

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

PREAMBLE

- Section Affected** R4-9-120
Rulemaking Action Amend
- The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statutes: A.R.S. §§ 32-1104(A)(5) and 41-1092.09
Implementing statutes: A.R.S. §§ 32-1140 and 32-1156
- The effective date of the rule:**
June 6, 2003
- A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 7 A.A.R. 1261, March 16, 2001
Notice of Proposed Rulemaking: 8 A.A.R. 640, February 15, 2002
Notice of Public Information: 8 A.A.R. 4951, November 29, 2002
- 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, 6th Floor
Phoenix, AZ 85007

Telephone: (602) 542-1525
Fax: (602) 542-7852
E-mail: alan.felber@roc1.rc.state.az.us
- An explanation of the rule, including the agency's reasons for initiating the rule:**
R4-9-120 provides procedures for review or rehearing of an appealable agency action or contested case. The existing rule conflicts with the amount of time allowed to file for rehearing or review under Arizona Revised Statutes § 41-1092.09. R4-9-120 currently allows for 20 days to file a motion for review or rehearing, but A.R.S. § 41-1092.09 allows 30 days. The Registrar of Contractors no longer employs hearing officers but instead uses the services of the Office of Administrative Hearings. In this rulemaking, the language of R4-9-120 is corrected to reflect that change and remove other archaic language.
- 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 rule or did 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
- 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

Notices of Final Rulemaking

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

Identification of the rulemaking:

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

Persons directly affected by the 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 rulemaking.

Probable cost and benefit analysis of the following:

• **Implementing agency:**

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

• **Probable costs and benefits 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 contractor licenses will be affected by this rule amendment. However, the effect will be positive because the rule will comply with provisions of 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

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

There were several non-substantive changes made to the proposed rule in order to provide additional clarity. At the suggestion of Governor's Regulatory Review Council staff, numerous non-substantial changes were made to conform to rulewriting standards.

11. A summary of the comments made regarding the rule 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:

None

13. Incorporations by reference and their location in the rule:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rule 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 Contractors shall provide an opportunity 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 therefor for the rehearing or review. 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.** The Registrar of Contractors may grant a 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 proceedings of the agency Registrar of Contractors or its hearing officer or the prevailing party; the Administrative law judge, or any 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 during the progress of the proceeding; 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 or review 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 matter 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 or review 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.
- ~~**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 finding that the immediate effectiveness of such a decision is necessary for the immediate preservation of the public peace, health, and safety, or welfare 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 an 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 the terms "contested case" and "party" shall be defined as provided have the same meanings as 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 decision of the Registrar of Contractors, such the statutory provisions shall govern.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

PREAMBLE

- 1. Sections Affected**

R17-4-201	<u>Rulemaking Action</u>
R17-4-205	New Section
R17-4-206	Amend
	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. § 28-366
Implementing statutes: A.R.S. §§ 28-2051 and 28-2052
- 3. The effective date of the rules:**

June 6, 2003
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 5175, December 20, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 5118, December 20, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Troy A. Walters, Rules Analyst
Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079
Telephone: (602) 712-6722
Fax: (602) 241-1624
E-mail: twalters@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.
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**

This rulemaking merely consolidates existing definitions into R17-4-201 from other Sections within the Article. There will be no change in any substantive regulatory provisions in any of the affected Sections.
- 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 rule or did 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 agency did not rely on any study in this rulemaking.
- 8. 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
- 9. The summary of the economic, small business, and consumer impact:**

This rulemaking merely consolidates existing definitions into R17-4-201 from R17-4-205 and R17-4-206. There is no change in any substantive regulatory provisions in any of the affected Sections. Therefore, the economic impact is unchanged from the last time Sections R17-4-205 and R17-4-206 were amended. The only impact this rulemaking action will have is increased clarity and reduced possibility for confusion on the part of concerned persons.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Only technical and grammatical changes were made between the proposed and final rules.

Notices of Final Rulemaking

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

The agency received no comments on this rulemaking.

