

# Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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**Information** ..... 824

**Rulemaking Guide** ..... 825

**RULES AND RULEMAKING**

**Proposed Rulemaking, Notices of**

        18 A.A.C. 2 Department of Environmental Quality - Air Pollution Control ..... 827

**Exempt Rulemaking, Notices of**

        4 A.A.C. 45 Board of Respiratory Care Examiners ..... 834

        19 A.A.C. 2 Arizona Racing Commission ..... 837

**Rule Expirations**

        8 A.A.C. 3 Department of Emergency and Military Affairs - Division of Military Affairs ..... 840

        8 A.A.C. 5 Department of Emergency and Military Affairs - Project Challenge ..... 840

        20 A.A.C. 4 Department of Financial Institutions ..... 841

**OTHER AGENCY NOTICES**

**Docket Opening, Notices of Rulemaking**

        18 A.A.C. 2 Department of Environmental Quality - Air Pollution Control ..... 842

**GOVERNOR'S OFFICE**

**Governor's Executive Orders**

        E.O. 2017-02: Internal Review of Administrative Rules; Moratorium to Promote Job Creation  
        and Customer-Service-Oriented Agencies ..... 843

**INDEXES**

    Register Index Ledger ..... 845

    Rulemaking Action, Cumulative Index for 2017 ..... 846

    Other Notices and Public Records, Cumulative Index for 2017 ..... 849

**CALENDAR/DEADLINES**

    Rules Effective Dates Calendar ..... 850

    Register Publishing Deadlines ..... 852

**GOVERNOR'S REGULATORY REVIEW COUNCIL**

    Governor's Regulatory Review Council Deadlines ..... 853

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

# Arizona Administrative REGISTER

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**ADMINISTRATIVE CODE**  
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

# Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.





On July 17, 2014, EPA issued an Advance Notice of Proposed Rulemaking (ANPRM) to request public input on controls and practices that could further reduce emissions from existing MSW landfills and to determine if changes to the Emission Guidelines were appropriate.

On August 29, 2016, EPA updated and finalized the Emission Guidelines for existing MSW landfills, codified in 40 CFR Part 60, Subpart Cf (see 81 FR 59275). EPA reviewed the Emission Guidelines for MSW landfills that accepted waste after November 8, 1987, and commenced construction, reconstruction or modification on or before July 17, 2014. This action will result in additional reductions in landfill emissions, including methane, by lowering the NMOC emissions threshold at which a landfill must install controls from 50 megagrams per year (Mg/yr) to 34 Mg/yr. This action also provided an alternative site-specific emissions threshold methodology, referred to as "Tier 4," to determine when a landfill must install and operate a Gas Collection and Control System (GCCS). The final rule became effective on October 28, 2016.

Landfills that close on or before September 27, 2017 will continue to be subject to the NMOC emissions threshold of 50 Mg/yr for determining when controls must be installed or can be removed. Pursuant to CAA Section 111(d), states must submit a state plan implementing the new guideline no later than May 30, 2017 in order to avoid a FIP issued by EPA. ADEQ will include the amended version of R18-2-731 in its state plan submitted to EPA.

Amendments to R18-2-901: EPA's New Source Performance Standards for MSW Landfills that Commence Construction, Reconstruction or Modification after July 17, 2014

Along with the amendments to R18-2-731, ADEQ is also amending R18-2-901 to incorporate by reference EPA's most recent New Source Performance Standards (NSPS) for MSW landfills.

Pursuant to Section 111 of the CAA, EPA must review NSPS, and if appropriate, revise standards of performance for new MSW landfills at least every eight years.

On July 17, 2014, EPA proposed a new NSPS based on its ongoing review. On August 29, 2016, EPA finalized the new NSPS, now codified at 40 CFR Part 60, Subpart XXX, which updated the standards of performance for MSW landfills that commence construction, reconstruction or modifications after July 17, 2014 (see 81 FR 59331). This action, too, will result in additional emissions reductions at landfills by lowering the emissions threshold at which a landfill must install controls from 50 megagrams per year (Mg/yr.) to 34 Mg/yr. This action also provided an alternative site specific emissions threshold methodology, referred to as "Tier 4," to determine when a landfill must install and operate a Gas Collection and Control System (GCCS). The final rule became effective on October 28, 2016.

EPA promulgated the new Emissions Guidelines and NSPS simultaneously to update NMOC emissions standards for both new and existing landfills. ADEQ will also incorporate by reference these new federal regulations at the same time in order to streamline the rulemaking process and ensure Arizona will retain its delegated authority from the EPA to implement and enforce NSPS and Emissions Guidelines at MSW landfills within the State of Arizona.

Regulatory Requirements.

To satisfy CAA requirements under Section 111(d), ADEQ must develop and submit to EPA a plan within nine months to provide for:

1. Established standards of performance for any existing source for any air pollutant;
  - (i) for which air quality criteria have not been issued or which is not included on a list published under section 108(a) [or emitted from a source category which is regulated under section 112] [or 112(b)] but
  - (ii) to which a standard of performance under this section would apply if such existing sources were a new source, and;
2. The implementation and enforcement of such standards of performance.

