonable accommodations by contacting Valerie Grina at grinav@azdhs.gov or (602) 364-2580. Requests should be made as early as possible to allow sufficient time to arrange for the accommodation.

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

Not applicable

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

Not applicable

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES  
HEALTH CARE INSTITUTIONS: LICENSING**

**ARTICLE 2. HOSPITALS**

Section  
R9-10-203. Administration

**ARTICLE 2. HOSPITALS**

**R9-10-203. Administration**

- A.** No change
  - 1. No change
  - 2. No change
  - 3. Appoint an administrator in writing who ~~has~~:
    - a. ~~A~~ Has a baccalaureate degree or a post-baccalaureate degree in a health care-related field; ~~and~~
    - b. ~~At~~ Has at least three years of experience in health care administration; or
    - c. On the effective date of this rule, was currently employed as an administrator in a licensed hospital;
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
  - 8. No change
  - 9. No change
  - 10. No change
  - 11. No change
  - 12. No change
  - 13. 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
    - c. No change
    - d. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
    - e. No change
    - f. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
    - g. No change
    - h. No change
    - i. No change
    - j. No change
    - k. No change



Notices of Proposed Rulemaking

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

Name: Abby Henig  
Address: Arizona Corporation Commission, Securities Division  
1300 W. Washington, Third Floor  
Phoenix, AZ 85007-2996  
Telephone: (602) 542-0187  
Fax: (602) 594-7402  
E-mail: ahenig@azcc.gov

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

A.A.C. R14-4-135 provides an exemption from registration for offers declared effective with the Securities and Exchange Commission pursuant to its multijurisdictional disclosure rule, which is designed to permit offerings to become effective in the U.S. at the same time such offers become effective in Canada. Rule 14-4-135 was adopted in 1990 to permit Arizona to participate in the multijurisdictional system.

The Securities Division has recommended that the Commission amend A.A.C. R14-4-135 to provide for the effective date of multi-jurisdictional offerings made in Arizona to coincide with the offering's SEC effective date, provided a prospectus or offering circular is filed with the Commission before the offering is made.

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

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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

Pursuant to A.R.S. § 41-1055(D)(3), the Commission is exempt from providing an economic, small business, and consumer impact statement.

**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:**

The individual named in item #4

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

Date: August 9, 2006  
Time: 10:00 a.m.  
Location: Arizona Corporation Commission  
1200 W. Washington Ave.  
Phoenix, AZ 85007  
Nature: Oral proceeding. Subsequent to the oral proceeding, the Arizona Corporation Commission will take final action at an open meeting with respect to the making of the proposed rule.

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

None

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

None

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

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION**

**CHAPTER 4. CORPORATION COMMISSION  
SECURITIES**

**ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT**

Section

R14-4-135. Exempt Securities – Multijurisdictional Disclosure System

**ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT**

**R14-4-135. Exempt Securities – Multijurisdictional Disclosure System**

An offering of securities within this state which has been declared effective with the U.S. Securities and Exchange Commission (the “SEC”) on Form F-7, F-8, F-9, or F-10 shall be added to the class of securities exempt under A.R.S. § 44-1843, provided that before an offer is made in Arizona:

1. A prospectus or an offering circular, the standards of form or content which are prescribed by any provision of the Securities Act of 1933, or rules and regulations promulgated thereunder, and Form F-7, F-8, F-9, or F-10, whichever is applicable, shall be filed with the Commission ~~at least seven days before the offering is made;~~ and
2. A nonrefundable exemption fee as provided in A.R.S. § 44-1861(G) shall be paid to the Commission.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

[R06-215]

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R18-2-323                          | Amend                           |
| R18-2-509                          | Amend                           |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 41-1092.01 49-425, and 49-426(H)  
Implementing statutes: A.R.S. §§ 49-422, 49-428, 49-429, 49-443, Laws 2000, Ch. 353
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 12 A.A.R. 1711, May 19, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |   |
|------------|---|
| Name:      | Kevin Force   |
| Address:   | Arizona Department of Environmental Quality<br>1110 W. Washington Ave.<br>Phoenix, AZ 85007                           |
| Telephone: | (602) 771-4480 (This number may be reached in-state by dialing (800) 234-5677 and requesting the seven-digit number.) |
| Fax:       | (602) 771-2366  |

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

**Summary.** The Arizona Department of Environmental Quality is proposing to amend permit rules, R18-2-323 and R18-2-509, referring to the "hearing board," so that they refer to the correct body to hear permit decision appeals, the "Office of Administrative Hearings."

**Background.** In 2000, during the Second Regular Session of the Forty-fourth Arizona Legislature, the legislature enacted Laws 2000, Ch. 353 (SB 1284). This law made several changes to existing statutes. First, it struck the definition of "hearing board" from the definitions listed in A.R.S. § 49-421, which had defined this term as "the state air pollution control hearing board." Second, it changed all references to "appealable agency actions" by the former air pollution control hearing board to references to "appealable agency actions pursuant to Title 41, Chapter 6, Article 10." This change applied to the powers of the Department in A.R.S. § 49-422; appeals of permit actions in A.R.S. § 49-428; appeals of permit transfers in A.R.S. 49-429; appeals of orders of abatement in A.R.S. § 49-435; and appeals of final administrative decisions regarding all these actions in A.R.S. § 49-443. Title 41, Chapter 6, Article 10 deals with "Uniform Administrative Hearing Procedures;" A.R.S. § 41-1092.01 specifically deals with the establishment, powers and duties of the Office of Administrative Hearings.