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. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

ARTICLE 2. VEHICLE TITLE

Section

R17-4-201. ~~Reserved~~ Definitions

R17-4-205. Co-ownership and Vehicle Title

R17-4-206. Additional Titling Standards for Vehicles Not Manufactured in Compliance with United States Safety and Emission Standards; "Gray-market Vehicles"

ARTICLE 2. VEHICLE TITLE

R17-4-201. ~~Reserved~~ Definitions

Unless otherwise indicated, the following definitions apply to this Article:

1. "Division" or "MVD" means Motor Vehicle Division of Arizona Department of Transportation.
2. "Encumbrance" means a lien on a vehicle title that is released upon payment or cancellation of the obligation.
3. "EPA standards" means Environmental Protection Agency standards as prescribed under 40 CFR 86.
4. "FMVSS" means Federal Motor Vehicle Safety Standards as prescribed under 49 CFR 571.
5. "GVWR" or "gross vehicle weight rating" has the meaning prescribed in A.R.S. § 28-3001(10).
6. "Joint tenancy with right of survivorship" means vehicle ownership by two or more people with the share of a deceased joint tenant going to the surviving tenant.
7. "Low-speed vehicle" has the meaning prescribed in 49 CFR 571.3.
8. "Multipurpose passenger vehicle" or "MPV" means a motor vehicle with motive power, except a low-speed vehicle or a trailer designed to carry 10 persons or fewer, constructed either on a truck chassis or with special features for occasional off-road operation.
9. "NHTSA" means National Highway Traffic Safety Administration.
10. "Registered importer" means a person who:
 - a. Is registered by the NHTSA Administrator as prescribed under 49 CFR 592.5;
 - b. Is licensed under A.R.S. Title 28, Chapter 10, Article 2; and
 - c. Performs duties as prescribed under 49 CFR 592.6.
11. "Tenancy in common" means vehicle ownership by two or more people without the right of survivorship.
12. "Valid titling document" means one of the following documents showing a vehicle's compliance with federal vehicle equipment and emissions equipment standards:
 - a. A registered importer's certificate.
 - b. A manufacturer's letter, or
 - c. A U.S. federal compliance label printed in English.

R17-4-205. Co-ownership and Vehicle Title

A. In this section, unless the context otherwise requires:

1. ~~"Division" means the Arizona Department of Transportation, Motor Vehicle Division.~~
2. ~~"Encumbrance" means an obligation stated as a lien on a vehicle title that is released upon payment or cancellation of the obligation.~~
3. ~~"Joint tenancy with right of survivorship" means ownership by two or more people with a surviving joint tenant's right to become sole owner.~~
4. ~~"Tenancy in common" means vehicle ownership by two or more people without the right of survivorship.~~

Notices of Final Rulemaking

- ~~B.~~ A title certificate application shall specify the form of co-ownership and names of a vehicle's co-owners as follows.
1. If co-ownership is a joint tenancy with right of survivorship in which all owners must sign to transfer or encumber the vehicle, the applicant shall provide the name of each owner separated by "and/or."
 2. If co-ownership is a joint tenancy that allows one owner to transfer or encumber the vehicle title, the applicant shall provide:
 - a. The name of each co-owner separated by "or"; and
 - b. A form, signed by each co-owner authorizing title transfer or encumbrance on the signature of any co-owner.
 3. If co-ownership is a tenancy in common, the applicant shall provide the name of each owner separated by "and."
- ~~C.B.~~ Before a surviving joint tenant under subsection ~~(B)(1)(A)(1)~~ obtains a title certificate as sole owner or transfers or encumbers the vehicle title, the surviving joint tenant shall present to the Division a death certificate for each deceased joint tenant.
- ~~D.C.~~ After the death of a tenant in common, the Division shall issue a new title certificate only as directed by:
1. A certified probate court order, or
 2. A successor's affidavit under A.R.S. § 14-3971(B).