As part of the 111(d) plan and in order to provide a successful strategy that will bring MSW landfills within Arizona into compliance with federal law, ADEQ will submit these rules to EPA for approval, making them enforceable under State law.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:**

Studies relevant to this rulemaking can be located by referring to the Federal Register for each Subpart to be incorporated by reference. (Refer to the notice at 81 FR 59275 for the Emission Guidelines and the notice at 81 FR 59331 for the New Source Performance Standards). Copies of the Federal Register are available online at: <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>

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

This proposed rulemaking does not diminish a previous grant of authority of a political subdivision of this state.

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

The following discussion addresses each of the elements required for an Economic, Small Business, and Consumer Impact Statement (EIS) under A.R.S. §41-1055.

**An identification of the rulemaking.**

The rulemaking addressed by this EIS consists of amendments to R18-2-731 and R18-2-901 to incorporate by reference new federal standards for NMOC gas emissions from new and existing MSW landfills. The purpose of these amendments is to bring MSW landfills within the State of Arizona into compliance with new federal air quality standards for NMOC emissions.

The impact of the new federal air quality standards of NMOC gas emissions may require the owners and operators of MSW landfills to install gas control equipment in order to comply with new emissions limits. The lower emissions limits may result in com-



pliance costs for some MSW landfills and minor administrative costs for ADEQ. It is important to note that if the state rulemaking does not occur, the same costs would still apply and be enforced by EPA instead of ADEQ via the Federal Implementation Plan (FIP).

**An identification of the persons who will be directly affected by, bear the cost of or directly benefit from the rulemaking.**

The persons who will be directly affected by and bear the costs of this rulemaking are the owners and operators of MSW landfills within the State of Arizona. ADEQ has identified four MSW landfills, Cinder Lake, La Paz County, Mohave Valley, and Copper Mountain that may be required to install new gas control equipment.

The persons who will benefit from this rulemaking are the residents of Arizona, as well as the employees of MSW landfills, due to the improved air quality that will result from this rulemaking and the corresponding control technology MSW landfills may be implementing to lessen NMOC emissions.

**A cost benefit analysis of the following:**

**(a) The probable costs and benefits to the implementing agency or other agencies directly affected by the implementation and enforcement of the rulemaking.**

ADEQ estimates that the current number of full-time employees assigned in the Permits and Compliance Sections of the Air Quality Division at ADEQ are adequate to implement and enforce the NSPS and Emissions Guidelines for MSW landfills in Arizona. The costs of the rules to the implementing agency will therefore be minimal.

Furthermore, permits for MSW landfills are revised every five years, with minor revisions occurring periodically (as part of CAA Title V permitting requirements). Under A.A.C. R18-2-301(2) and R18-2-326(B)(1)(a), the permit applicant—in this case, MSW landfills—will ultimately be required to reimburse ADEQ for the cost of revisions as part of permit fees.

ADEQ has permitting, enforcement, and compliance jurisdiction for most MSW landfill emissions in Arizona. Maricopa County Air Quality Department (MCAQD) is conducting its own rulemaking for landfills that fall under its jurisdiction. Therefore, the costs and benefits will be similar in Maricopa County.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking.**

The rules that are the subject of this preamble and EIS are necessary to comply with federal requirements under Section 111(d) of the CAA. ADEQ estimates there are currently 13 MSW landfills within its jurisdiction. Based on estimated emissions and landfill size, ADEQ has identified three publicly owned MSW landfills that may require installation of a gas control system including Cinder Lake Landfill, La Paz County Landfill, and Mohave Valley Landfill. The national average cost to purchase and install a gas control system is approximately \$940,000.

The new NSPS and Emissions Guidelines are expected to significantly reduce emissions of landfill gas and its components, which include methane, volatile organic compounds (VOCs), and hazardous air pollutants (HAPs). The EPA expects that the reduced emissions will result in improvements in air quality and lessen the potential for health effects associated with exposure to air pollution related emissions, and result in climate benefits due to reductions of methane.

ADEQ will also avoid the issuance of a FIP by the EPA under Section 111(d) of the CAA. A FIP would likely require more strict emission limits and controls for MSW landfills located in Arizona. Adoption of these rules will also allow Arizona to retain its delegated authority from the EPA to implement and enforce NSPS and Emissions Guidelines at MSW landfills within the State of Arizona.

**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

The rules that are the subject of this preamble and EIS are necessary to comply with federal requirements under Section 111(d) of the CAA. ADEQ estimates there are currently five privately owned MSW landfills within its jurisdiction. Based on estimated emissions and landfill size, ADEQ has identified one MSW landfill, Copper Mountain Landfill, which may require installation of a gas control system. The national average cost to purchase and install a gas control system is approximately \$940,000.00.

The new NSPS and Emissions Guidelines are expected to significantly reduce emissions of landfill gas and its components, which include methane, volatile organic compounds (VOCs), and hazardous air pollutants (HAPs). The EPA expects that the reduced emissions will result in improvements in air quality and lessen the potential for health effects associated with exposure to air pollution related emissions, and result in climate benefits due to reductions of methane.

ADEQ will also avoid the issuance of a FIP by the EPA under Section 111(d) of the CAA. A FIP would likely require more strict emission limits and controls for MSW landfills located in Arizona. Adoption of these rules will also allow Arizona to retain its delegated authority from the EPA to implement and enforce NSPS and Emissions Guidelines at MSW landfills within the State of Arizona.

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**

ADEQ anticipates that employment impacts will be minor. ADEQ does not expect short- or long-term employment, production, or industrial growth in Arizona to be negatively impacted by this rulemaking. Furthermore, no sources are expected to close from the implementation of this rulemaking.

