



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

**Identification of the proposed rulemaking:**

R4-9-120 is an existing rule, which needs to be amended to comply with a recent statute change contained in A.R.S. § 41-1092.09.

**Persons directly affected by the proposed rulemaking:**

The Registrar of Contractors, the Office of Administrative Hearings, licensed contractors, and consumers utilizing the services of licensed contractors will be affected by this proposed rulemaking.

**Probable cost and benefit analysis of the following:**

**• Implementing agency:**

The Registrar of Contractors and the Office of Administrative Hearings personnel will benefit by spending less time explaining procedures to parties appealing agency actions by providing clear and concise guidelines for doing so. There will be no increase in cost to implement this rule amendment.

**• Probable costs and benefit to a political subdivision of this state:**

There will be no increase in cost to implement this rule amendment. Political subdivisions will benefit by having additional time to process appeal requests.

**• Probable costs and benefits to businesses directly affected by this rulemaking:**

There will be no added cost to doing business. This rule amendment will benefit businesses directly affected because information contained within R4-9-120 will be more clear and concise.

The private and public sector will benefit because the language within R4-9-120 will be more clear and concise.

**• Probable impact on small business:**

All small businesses holding contractors licenses will be affected by this rule amendment. However, the effect will be positive because the rule will comply with provisions within A.R.S. § 41-1092.09 and be more clear and concise.

**• Probable effect on state revenues:**

None

**• Less intrusive or less costly alternative:**

Not applicable

**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 West Washington, 6th Floor  
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 rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The agency will accept written comments submitted not later than 5:00 p.m., March 18, 2002, to the person listed in items #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: March 18, 2002

Time: 9:00 a.m.

Location: Industrial Commission of Arizona

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Hearing Room A, First Floor  
800 West 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:**

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 9. REGISTRAR OF CONTRACTORS**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R4-9-120. Rehearing or Review of Decision

**ARTICLE 1. GENERAL PROVISIONS**

**R4-9-120. Rehearing or Review of Decision**

**A.** ~~The registrar of contractor shall provide for a rehearing or review of its decisions under A.R.S Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.~~

**A-B.** Except as provided in subsection ~~(G)~~ (F), any party who is aggrieved by the decision in a contested case or appealable agency action before the registrar of contractors ~~who is aggrieved by a decision rendered in such case~~ may file with the registrar of contractors ~~not later than 20 days after service of the decision~~, a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review therefor. For purposes of this subsection a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

**B.** ~~A motion for rehearing under this rule may be amended at any time before it is ruled upon by the registrar of contractors. A response may be filed within 10 days after service of such motion or amended motion by any other party. The registrar of contractors may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.~~

**C.** ~~A~~ The registrar of contractors may grant rehearing or review of the a decision ~~may be granted~~ for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the administrative hearing caused by proceedings of the ~~agency~~ registrar of contractors, ~~the or its Administrative Law Judge, hearing officer or the prevailing party~~, or any other order or abuse of discretion ~~whereby that deprived the moving party was deprived~~ of a fair hearing;
2. Misconduct of the registrar of contractors, Office of Administrative Hearings, Administrative Law Judge, registrar of contractors or its hearing officer or the prevailing party;
3. Accident or surprise ~~which that~~ could not have been prevented by ordinary prudence;
4. Newly discovered material evidence, ~~which that~~ could not, with reasonable diligence, have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
7. That the decision is not justified by the evidence or is contrary to law.

**D.** The registrar of contractors may affirm or modify ~~the a~~ decision or grant a rehearing to all or any of the parties ~~and on~~ all or part of the issues for any of the reasons ~~set forth~~ in subsection (C). After giving the parties notice and an opportunity to be heard, the registrar of contractors may grant a motion for rehearing for a reason not stated in the motion. An order modifying a decision or granting a rehearing shall specify with particularity the particular ground or grounds on which the rehearing is granted, and the for the order. A rehearing shall cover only those the matters ~~so specified in the order.~~

**E.** Not later than ~~20~~ 35 days after the date of a decision, ~~is rendered~~, and after giving the parties notice and an opportunity to be heard, the registrar of contractors may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted ~~a rehearing~~ relief on motion of a party. ~~After giving the parties or their counsel notice and an opportunity to be heard on the matter, the registrar of contractors may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.~~

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- ~~F.~~ When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within 10 days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the registrar of contractors for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- ~~G.F.~~ If in a particular decision the registrar of contractors makes a specific findings that the immediate effectiveness of ~~such a~~ particular decision is necessary for the immediate preservation of the public peace, health, ~~and or~~ safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for review or rehearing, any application for judicial review of the decision ~~shall may~~ be made within the time limits permitted for applications for judicial review of the registrar of contractors' final decisions.
- ~~H.G.~~ For purposes of this section Section the terms "contested case" and "party" ~~shall be defined as provided~~ have the meanings in A.R.S. § 41-1001.
- ~~I.H.~~ To the extent that the provisions of this ~~rule~~ Section are in conflict with the provisions of any statute providing for review or rehearing of a decisions of the registrar of contractors, ~~such the~~ statutory provisions shall govern.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 7. OIL AND GAS CONSERVATION COMMISSION**