R17-4-206. Additional Titling Standards for Vehicles Not Manufactured in Compliance with United States Safety and Emission Standards; "Gray-market Vehicles"

A. Definitions:

1. ~~"Division" or "MVD" means Motor Vehicle Division of Arizona Department of Transportation.~~
2. ~~"EPA standards" means Environmental Protection Agency standards as prescribed under 40 CFR 86.~~
3. ~~"FMVSS" means Federal Motor Vehicle Safety Standards as prescribed under 49 CFR 571.~~
4. ~~"GVWR" or "gross vehicle weight rating" has the meaning prescribed in A.R.S. § 28-3001(10).~~
5. ~~"Multipurpose passenger vehicle" or "MPV" means a motor vehicle with motive power, except a low-speed vehicle or a trailer designed to carry 10 persons or fewer, constructed either on a truck chassis or with special features for occasional off-road operation.~~
6. ~~"NHTSA" means National Highway Traffic Safety Administration.~~
7. ~~"Registered importer" means a person who:~~
 - a. ~~Is registered by the NHTSA Administrator as prescribed under 49 CFR 592.5;~~
 - b. ~~Is licensed under A.R.S. Title 28, Chapter 10, Article 2; and~~
 - c. ~~Performs duties as prescribed under 49 CFR 592.6.~~
8. ~~"Valid titling documentation" means compliance with federal standards that is recorded on:~~
 - a. ~~A registered importer's certificate;~~
 - b. ~~A manufacturer's letter; or~~
 - c. ~~A U.S. federal compliance label printed in English.~~

B. Titling standards.

1. The Division shall issue a title to a foreign-manufactured vehicle imported to the U.S. ~~when~~ if an applicant presents the following:
 - a. A valid titling document ~~defined under subsection (A)(8),~~
 - b. A completed MVD title and registration application as prescribed under R17-4-203,
 - c. A completed Vehicle Verification Form certifying that the vehicle passed the Division's physical inspection,
 - d. A document stating that the vehicle passed an Arizona emissions inspection under A.R.S. § 49-542, and
 - e. A certificate that the vehicle was converted to meet:
 - i. EPA standards, and
 - ii. FMVSS.
2. A foreign-manufactured vehicle imported to the U.S. is exempt from this subsection ~~(B)~~ if it is older than 25 years from its manufacture date.
3. A foreign-manufactured vehicle imported to the U.S. that is between 21 and 25 years from the manufacture date is exempt from ~~EPA standards but shall comply with~~ subsection ~~(B)(1)(e)(ii)~~ (A)(1)(e)(i).
4. Titling standards for vehicles manufactured according to Canadian specifications.
 - a. The Division shall issue a title to a vehicle manufactured according to Canadian specifications if it:
 - i. Is not for resale;
 - ii. Has a GVWR of less than 10,000 pounds; and
 - iii. Is a passenger vehicle, motorcycle, or MPV.
 - b. Before titling a vehicle manufactured according to Canadian specifications, the owner shall submit to the Division manufacturer documentation verifying that the vehicle complies with FMVSS and EPA standards.
 - i. ~~The Division shall waive the labeling location requirement for standard FMVSS and EPA vehicle labeling locations. The Division shall waive the FMVSS and EPA labeling location requirements as prescribed in 49 CFR 571 and 40 CFR 86.~~

Notices of Final Rulemaking

- ii. If manufacturer documentation indicates that a vehicle's speedometer or headlights do not comply with FMVSS and EPA standards, the owner shall file additional documentation with the Division to verify completion of a modification ~~to that bring~~ brings the vehicle into compliance.
 - c. A registered importer shall certify a vehicle manufactured according to Canadian specifications if:
 - i. The vehicle meets FMVSS standards except for occupant crash protection provisions prescribed under 49 CFR 571.208, or
 - ii. The owner did not submit manufacturer documentation as prescribed under subsection ~~(B)(4)(b)(A)(4)(b)~~.
- ~~C.B.~~ The Division shall require a registered importer's certification of a foreign-manufactured vehicle imported to the U.S. that:
- 1. Is not exempt under subsections ~~(B)(2)(A)(2)~~ or ~~(B)(3)(A)(3)~~, or
 - 2. Does not qualify under subsection ~~(B)(4)(A)(4)~~, or
 - 3. ~~Does not have a valid titling document.~~

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 11	Amend
R18-13-1102	Amend
R18-13-1103	Repeal
R18-13-1103	New Section
R18-13-1104	Repeal
R18-13-1106	Amend
R18-13-1108	Repeal
R18-13-1112	Amend
R18-13-1113	Repeal
R18-13-1114	Repeal
R18-13-1115	Repeal
R18-13-1116	Amend
R18-13-1117	Amend
R18-13-1118	Repeal
R18-13-1119	Repeal
R18-13-1120	Repeal