**A statement of the probable impact of the rulemaking on small businesses.**

**(a) An identification of the small businesses subject to the rulemaking.**

Under A.R.S. § 41-1001(21) “Small business” means a concern, including its affiliates, which is [1] independently owned and operated, which is [2] not dominant in its field and which [3] employs fewer than one hundred full-time employees or which had



gross annual receipts of less than four million dollars in its last fiscal year. None of the MSW landfills within ADEQ's jurisdiction qualify as a small business.

**(b) The administrative and other costs required for compliance with the rulemaking.**

Not Applicable

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

Not Applicable

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

Not Applicable

**A statement of the probable effect on state revenues.**

Since any costs associated with the rulemaking will be recoverable through air quality permit fees, there will be no net effect on state revenues.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

ADEQ was not able to identify any less intrusive or costly alternative methods for achieving the purpose of the rulemaking—compliance with the federal NSPS and Emissions Guidelines for MSW landfills. The MSW landfills are the primary source of emissions and are responsible for installing adequate control technologies that will bring MSW landfills into compliance.

**A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

All data on which the MSW landfill rules are based can be located by referring to the Federal Register citations for each Subpart to be incorporated by reference. (Refer to the notice at 81 FR 59275 for the Emission Guidelines and the notice at 81 FR 59331 for the New Source Performance Standards). Copies of the Federal Register are available online at: <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Matt Ivers  
Address: Arizona Department of Environmental Quality  
Air Quality Division, AQIP Section  
1110 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 771-6723  
Fax: (602) 771-2299  
E-mail: Ivers.Matthew@azdeq.gov

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

ADEQ will conduct a public hearing to receive feedback, comments, questions, and concerns on the proposed rulemaking. All interested parties may attend. ADEQ will respond to comments in a summary that is submitted with the 111(d) plan, which will include the rules that are the subject of this rulemaking.

The public comment period for this rulemaking will take place between: April 14, 2017 – May 15, 2017.

The public hearing for the rules will be conducted on:

May 15, 2017 at 1:00 p.m.  
Arizona Department of Environmental Quality  
1110 W. Washington St., Room 145  
Phoenix, AZ 85007

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

There are no matters prescribed by statute applicable specifically to ADEQ or this specific rulemaking.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

These rules will be included in CAA Title V permit revisions for any applicable MSW landfill that falls under ADEQ's jurisdiction. Therefore, these rules do not inherently require a permit, but are rather incorporated into a permit that is already independently required.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

The rules will help Arizona landfills comply with the federal Clean Air Act, Title I, Section 111. The rules are no more stringent than federal law. The rules incorporate federal standards by reference. These changes are necessary in order for Arizona to retain its delegated authority from the EPA to implement and enforce NSPS and Emissions Guidelines at MSW



landfills within the State of Arizona.

- c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
No analysis was submitted to ADEQ.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

New Incorporations by Reference	Location
40 CFR 60, Subpart Cf	R18-2-731
40 CFR 60, Subpart XXX	R18-2-901

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

**TITLE 18. ENVIRONMENTAL QUALITY  
CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

**ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS**

Section  
R18-2-731. Standards of Performance for Existing Municipal Solid Waste Landfills

**ARTICLE 9. NEW SOURCE PERFORMANCE STANDARDS**

Section  
R18-2-901. Standards of Performance for New Stationary Sources

**ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS**

**R18-2-731. Standards of Performance for Existing Municipal Solid Waste Landfills**

- A. This Section applies to each municipal solid waste landfill (MSW landfill) at which:
  - 1. Construction, reconstruction, or modification began ~~on or before May 30, 1994~~ July 17, 2014; and
  - 2. Waste was accepted at any time since November 8, 1987, or additional design capacity is available for future waste deposition.
- B. For the purposes of this Section, “Municipal solid waste landfill or MSW landfill” means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA (Resource Conservation and Recovery Act) Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned.
- C. MSW landfills covered by this Section shall comply with 40 CFR 60, Subpart ~~WWW, as modified by this subsection Cf, effective as of the date of EPA approval of the state plan under section 111(d) of the Act.~~ 40 CFR 60, Subpart WWW, “Standards of Performance for Municipal Solid Waste Landfills,” is incorporated by reference in R18-2-901 will remain in effect until Arizona’s state plan implementing Subpart Cf is approved by EPA. 40 CFR 60, Subpart Cf “Emissions Guidelines and Compliance Times for Municipal Solid Waste Landfills,” as adopted as of October 28, 2016 (and no future amendments) is hereby incorporated by reference as applicable requirements. MSW landfills may meet the requirements of Subpart Cf by complying with 40 CFR 60, Subpart XXX. 40 CFR 60, Subpart XXX “Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction or Modification After July 17, 2014,” is incorporated by reference in R18-2-901.
  - 1. ~~Definitions. In addition to the definitions in 40 CFR 60.751, “Administrator” means the Director of the Department of Environmental Quality.~~
  - 2. ~~Reporting. Each MSW landfill shall comply with the reporting requirements of 40 CFR 60.757. The initial design capacity report and initial NMOC emission rate report shall be due 90 days after the effective date of this rule.~~
  - 3. ~~Design plan. An MSW landfill that is required to install a collection and control system shall submit a design plan for the system to the Director with a Standard Permit Application Form not later than 12 months after it submitted or should have submitted a NMOC emission rate report indicating emissions greater than 50 Mg per year. The design plan shall be prepared by a professional engineer registered in Arizona. The Director shall not approve the design plan if it does not meet the requirements of 40 CFR 60.752(b)(2)(ii).~~
  - 4. ~~System installation. An MSW landfill that is required to install a collection and control system shall complete installation of the system not later than 30 months after the effective date of this rule.~~
  - 5. ~~An MSW landfill that first becomes subject to the collection and control system requirement after the effective date of this rule shall submit a design plan for the system to the Director not later than 12 months after it submitted or should have submitted an NMOC emission rate report indicating emissions greater than 50 Mg per year.~~