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R12-7-129                          | Amend                           |
| R12-7-140                          | 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. §§ 27-516(A) and 27-656  
Implementing statutes: A.R.S. §§ 27-502(A)(6), 27-506(C) and (D), 27-652(A), 27-658
- 3. A list of all previous notices concerning the rules:**  
Notice of Rulemaking Docket Opening: 8 A.A.R. 268, January 11, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Steven L. Rauzi, Oil and Gas Administrator  
Address: Arizona Geological Survey  
416 West Congress, Suite 100  
Tucson, AZ 85701-1315  
Telephone: (520) 770-3500  
Fax: (520) 770-3505
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
R12-7-129 specifies requirements for converting wells drilled for oil or gas to water wells. R12-7-140 specifies requirements regarding pollution, surface damage, and noise abatement. The Commission is amending R12-7-129 to correct an incorrect citation and R12-7-140 to improve clarity and understandability.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the 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

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

These rules directly impact companies drilling for oil, gas, and geothermal resources. The rules are mostly procedural in nature and will not significantly impact the economy or have a significant impact upon small businesses or consumers. The proposed rulemaking will benefit the regulated community by clarifying reporting requirements.

**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: Steven L. Rauzi, Oil and Gas Administrator  
Address: Arizona Geological Survey  
416 W. Congress, Suite 100  
Tucson, AZ 85701-1315  
Telephone: (520) 770-3500  
Fax: (520) 770-3505

**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: April 19, 2002  
Time: 10:00 a.m.  
Location: 1616 W. Adams, Room 321  
Phoenix, AZ 85007  
Nature: Oral proceeding to adopt amended rules

**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. Incorporation by reference and their location in the rules:**

None

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

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 7. OIL AND GAS CONSERVATION COMMISSION**

**ARTICLE 1. OIL, GAS, HELIUM, AND GEOTHERMAL RESOURCES**

Section

R12-7-129. Wells to be Used ~~for Fresh as~~ Water Wells  
R12-7-140. Pollution, Surface Damage, and Noise Abatement

**ARTICLE 1. OIL, GAS, HELIUM, AND GEOTHERMAL RESOURCES**

**R12-7-129. Wells to be Used for Fresh as Water Wells**

- A. The landowner, ~~the~~ landowner's agent, or lessee may use any well or exploratory hole as a ~~freshwater~~ water well provided that:
1. Written approval has been obtained from the Arizona Department of Water Resources;
  2. The operator has plugged the well in accordance with R12-7-127 to a point immediately below the freshwater strata; and
  3. The landowner, ~~the~~ landowner's agent, or lessee assumes responsibility for the well and ~~its final plugging compliance with the provisions of A.R.S. Title 45, Chapter 2~~ in a signed and notarized water-well acceptance responsibility form provided by and filed with the Commission.
- B. Filing of the notarized water-well ~~acceptance~~ responsibility form with the Commission shall constitute the obligation of the landowner, ~~the~~ landowner's agent, or lessee to ~~plug the well in compliance with the provisions of the State Water Code, A.R.S. Title 45, Chapter 1~~ comply with A.R.S. Title 45, Chapter 2 before modification or abandonment of the well.
- C. Upon filing the notarized water-well ~~acceptance~~ responsibility form with the Commission, the Commission shall notify the bonding company and operator in writing so that the bond may be cancelled or made no longer effective with respect to that well.

**R12-7-140. Pollution, Surface Damage, and Noise Abatement**

- A. ~~Each~~ An operator of ~~any a~~ well, production facility, gasoline plant, gas plant, or pipeline shall conduct operations in a manner that ~~will prevent~~ prevents surface or subsurface pollution.
- B. ~~During completion operations on any well, no~~ An operator shall conduct operations in a manner that prevents oil, gas, salt water, fracturing fluid, or any other substance ~~shall be permitted to pollute any waters, from polluting any~~ surface or subsurface waters.
- C. ~~In~~ During swabbing and bailing operations or when purging a well, all substances removed from the bore hole shall be placed in a pit or tank and shall not be allowed to pollute any surface or subsurface waters.
- D. ~~All~~ An operator shall maintain all wellhead connections, surface equipment, lease flow lines, and tank batteries ~~shall be maintained~~ at all times to prevent the escape of oil, gas, produced water, or any other ~~substances~~ substance.
- E. ~~All fires, leaks, or blowouts shall be reported~~ An operator shall report any fire, leak, or blowout to the Commission in accordance with R12-7-120. ~~Pits shall be~~ An operator shall ensure that any pit is constructed and operated in accordance with R12-7-108.
- F. ~~Each~~ An operator shall minimize noise when conducting air drilling operations; or when the well is allowed to produce while drilling; ~~or as a result of the noise created by expanding gases.~~ The operator shall ensure that the welfare of the operating personnel and the public is not negatively affected by the noise created by the expanding gases. The method and degree of noise abatement shall be approved by the Commission.