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. §§ 49-104(B) and 49-765
Implementing statutes: A.R.S. §§ 49-104(B) and 49-765

3. The effective date of the rules:

June 7, 2003

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

Notice of Recodification: 8 A.A.R. 5172, December 20, 2002
Notice of Rulemaking Docket Opening: 8 A.A.R. 5176, December 20, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 5122, December 20, 2002

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

Name: Shirley J. Conard
Address: 1110 W. Washington, 5420E
Phoenix, AZ 85007
Telephone: (602) 771-4632 (Metro-Phoenix area) or toll free in Arizona, (800) 234-5677, ext. 771-4632
Fax: (602) 771-4674

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

This rulemaking makes technical corrections and repeals rules that became out-of-date on the January 1, 2000 effective date of the Aquifer Protection Permit rulemaking (18 A.A.C. 9, Articles 1, 2, 3, 6, 7).

R18-13-1102. Definitions. The terms "incinerator toilet or privy," "individual septic tank system," and "vault privy" were never used within the Article and have been deleted.

The terms "approved septic tank cleaner," "public sewer," "water carriage system," and "water closet" are no longer in the Article and have been deleted.

The term "approved" no longer has the meaning specified in the definition and has been deleted.

R18-13-1103. Prohibition; responsibility. This Section was in conflict with the current Aquifer Protection Permit rules and has been repealed.

R18-13-1104. Approval. This Section was in conflict with the current Aquifer Protection Permit rules and has been repealed.

R18-13-1106. Inspection. This Section has been amended for clarity.

R18-13-1108. Storage and disposal; septic tanks. This Section was in conflict with the current Aquifer Protection Permit rules and has been repealed.

R18-13-1112. Collection and transportation; sanitary requirement. This Section has been renamed and amended for clarity.

R18-13-1113. Collection and transportation; license. The information in this Section, to some extent, duplicates language in R18-13-1113, R18-13-1114, and R18-14-1115. This Section has been deleted and the applicable language moved to new Section R18-13-1103, General Requirements.

R18-13-1114. Collection and transportation; application. The information in this Section, to some extent, duplicates language in R18-13-1112, R18-13-1113, and R18-14-1115. This Section has been deleted and the applicable language moved to new Section R18-13-1103, General Requirements.

R18-13-1115. Collection and transportation; term. The information in this Section, to some extent, duplicates language in R18-13-1112, R18-13-1113, and R18-13-1114. This Section has been deleted and the applicable language moved to new Section R18-13-1103, General Requirements.

R18-13-1116. Collection and transportation; suspension; revocation. This Section has been renamed and amended for clarity.

R18-13-1117. Collection and transportation; reinstatement. This Section has been renamed and amended for clarity.

R18-13-1118. Discontinued facilities; septic tanks. This Section was in conflict with the current Aquifer Protection Permit rules and has been repealed.

R18-13-1119. Discontinued facilities; seepage pits; cesspools. This Section was in conflict with the current Aquifer Protection Permit rules and has been repealed.

R18-13-1120. Discontinued facilities; earth-pit privies. This Section was in conflict with the current Aquifer Protection Permit rules and has been repealed.

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 rule or did 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

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:

Not applicable

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

This rulemaking makes technical corrections and repeals rules that became out-of-date on the January 1, 2000 effective date of the Aquifer Protection Permit rulemaking (18 A.A.C. 9, Articles 1, 2, 3, 6, 7).

Changes made as a result of this rulemaking are technical in nature and do not impact political subdivisions, private or public employment, consumers, or state revenues. These technical changes benefit the Department by improving the organization of the rules and remedying the conflicts with the current Aquifer Protection Permit rules.

Improving organization of the rules and eliminating conflicts with the current Aquifer Protection Permit rules benefits the regulated community by making it easier to understand and comply with the rule requirements. The costs of the rulemaking are borne by the Department. There is no cost to the regulated community and a clearer rule could translate to minimal savings.

Notices of Final Rulemaking

Requirements of A.R.S. § 41-1035.