**ARTICLE 9. NEW SOURCE PERFORMANCE STANDARDS**

**R18-2-901. Standards of Performance for New Stationary Sources**

Except as provided in R18-2-902 through R18-2-905, the following subparts of 40 CFR 60, New Source Performance Standards (NSPS), and all accompanying appendices, adopted as of June 28, 2013, unless otherwise specified, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

- 1. Subpart A - General Provisions.



2. Subpart D - Standards of Performance for Fossil-Fuel- Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
3. Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
4. Subpart Db - Standards of Performance for Industrial- Commercial-Institutional Steam Generating Units.
5. Subpart Dc - Standards of Performance for Small Industrial- Commercial-Institutional Steam Generating Units.
6. Subpart E - Standards of Performance for Incinerators.
7. Subpart Ea - Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced after December 20, 1989 and on or Before September 20, 1994.
8. Subpart Eb - Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
9. Subpart Ec - Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
10. Subpart F - Standards of Performance for Portland Cement Plants.
11. Subpart G - Standards of Performance for Nitric Acid Plants.
12. Subpart Ga - Standards of Performance for Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced after October 14, 2011.
13. Subpart H - Standards of Performance for Sulfuric Acid Plants.
14. Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.
15. Subpart J - Standards of Performance for Petroleum Refineries.
16. Subpart Ja - Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.
17. Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
18. Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.
19. Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
20. Subpart L - Standards of Performance for Secondary Lead Smelters.
21. Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.
22. Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
23. Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
24. Subpart O - Standards of Performance for Sewage Treatment Plants.
25. Subpart P - Standards of Performance for Primary Copper Smelters.
26. Subpart Q - Standards of Performance for Primary Zinc Smelters.
27. Subpart R - Standards of Performance for Primary Lead Smelters.
28. Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.
29. Subpart T - Standards of Performance for Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
30. Subpart U - Standards of Performance for Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
31. Subpart V - Standards of Performance for Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
32. Subpart W - Standards of Performance for Phosphate Fertilizer Industry: Triple Superphosphate Plants.
33. Subpart X - Standards of Performance for Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
34. Subpart Y - Standards of Performance for Coal Preparation Plants.
35. Subpart Z - Standards of Performance for Ferroalloy Production Facilities.
36. Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.
37. Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
38. Subpart BB - Standards of Performance for Kraft Pulp Mills.
39. Subpart CC - Standards of Performance for Glass Manufacturing Plants.
40. Subpart DD - Standards of Performance for Grain Elevators.
41. Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.
42. Subpart GG - Standards of Performance for Stationary Gas Turbines.
43. Subpart HH - Standards of Performance for Lime Manufacturing Plants.
44. Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.
45. Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.
46. Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
47. Subpart NN - Standards of Performance for Phosphate Rock Plants.
48. Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.
49. Subpart QQ - Standards of Performance for Graphic Arts Industry: Publication Rotogravure Printing.
50. Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
51. Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.
52. Subpart TT - Standards of Performance for Metal Coil Surface Coating.
53. Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.



54. Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
55. Subpart VVa - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced after November 7, 2006.
56. Subpart WW - Standards of Performance for Beverage Can Surface Coating Industry.
57. Subpart XX - Standards of Performance for Bulk Gasoline Terminals.
58. Subpart AAA - Standards of Performance for New Residential Wood Heaters.
59. Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.
60. Subpart DDD - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
61. Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
62. Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
63. Subpart GGGa - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.
64. Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.
65. Subpart III - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
66. Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.
67. Subpart KKK - Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
68. Subpart LLL - Standards of Performance for Onshore Natural Gas Processing; SO<sub>2</sub> Emissions.
69. Subpart NNN - Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
70. Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.
71. Subpart PPP - Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.
72. Subpart QQQ - Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
73. Subpart RRR - Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
74. Subpart SSS - Standards of Performance for Magnetic Tape Coating Facilities.
75. Subpart TTT - Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
76. Subpart UUU - Standards of Performance for Calciners and Dryers in Mineral Industries.
77. Subpart VVV - Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
78. Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills.
79. Subpart XXX – Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014. This subpart and all accompanying appendices are adopted as of October 28, 2016 (and no future amendments), and are incorporated by reference as applicable requirements.
- ~~80.~~79. Subpart AAAA - Standards of Performance for Small Municipal Waste Combustion Units for Which Construction Is Commenced after August 30, 1999, or for Which Modification or Reconstruction Is Commenced after June 6, 2001.
- ~~81.~~80. Subpart CCCC - Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced after November 30, 1999, or for Which Modification or Reconstruction Is Commenced on or after June 1, 2001.
- ~~82.~~81. Subpart EEEE - Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.
- ~~83.~~82. Subpart IIII - Standards of Performance for Stationary Compression Ignition Combustion Engines.
- ~~84.~~83. Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
- ~~85.~~84. Subpart KKKK - Standards of Performance for Stationary Combustion Turbines.
- ~~86.~~85. Subpart LLLL - Standards of Performance for New Sewage Sludge Incineration Units.
- ~~87.~~86. Subpart OOOO - Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.