While several sections of Title 18, Chapter 2, Articles 3 and 5 mention the right of a permit applicant or other person to appeal an agency decision, only two sections, R18-2-323 and R18-2-509, refer specifically to the "hearing board," formally defined as "the state air pollution control hearing board." This rulemaking will merely change those outdated references so that they instead refer to the Office of Administrative Hearings, under Title 41, Chapter 6, Article 10 of the Arizona Revised Statutes.

**Section-by-Section Explanation of the Proposed Rules:**

**R18-2-323. Permit Transfers.** The proposed rule will change the reference in subsection (C)(1) from "the hearing board" to "the Office of Administrative Hearing."

**R18-2-509. General Permit Appeals.** The proposed rule will change the reference to "the hearing board" to refer instead to "the Office of Administrative Hearings."

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

Not applicable

**7. A showing of good cause why the 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:**

**Rule Identification.**

Title 18, Chapter 2, Article 3, "Permits and Permit Revisions," Section 323, "Permit Transfers," (R18-2-323); Article 5, "General Permits," (R18-2-509).

**Economic Impact.**

Because this rulemaking amends references from "hearing board" to "Office of Administrative Hearings," no economic impacts are expected to accrue to any entity. ADEQ is making these changes because the Arizona Legislature enacted Laws 2000, Ch. 353 (SB 1284) that changed existing statutes.

This proposed rulemaking does not impose any compliance or enforcement costs to any applicable party. All costs and benefits to persons directly affected would accrue from the rulemaking pertaining to Title 18, Chapter 1, Article 2, "Administrative Appeals."

As a result of this amendment, ADEQ does not believe that this change will directly impact any state agency, including the implementing agency; political subdivisions of the state; or other entities. Therefore, ADEQ does not expect that public and private employment and revenues will be impacted.

**Rule impact reduction on small businesses.**

Because this proposed rulemaking merely replaces the outdated term "hearing board," no impacts to small business are expected to accrue. Nonetheless, ADEQ has analyzed the impact upon small businesses and concluded that the five methods set forth below are neither legal nor necessary for this proposed rulemaking.

A.R.S. § 41-1035 requires ADEQ to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives (see below) for the rulemaking. The five listed methods are:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.

3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

**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: David Lillie  
Address: ADEQ, Air Quality Planning Section  
1110 W. Washington  
Phoenix, AZ 85007  
Telephone: (602) 771-4461 (Any extension may be reached in-state by dialing (800) 234-5677 and asking for a specific number.)  
Fax: (602) 771-2366  
E-mail: Lillie.David@ev.state.az.us

**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:**

2:00 p.m., August 11, 2006  
Conference Room 145  
1110 W. Washington St.  
Phoenix, AZ 85007

Close of Comment: August 15, 2006

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

Not applicable

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

Not applicable

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

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

**ARTICLE 3. PERMITS AND PERMIT REVISIONS**

Section  
R18-2-323. Permit Transfers

**ARTICLE 5. GENERAL PERMITS**

Section  
R18-2-509. General Permit Appeals

**ARTICLE 3. PERMITS AND PERMIT REVISIONS**

**R18-2-323. Permit Transfers**

- A. Except as provided in A.R.S. § 49-429 and subsection (B), a Class I or II permit may be transferred to another person if the person who holds the permit gives notice to the Director in writing at least 30 days before the proposed transfer. The notice shall contain the following:
1. The permit number and expiration date;
  2. The name, address, and telephone number of the current permit holder;
  3. The name, address and telephone number of the person to receive the permit;
  4. The name and title of the individual within the organization who is accepting responsibility for the permit along with a signed statement by that person indicating such acceptance;
  5. A description of the equipment to be transferred;

Notices of Proposed Rulemaking

6. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee;
7. Provisions for the payment of any fees pursuant to R18-2-326 or R18-2-501 that will be due and payable before the effective date of transfer;
8. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Director to make the decision in subsection (B) including:
  - a. The qualifications of each person principally responsible for the operation of the source;
  - b. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement;
  - c. A brief description of any action for the enforcement of any federal or state law, rule, or regulation, or any county, city, or local government ordinance relating to the protection of the environment, instituted against any person employed by the new permittee and principally responsible for operating the facility during the five years preceding the date of application. In lieu of this description, the new permittee may submit a copy of the certificate of disclosure or 10-K form required under A.R.S. § 49-109, or a statement that this information has been filed in compliance with A.R.S. § 49-109.
- B. The Director shall deny the transfer if the Director determines that the organization receiving the permit is not capable of operating the source in compliance with A.R.S. Title 49, Chapter 3, Article 2, the provisions of this Chapter or the provisions of the permit. Notice of the denial shall be sent to the original permit holder by certified mail stating the reason for the denial within 10 working days of the Director's receipt of the application. If the transfer is not denied within 10 working days after receipt of the notice, it shall be deemed approved.
- C. To appeal the transfer denial:
  1. Both the transferor and transferee shall petition the ~~hearing board~~ Office of Administrative Hearings in writing for a public hearing; and
  2. All parties shall follow the appeal process for a permit ~~shall be followed~~.
- D. The Director shall make available to the public monthly summaries of all notices received under this Section.

ARTICLE 5. GENERAL PERMITS

**R18-2-509. General Permit Appeals**

Any person who filed a comment on a proposed general permit as provided in R18-2-504 may appeal the terms and conditions of the general permit, as they apply to the facility class covered under a general permit, by filing an appeal with the ~~hearing board~~ Office of Administrative Hearings within 30 days of issuance of the general permit.