1. Establish less stringent compliance and reporting requirements for small businesses.
The rulemaking does not impact the compliance and reporting requirements for small businesses.
2. Establish less stringent compliance or reporting schedules or deadlines for small businesses.
No compliance or reporting schedules or deadlines are impacted as a result of this rulemaking.
3. Consolidate or simplify the rule's compliance and reporting requirements for small businesses.
The rulemaking removes duplicative and inaccurate information and does not affect compliance and reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design and operational standards.
No design and operational standards are impacted as a result of this rulemaking.
5. Exempt small businesses from any or all requirements of the rule.
No exemptions are available as a result of this rulemaking.

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

Grammatical and clarification rule changes were made at the request of Council staff.

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

Comment: Maricopa County stated that according to their Environmental Health Code, "tanks on such vehicles shall have a minimum capacity of 750 gallons, with the exception of tanks used exclusively for servicing chemical toilets which may be permitted by the Department to have a smaller capacity." Currently, Maricopa County has 10 vehicles with an ADEQ license and County permit with tanks less than 750 gallons. Maricopa County also has eight vehicles with a County permit and no ADEQ license due to having tanks less than 750 gallons. Vehicles used to service chemical toilets usually employ three compartment tanks: a section for chemical solution, a section for fresh water, and a section for waste. Due to the varied service areas, smaller tanked vehicles are sometime needed to negotiate construction sites, special events, and remote locations where vehicle size and weight are a factor.

Nonhazardous liquid waste hauling vehicles permitted in Maricopa County are not constructed with fly-tight enclosed storage compartments for equipment and hose storage. Hoses are normally stored on a hose reel, draped across the back of the tank or transported on the open steel bed beside the tank. It would be cost prohibitive and impractical to require haulers to comply with this requirement.

Maricopa County recommends that R18-13-112(A)(2) be amended to exempt vehicles servicing chemical toilets from the 750-gallon minimum tank requirements. The County also recommended that the following language be added to R18-13-112(A)(2): "All portable containers, pumps, hoses, tools, and other implements are secured and transported in a manner to prevent waste from falling, spilling, or leaking and all hoses are securely capped when not in use."

Response: This rulemaking deals only with technical corrections, repealing rules that are out-of-date with respect to the aquifer protection permitting program, and renumbering rules relating to licensing and inspection of septage haulers. These revisions were never intended to address programmatic issues. The revisions do, however, establish the proper regulatory framework for later substantive changes. As the commenter's letter pertains to licensing of vehicles for septage hauling, which is a responsibility of the Solid Waste Section of the Waste Programs Division, the letter has been forwarded to that section for review and consideration. A substantive revision of the human excreta rules is on the Waste Program Divisions' work plan for rule development.

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:

None

14. Were these rules previously adopted as emergency rules?

No

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT

ARTICLE 11. COLLECTION, TRANSPORTATION, AND DISPOSAL OF HUMAN EXCRETA

Section

- R18-13-1102. Definitions
- R18-13-1103. ~~Prohibition; Responsibility~~ General Requirements
- R18-13-1104. ~~Approval~~ Repealed
- R18-13-1106. Inspection
- R18-13-1108. ~~Storage and Disposal; Septic Tanks~~ Repealed
- R18-13-1112. ~~Collection and Transportation; Sanitary Requirement~~ Requirements
- R18-13-1113. ~~Collection and Transportation; License~~ Repealed
- R18-13-1114. ~~Collection and Transportation; Application~~ Repealed
- R18-13-1115. ~~Collection and Transportation; Term~~ Repealed
- R18-13-1116. ~~Collection and Transportation; Suspension; and~~ Revocation
- R18-13-1117. ~~Collection and Transportation; Reinstatement~~
- R18-13-1118. ~~Discontinued Facilities; Septic Tanks~~ Repealed
- R18-13-1119. ~~Discontinued Facilities; Seepage Pits; Cesspools~~ Repealed
- R18-13-1120. ~~Discontinued Facilities; Earth-pit Privies~~ Repealed