NOTICES OF EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Exempt Rulemaking.

It is not uncommon for an agency to be exempt from all steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act (APA) or Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10.

An agency's exemption is either written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters; or a court has

determined that an agency, board or commission is exempt from the rulemaking process.

The Office makes a distinction between certain exemptions as provided in these laws, on a case by case basis, as determined by an agency. Other rule exemption types are published elsewhere in the Register.

Notices of Exempt Rulemaking as published here were made with no special conditions or restrictions; no public input; no public hearing; and no filing of a Proposed Exempt Rulemaking.

NOTICE OF EXEMPT RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS

[R17-42]

PREAMBLE

1. Article, Part or Section Affected (as applicable)

- R4-45-102
R4-45-208
R4-45-209
R4-45-210

Rulemaking Action

- Amend
Amend
Amend
Repeal

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-3504

Implementing statutes: A.R.S. §§ 32-3504(A)(9), 32-3526

Session Law Exemption: Pursuant to Laws 2016, Chapter 49, § 10, the Board "is exempt from the rulemaking requirements of Title 41, Chapter 6 Arizona Revised Statutes."

3. The effective date of the rules and the agency's reason it selected the effective date:

June 1, 2017

The agency selected this effective date in order to provide adequate notice to the licensed community and our stakeholders.

4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:

Not applicable

5. The agency's contact person who can answer questions about the rulemaking:

Name: Jack Confer, Executive Director
Address: State Board of Respiratory Examiners
1400 W Washington St., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-5990
E-mail: John@rb.az.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The Board needs to amend R4-45-102 in order to adjust the fee a licensee is required to pay to the Board to renew a license. R4-45-208 and R4-45-209 also need to be amended in order to clarify the continuing education requirements for licensees. Also, the Board intends to repeal R4-45-210 because the Board does not have the resources to approve courses in this manner independent of the courses approved by the entities identified in R4-45-208. These amendments will expand the number of entities that have approved continuing education courses and ensure that licensees are aware of how the Board will accept continuing education units.

7. A reference to any study relevant to the rule that the agency reviewed and proposes either 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



- 8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:**  
Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**  
Not applicable
- 11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
Not applicable
- 12. **All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**  
Not applicable
  - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
  - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable
  - c. **Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
- 13. **A list of incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
None
- 14. **Whether the rule was previously made, amended, repealed, or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**  
Not applicable
- 15. **The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 45. BOARD OF RESPIRATORY CARE EXAMINERS**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-45-102. Fees

**ARTICLE 2. LICENSURE**

Section  
R4-45-208. Continuing Education Requirement  
R4-45-209. ~~Approved~~ ~~Acceptable~~ Continuing Education  
R4-45-210. ~~Criteria for Approved~~ ~~Continuing Education~~ ~~Repealed~~

**ARTICLE 1. GENERAL PROVISIONS**

**R4-45-102. Fees**

- A. Under the authority provided by A.R.S. § 32-3526 or other specified statutes, the Board establishes and shall collect the following fees:
  - 1. Application for a license, \$100;
  - 2. Application based on a diploma from a foreign respiratory therapy school, \$200;
  - 3. Initial license, \$120;
  - 4. Biennial renewal of a license, ~~\$120~~\$150;
  - 5. Verifying an Arizona license to another state:
    - a. Current valid license, \$25;
    - b. Expired license, \$50;
  - 6. Duplicate license or duplicate wallet license card, \$25;
  - 7. Copy of the Board's Respiratory Care Practitioner Register compiled under A.R.S. § 32-3504(A)(7):
    - a. Noncommercial, \$25;
    - b. Commercial, \$25 or the amount allowed under A.R.S. § 39-121.03(A), whichever is greater;
  - 8. Insufficient funds check submitted to the Board as payment of any fee, \$25;
  - 9. Fingerprint fee, authorized by A.R.S. § 41-1750(L), remitted by credit card, certified check, or money order, \$50; and
  - 10. Copy of the audiotape of a hearing under A.R.S. § 41-1092.07(E), \$25.
- B. No change



ARTICLE 2. LICENSURE

R4-45-208. Continuing Education Requirement

- A. The following definitions apply to this Article:
  - 1. “Acceptable documentation” means:
    - a. Transcripts;
    - b. Letters from course instructors;
    - c. Certificates of Completion or other formal certifications provided by:
      - i. Hospitals;
      - ii. Course instructors; or
      - iii. Health organizations.
  - 2. “Initial licensure period” means the period of time from the date a licensee first obtains a license, to the date of the licensee’s second birthday following the date a licensee first obtains a license.
  - 3. “Two-year licensure period” means the period of time two years from the initial licensure period, including the date a licensee renews a license pursuant to subsection (C).
- B. Pursuant to A.R.S. § 32-3504(A)(9), Continuing education is required as a condition of licensure renewal:
  - 4. ~~A a licensee respiratory care practitioner shall acquire 20 CEUs during an initial licensure period and every two-year licensure period. A licensee shall acquire at least two of the 20 CEUs in ethics.~~
- C. ~~In order to renew a license, a licensee respiratory care practitioner shall report compliance with the continuing education requirement.~~
- D. A licensee shall maintain acceptable documentation for all CEUs for five years from the most recent date on the documentation.
- E. Notwithstanding subsection (A), acceptable documentation other than a transcript must include the:
  - 1. Licensee’s full name;
  - 2. Title and date of the course or activity;
  - 3. Number of CEUs earned; and
  - 4. Instructor’s name and signature.
- F. ~~A licensee respiratory care practitioner shall submit acceptable documentation showing evidence of compliance only if requested by the Board.~~
- G. ~~2. During the first licensure period, a licensee shall use the licensure issuance date as the beginning of the period in which the licensee is required to acquire CEUs. A licensee shall acquire 20 hours of CEUs before expiration of the first licensure period. Subsequent continuing education periods coincide with subsequent licensure periods. The Board shall accept CEUs pursuant to R4-45-209.~~