ARTICLE 11. COLLECTION, TRANSPORTATION, AND DISPOSAL OF HUMAN EXCRETA

R18-13-1102. Definitions

- A.** “Approved” means acceptable to the Department.
- B.** “Approved septic tank cleaner” means a person having approved equipment and vehicles for the collection, transportation, and disposal of human excreta and who holds an unrevoked license from the Department of Environmental Quality for each vehicle used to perform such operations and such other licenses or permits as may be required by other agencies.
- ~~C.1.~~ “Chemical toilet” means a toilet having with a watertight, impervious pail or tank containing that contains a chemical solution placed immediately beneath directly under the seat and a pipe or conduit connecting that connects the riser with to the tank.
- ~~D.2.~~ “Department” means the Department of Environmental Quality or a local health department designated by the Department of Environmental Quality.
- ~~E.3.~~ “Earth-pit privy” means a device for disposal of human excreta in a pit in the earth.
- ~~F.4.~~ “Human excreta” means human fecal and urinary discharges and includes any waste containing such that contains this material.
- ~~G.~~ “Incinerator toilet or privy” means a toilet or privy designed to permit destruction of excreta by incineration using LP gas, natural gas, or other source of heat to effect destruction of the body wastes.
- ~~H.~~ “Individual septic tank system” means a method of sewage disposal consisting of a covered settling tank and subsurface disposal field or seepage pit.
- ~~I.5.~~ “License” means a stamp, seal, or numbered certificate issued by the Department of Environmental Quality.
- ~~J.6.~~ “Pail or can type privy” means a privy equipped with a watertight container, located directly under the seat for receiving deposits of human excreta, and having provisions that provides for the removal of a waste receptacle that can be emptied and cleaned receptacles for emptying and cleaning.
- ~~K.7.~~ “Person” means the state, a municipality, district or other political subdivision, a cooperative, institution, corporation, company, firm, partnership, or individual.
- ~~L.~~ “Public sewer” means a sewer located in a road, street, alley, or right of way used to convey sewage to community treatment and disposal facilities.
- ~~M.8.~~ “Sewage” means the waste from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures in residences, institutions, public and business buildings, mobile homes, and other places of human habitation, employment, or recreation.
- ~~N.~~ “Vault privy” means a privy for disposal of human excreta into a vault which is lined with impervious material and which provides access for the removal of excreta.
- ~~O.~~ “Water carriage system” means a system of piping through which sewage is conveyed from the point of origin to the point of treatment and disposal.
- ~~P.~~ “Water closet” means a water flush toilet for disposal of human excreta into an approved water carriage sewage disposal system.

R18-13-1103. Prohibition; Responsibility General Requirements

- A.** No person shall deposit or store any human excreta other than in a water closet, an approved type privy or by other methods or devices satisfactory to and approved by the Department. No system or method for the collection, storage, transportation, and disposal of human excreta shall be installed, maintained or operated except as approved by the local health department or other authority having jurisdiction, and in accordance with Chapters 4, 8, or 9.

Notices of Final Rulemaking

- ~~B.~~ The owner of each device, method, or system used for the storage, collection, transportation, and disposal of human excreta shall be responsible for the proper construction, maintenance, and operation of the facilities.
- ~~A.~~ Any person owning or operating a vehicle or appurtenant equipment used to store, collect, transport, or dispose of sewage or human excreta that is removed from a septic tank or other on-site wastewater treatment facility: earth pit privy, pail or can type privy, or other type of privy; sewage vault; or fixed or transportable chemical toilet shall obtain a license for each vehicle from the Department. The person shall apply, in writing, on forms furnished by the Department and shall demonstrate that each vehicle is designed and constructed to meet the requirements of this Article.
- ~~B.~~ A person shall operate and maintain the vehicle and equipment so that a health hazard, environmental nuisance, or violation of a water quality standard established under 18 A.A.C. 11 is not created.
- ~~C.~~ License terms.
 - 1. Each license is valid so long as the vehicle is operated by the same person for the same purpose and is maintained according to this Article.
 - 2. The license is not transferable either from person to person or from vehicle to vehicle.
 - 3. The license holder shall ensure that the license number is plainly and durably inscribed in contrasting colors on the side door panels of the vehicle and the rear face of the tank in figures not less than 3 inches high, and that the numbers are legible at all times.
- ~~D.~~ Any person owning or operating a vehicle or appurtenant equipment used to collect, store, transport, or dispose of sewage or human excreta shall obtain a permit from the local health department in each county in which the person proposes to operate.