R4-45-209. Approved Acceptable Continuing Education

- A. ~~The Board shall accept for CEUs from a continuing education course approved by the American Association for Respiratory Care or the Arizona Society for Respiratory Care:~~
  - 1. American Academy of Allergy, Asthma & Immunology;
  - 2. American Academy of Pediatrics;
  - 3. American Academy of Physician Assistants;
  - 4. American Association for Respiratory Care and its state affiliates;
  - 5. American Association of Critical Care Nurses and its state affiliates;
  - 6. American College of Chest Physicians;
  - 7. American College of Emergency Physicians;
  - 8. American College of Physicians;
  - 9. American College of Health Care Executives;
  - 10. American Heart Association;
  - 11. American Lung Association and its state affiliates;
  - 12. American Medical Association and its state affiliates;
  - 13. American Nurses Association and its state affiliates;
  - 14. American Osteopathic Association and its state affiliates;
  - 15. American Thoracic Society and its state affiliates;
  - 16. Arizona Society for Respiratory Care;
  - 17. Center for Disease Control;
  - 18. Centers for Medicare Medicaid (Joint Commission);
  - 19. College of American Pathologists;
  - 20. National Asthma Educator Certification Board
  - 21. Red Cross of America;
  - 22. Society for American Anesthesiology; or
  - 23. Society of Critical Care Medicine and its state affiliates.
- B. ~~The provider of, or an individual who takes, a continuing education course that is not approved by the American Association for Respiratory Care or the Arizona Society for Respiratory Care may apply to the Board for approval under R4-45-210. The Board shall accept no more than 15 CEUs during an initial licensure period or a two-year licensure period for courses or activities a licensee completed online, except for live courses or activities a licensee completed online.~~
- C. ~~The Board shall accept no more than five CEUs during an initial licensure period or a two-year licensure period in any one of the following courses:~~
  - 1. Advanced cardiac life support;
  - 2. Neonatal advanced life support or neonatal resuscitation program; and
  - 3. Pediatric advanced life support.





**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Rudy J. Casillas, Racing Director  
Address: Arizona Department of Gaming, Racing Division  
1110 W. Washington, Suite 450  
Phoenix, AZ 85007  
Telephone: (602) 771-4263  
Fax: (602) 255-3883  
Email: rcasillas@azgaming.gov  
Website: www.azgaming.gov

**6. As agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

Under A.A.C. R19-2-201, the Department of Gaming, Racing Division periodically reviews its major sources of income, including the RWA. The requisite RWA depends on the revenue streams projected for the current and future fiscal years. The amendment is designed to allow the Division to meet its mission and goals of effectively regulating the racing industry throughout the next fiscal years, taking into account seasonal variations in revenue.

The Department of Gaming, Racing Division is initiating this exempt rulemaking to comply with the requirement that the Division collect fees in the amount necessary to support the Division's mission under the requirements of Title 5, Chapter 2, Article 2 of the Arizona Revised statutes.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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 rulemaking is necessary to promote a statewide interest if the rulemaking 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, if applicable:**

The economic impact of this rule amendment will be on the Permittees holding racing meetings within the State of Arizona. The Regulatory Wagering Assessment percentage is taken from the pari-mutuel wagering pools of the tracks that host race meetings. The RWA is assessed on all monies wagered by patrons on horse, harness or dog races each racing day. The proposed RWA percentages are designed to benefit the racing industry stakeholders by taking into account the seasonal variation of moneys wagered, by decreasing the percentage during part of the year.

**10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package if applicable:**

None

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

None

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not limited to:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reason why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person, submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No

**13. A list of any incorporated by reference material and its location in the rule:**

None

**14. Whether the rule was previously made, amended, repealed, or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

Not applicable

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



**TITLE 19. ALCOHOL, DOG AND HORSE RACING, LOTTERY AND GAMING  
CHAPTER 2. ARIZONA RACING COMMISSION**

**ARTICLE 2. RACING REGULATION FUND**

Section

R19-2-205. Regulatory Wagering Assessment of Pari-Mutuel Pools

**ARTICLE 2. RACING REGULATION FUND**

**R19-2-205. Regulatory Wagering Assessment of Pari-Mutuel Pools**

- A. No change
- B. The ~~rac~~ing ~~regulation~~ regulatory wagering assessment for each racing meeting on all in-state and/or out-of-state, on-track, off-track, live, import and/or export wagers and/or wager types (the "RWA") shall be ~~0.85~~ 0.75 percent from May 1 to September 30 of each year through October 31, 2015. and Beginning November 1, 2015, the RWA racing regulation assessment for each race meeting on all in-state and/or out of state, on track, off track, live, import and/or export wagers and/or wager types shall be 0.60 0.85 percent beginning October 1 of each year through April 30 of the next year.
- C. No change
- D. No change



NOTICES OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

This section of the Arizona Administrative Register contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(J), if an agency does not file a five-year rule review report with the Governor's Regulatory Review Council (including a revised report); or if an agency does not file an extension before the due date of the report; or if an agency files an extension but does not submit a report

within the extension period; the rules scheduled for review expire.

The Council is required to notify the Secretary of State that the rules have expired and are no longer enforceable. The notice is published in the Register, and the rules are removed from the Code.

GOVERNOR'S REGULATORY REVIEW COUNCIL

NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS DIVISION OF MILITARY AFFAIRS

[R17-45]

- 1. Agency name: Department of Emergency and Military Affairs
2. Title and its heading: 8, Emergency and Military Affairs
3. Chapter and its heading: 3, Department of Emergency and Military Affairs - Division of Military Affairs
4. Articles and their headings: 2, Ranges and Training Sites
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of March 14, 2017:

- R8-3-201. Purpose
R8-3-202. Non-military "Organizations"
R8-3-203. Personal Use of Firing Ranges
R8-3-204. Planning and Scheduling
R8-3-205. Range Fees
R8-3-206. Other User Fees
Exhibit 1. Non-exclusive License Agreement to Use Ranges, Training Areas, and Facilities

6. Signature is of Nicole A. Ong Date of Signing
/s/ March 17, 2017
Nicole A. Ong
Chairwoman

GOVERNOR'S REGULATORY REVIEW COUNCIL

NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS PROJECT CHALLENGE

[R17-46]

- 1. Agency name: Department of Emergency and Military Affairs
2. Title and its heading: 8, Emergency and Military Affairs
3. Chapter and its heading: 5, Department of Emergency and Military Affairs - Project Challenge
4. Articles and their headings: 1, Project Challenge
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of March 14, 2017:

- R8-5-101. Definitions
R8-5-102. Project Challenge: Cadet Prerequisites
R8-5-103. Project Challenge Application
R8-5-104. Procedure for Selecting Cadets
R8-5-105. Project Challenge: Mentor Requirements
R8-5-106. Project Challenge Mentor Application

6. Signature is of Nicole A. Ong Date of Signing
/s/ March 17, 2017
Nicole A. Ong
Chairwoman



GOVERNOR'S REGULATORY REVIEW COUNCIL

NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

DEPARTMENT OF FINANCIAL INSTITUTIONS

[R17-47]

- 1. **Agency name:** Department of Financial Institutions
- 2. **Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
- 3. **Chapter and its heading:** 4, Department of Financial Institutions
- 4. **Articles and their headings:** 3, Savings and Loan Institutions
- 5. **As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of March 14, 2017:**

- R20-4-301. Fidelity Bond -- A.R.S. § 6-420
- R20-4-303. Separate Trust Account -- A.R.S. § 6-449(C)(3)
- R20-4-304. Publication of Intent to Organize -- A.R.S. § 6-123
- R20-4-309. Sale and Servicing of Loans -- A.R.S. §§ 6-451, 6-402
- R20-4-318. Service Corporations -- A.R.S. § 6-446(5)
- R20-4-324. Give-aways -- A.R.S. § 6-444
- R20-4-325. Appraisal Requirements -- A.R.S. § 6-457
- R20-4-326. Capital Notes and Debentures -- A.R.S. § 6-405.01
- R20-4-327. Application for Permit to Organize a New Association -- A.R.S. § 6-408
- R20-4-328. Application for Approval to Establish a Branch Office -- A.R.S. § 6-475
- R20-4-330. First Payment Date on Loans -- A.R.S. § 6-449(E)

6. **Signature is of Nicole A. Ong** **Date of Signing**  
 /s/ March 17, 2017  
 Nicole A. Ong  
 Chairwoman

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## NOTICES OF RULEMAKING DOCKET OPENING

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This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

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### NOTICE OF RULEMAKING DOCKET OPENING

#### DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

[R17-44]

- 1. Title and its heading:** 18, Environmental Quality

**Chapter and its heading:** 2, Department of Environmental Quality – Air Pollution Control

**Article and its heading:** 7, Existing Stationary Source Performance Standards  
9, New Source Performance Standards

**Section numbers:** R18-2-731 and R18-2-901 (*As part of the rulemaking, any other sections may be added, amended, or deleted as necessary.*)
- 2. The subject matter of the proposed rule:**

The Arizona Department of Environmental Quality (ADEQ) is proposing to amend R18-2-731 and R18-2-901 to incorporate by reference new federal rules applicable to Municipal Solid Waste (MSW) landfills within the State of Arizona.

The purpose of this rulemaking is to reduce the amount of Nonmethane Organic Compound (NMOC) gas emissions from MSW landfills and provide an alternative site-specific emissions threshold methodology to demonstrate whether or not surface emissions are below a specific threshold.

On August 29, 2016, EPA promulgated new Emissions Guidelines (40 CFR 60, Subpart Cf) and NSPS (40 CFR 60, Subpart XXX) to update NMOC gas emissions standards for both new and existing MSW landfills. ADEQ is proposing to incorporate these new federal regulations in order for Arizona to retain its delegated authority from the U.S. Environmental Protection Agency (EPA) to implement and enforce New Source Performance Standards (NSPS) and Emissions Guidelines at MSW landfills within the State of Arizona and avoid a Federal Implementation Plan (FIP).