R18-13-1104. Approval Repealed

- ~~A.~~ An application to construct or reconstruct a septic tank system, earth-pit privy, or any other method of disposal of human excreta shall be submitted to the local health department, or other authority having jurisdiction, for approval prior to construction.
- ~~B.~~ Temporary approval may be granted by a local health department for the construction of an earth-pit privy or such other suitable method of excreta disposal as the local health department may approve for use:
 - 1. During an emergency;
 - 2. For use at a public gathering;
 - 3. By workmen on construction projects until a water carriage system of sewage disposal can be installed. All such facilities provided shall be installed, maintained, and operated in accordance with this Article.
- ~~C.~~ Nothing in these rules shall be construed to mean that the Department will be required to approve any method of excreta disposal other than to a public sewer where, in the opinion of the Department, use of such method would constitute a nuisance or a potential hazard to public health.

R18-13-1106. Inspection

Representatives of the ~~The~~ Department shall make such inspections of all buildings or structures, processes or ~~may inspect~~ vehicles and appurtenant equipment used for the storage, collection, and disposal of ~~to collect, store, transport, or dispose sewage or~~ human excreta as ~~are~~ necessary to assure compliance with ~~these rules~~ this Article.

R18-13-1108. Storage and Disposal; Septic Tanks Repealed

- ~~A.~~ Where an adequate supply of water under pressure is available and when, in the opinion of the Department, connection to a public sewer is not practicable, an individual septic tank disposal system shall be provided, except as set forth in subsection (B) below. Each such septic tank system shall be designed, constructed, and maintained in accordance with criteria contained in Engineering Bulletin Number 12, entitled "The Septic Tank", and such additional criteria as required by the local health department, or in accordance with any local ordinance or code provided such ordinance or code equals or exceeds the criteria contained in Engineering Bulletin Number 12.
- ~~B.~~ Where soil conditions, topography, or other conditions are such that a septic tank system cannot be expected to function satisfactorily, or where ground water or soil conditions are such that septic tank systems may cause pollution of waters of the state, other methods of sewage disposal satisfactory to the Department shall be provided.

R18-13-1112. ~~Collection and Transportation;~~ Sanitary Requirement Requirements

- ~~A.~~ The A person owning or operating a vehicle or appurtenant equipment to collect, store, transport, or dispose of sewage or human excreta shall ensure that:
 - 1. The collection, storage, transportation, and disposal of all human excreta shall be carried out Sewage and human excreta is collected, stored, transported, and disposed of in a sanitary manner which and does not endanger the public health or create # an environmental nuisance; ;
 - ~~B.~~ 2. Each The vehicle used for collection and transportation of the wastes shall be is equipped with a leak-proof and fly-tight container having that has a capacity of not less than at least 750 gallons. All and all portable containers, pumps, hose hoses, tools, or and other implements when not in use shall be are stored within a covered and fly-tight enclosure when not in use; ;

Notices of Final Rulemaking

- ~~C.3.~~ Contents to be removed shall be intended for removal are transferred as quickly as possible by means of a portable fly-tight containers container or suitable suction pump and hose to the transportation container. ;
- a.4. The transportation container shall be is tightly closed and made absolutely fly-tight immediately after the contents have been transferred. ;
- b.5. ~~Where portable~~ Portable containers are used they must be kept fly-tight while being transported to and from the vehicles. vehicle. ;
- e.6. Any waste dropped or spilled in the process of collection shall be carefully is cleaned up immediately and the area properly disinfected. ;
- ~~D.7.~~ All vehicles The vehicle, tools, and equipment shall be are maintained in good repair at all times. At and, at the end of each day's work, all portable containers, transportation containers, suction pumps, hose, and other tools shall be are cleaned and disinfected. ; and
- ~~E.8.~~ All wastes collected shall be are disposed of in accordance with according to the recommendations of the local county health department and that no change in the recommended method of disposal shall be is made without its prior approval by the local health department. Disposal shall be accomplished The local county health department shall recommend disposal by + one of the following methods listed below:
- 1-a. ~~Into a community sewer system~~ At a designated point into a sewage treatment facility or sewage collection system with the approval of the appropriate authority at the place and point in the system designated by the authority. owner or operator of the facility or system.
- 2-b. By burial burying all wastes from chemical toilets shall be disposed of by this method in an area approved by the local county health department. ; or
- 3-c. ~~By~~ Into a sanitary landfill with approval of the owner or operator of the landfill and following any precautions designated by the owner and operator and where operation of the facility is satisfactory and suitable precautions are taken to protect the health of the workers and the public.
- ~~F.B.~~ Open dumping is prohibited except in designated areas approved by the local county health department.

R18-13-1113. Collection and Transportation; License Repealed

All wastes removed from a septic tank or other sewage disposal system and all human excreta removed from any privy or chemical toilet shall be stored, transported, and disposed of by vehicles licensed by the Department.

In addition, each approved septic tank cleaner or operator shall obtain a permit from the local health department in each county in which he proposes to operate.

R18-13-1114. Collection and Transportation; Application Repealed

Every person operating or proposing to operate equipment, vehicles, and other facilities for collection, transportation, and disposal of human excreta shall make application in writing to the Department, on forms furnished by the Department, for a license to operate each vehicle used to collect, store, and transport such wastes. The applicant shall demonstrate to the satisfaction of the Department that each vehicle is designed and constructed so as to meet the requirements of these rules.

R18-13-1115. Collection and Transportation; Term Repealed

- A.** Each license shall remain in force as long as the vehicle is operated by the same person for such purpose and is maintained in a satisfactory manner.
- B.** Licenses are not transferable either from person to person or from vehicle to vehicle.
- C.** Each vehicle licensed shall have the number of the license plainly and durably inscribed in contrasting colors on the side door panels of the cab and the rear face of the tank in figures not less than 3 inches high numbers shall be legible at all times.

R18-13-1116. Collection and Transportation; Suspension; and Revocation

- A.** Should inspection by the If a Department inspection indicate indicates that a licensed vehicle is not being maintained and operated in a satisfactory manner or that conditions are such that the work cannot be performed in accordance with these rules according to this Article, the Department shall notify the owner shall be notified in writing of all discrepancies violations noted.
- B.** The Department shall give the owner shall be given a reasonable period of time in which to correct such discrepancies the violations and to comply with the provisions of these rules this Article. Should If the owner fail fails to comply with the requirements of such notice within the time limit specified, the Department may suspend or revoked revoke the vehicle license based on the number and severity of violations. The Department shall follow the provisions of A.R.S. Title 41, Chapter, Article 10 will be followed in any suspension or revocation proceeding.
- C.** Revocation The Department shall consider the revocation or suspension of a permit by a local health department for violation of these rules shall be considered this Article as grounds for revocation of the vehicle license. Both The local health department shall immediately suspend both the vehicle license and the permit issued by the local health department may be suspended immediately, by the local health department, for gross violation of these rules this Article and at any time when if in the opinion of the local health department a serious health hazard or environmental nuisance exists.

Notices of Final Rulemaking

D. The owner of the vehicle whose license has been is suspended or revoked may appeal such action in accordance with the provisions of A.R.S. Title 12, Chapter 7, Article 6 ~~the final administrative decision as permitted under A.R.S. § 41-1092-08.~~

R18-13-1117. ~~Collection and Transportation;~~ Reinstatement

~~A vehicle license that has been suspended or revoked by the Department may be reinstated upon request by the owner of the vehicle only after reinspection by the Department indicates compliance with the requirements of this Article. Upon request of the vehicle owner, the Department may reinstate a suspended or revoked vehicle license following a Department reinspection and based on an evaluation of compliance with the requirements of this Article.~~

R18-13-1118. ~~Discontinued Facilities; Septic Tanks~~ Repealed

~~Whenever a septic tank system is discontinued, the system shall be thoroughly and carefully disconnected from the building sewer and the inlet to the tank sealed with cement grout. Any other work to be done on the tank shall be in accordance with the requirements of the local health department, or other authority having jurisdiction.~~

R18-13-1119. ~~Discontinued Facilities; Seepage Pits; Cesspools~~ Repealed

~~When any seepage pit, cesspool, or other method or device for the treatment of sewage is discontinued, all such facilities shall be backfilled or otherwise treated in accordance with the requirements of the local health department, or other authority having jurisdiction.~~

R18-13-1120. ~~Discontinued Facilities; Earth-pit Privies~~ Repealed

~~Whenever any earth-pit privy is discontinued, the pit shall be filled in and covered as outlined in Engineering Bulletin Number 2.~~