The rules will be part of a plan submitted to the EPA pursuant to Clean Air Act (CAA) Section 111(d).
- 3. A citation to all published notices relating to the proceeding:**  
Notice of Proposed Rulemaking: 23 A.A.R. 827, April 14, 2017 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Matt Ivers  
Address: Arizona Department of Environmental Quality  
1110 W. Washington St.  
Phoenix, AZ 85007  
Telephone: (602) 771-6723  
Fax: (602) 771-2299  
E-mail: Ivers.Matthew@azdeq.gov
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The public comment period for this rulemaking will take place between: April 14, 2017 – May 15, 2017.  
The public hearing for the rules will be conducted on: May 15, 2017 at 1:00 p.m.  
Arizona Department of Environmental Quality  
1110 W. Washington St., Room 145  
Phoenix, AZ 85007

More information can be found in the Notice of Proposed Rulemaking in this issue.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
See the Notice of Proposed Rulemaking.



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## GOVERNOR EXECUTIVE ORDERS

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The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

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### EXECUTIVE ORDER 2017-02

#### Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

[M17-23]

*Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2017, as a notice to the public regarding state agencies' rulemaking activities.*

**WHEREAS**, burdensome regulations inhibit job growth and economic development;

**WHEREAS**, job creators and entrepreneurs are especially hurt by red tape and regulations;

**WHEREAS**, all government agencies of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

**WHEREAS**, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

**WHEREAS**, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

**WHEREAS**, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

**NOW, THEREFORE, I**, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

1. A State agency subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
  - a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
  - b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
  - c. To prevent a significant threat to the public health, peace, or safety.
  - d. To avoid violating a court order or federal law that would result in sanctions by a court of the federal government against an agency for failure to conduct the rulemaking action.
  - e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
  - f. To comply with a state statutory requirement.
  - g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
  - h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
  - i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
  - j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. All directors of state agencies subject to this Order shall engage their respective regulated or stakeholder communities to solicit comment on which rules the regulated community believes to be overly burdensome and not necessary to protect consumers, public health, or public safety. Each agency shall submit a report regarding the aforementioned information to the Governor's Office no later than September 1, 2017.
4. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, "person," "rule," and "rulemaking" have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.



6. This Executive Order expires on December 31, 2017.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this Eleventh day of January in the Year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

**ATTEST:**

**Michele Reagan**  
**SECRETARY OF STATE**




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## REGISTER INDEXES

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The *Register* is published by volume in a calendar year (See “General Information” in the front of each issue for more information).

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

PN = Proposed new Section  
 PM = Proposed amended Section  
 PR = Proposed repealed Section  
 P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
 SPM = Supplemental proposed amended Section  
 SPR = Supplemental proposed repealed Section  
 SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**

FN = Final new Section  
 FM = Final amended Section  
 FR = Final repealed Section  
 F# = Final renumbered Section

**SUMMARY RULEMAKING****PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
 PSMM = Proposed Summary amended Section  
 PSMR = Proposed Summary repealed Section  
 PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**

FSMN = Final Summary new Section  
 FSMM = Final Summary amended Section  
 FSMR = Final Summary repealed Section  
 FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING****PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
 PEM = Proposed Expedited amended Section  
 PER = Proposed Expedited repealed Section  
 PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
 SPEM = Supplemental Proposed Expedited amended Section  
 SPER = Supplemental Proposed Expedited repealed Section  
 SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**

FEN = Final Expedited new Section  
 FEM = Final Expedited amended Section  
 FER = Final Expedited repealed Section  
 FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING****EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
 PXM = Proposed Exempt amended Section  
 PXR = Proposed Exempt repealed Section  
 PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
 SPXR = Supplemental Proposed Exempt repealed Section  
 SPXM = Supplemental Proposed Exempt amended Section  
 SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULEMAKING**

FXN = Final Exempt new Section  
 FXM = Final Exempt amended Section  
 FXR = Final Exempt repealed Section  
 FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**

EN = Emergency new Section  
 EM = Emergency amended Section  
 ER = Emergency repealed Section  
 E# = Emergency renumbered Section  
 EEXP = Emergency expired

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

TN = Terminated proposed new Sections  
 TM = Terminated proposed amended Section  
 TR = Terminated proposed repealed Section  
 T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**

EXP = Rules have expired  
*See also “emergency expired” under emergency rulemaking*

**CORRECTIONS**

C = Corrections to Published Rules

## 2017 Arizona Administrative Register Volume 23 Page Guide

Issue 1, Jan. 6, 2017.....1-92	Issue 6, Feb. 10, 2017.....319-436	Issue 11, March 17, 2017.....603-642
Issue 2, Jan. 13, 2017.....93-146	Issue 7, Feb. 17, 2017.....437-460	Issue 12, March 24, 2017.....643-688
Issue 3, Jan. 20, 2017.....147-204	Issue 8, Feb. 24, 2017.....461-482	Issue 13, March 31, 2017.....689-758
Issue 4, Jan. 27, 2017.....205-268	Issue 9, March 3, 2017.....483-572	Issue 14, April 7, 2017.....759-822
Issue 5, Feb. 3, 2017.....269-318	Issue 10, March 10, 2017.....573-602	

### RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the *Register* issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

**THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 14 OF VOLUME 23.**

**Accountancy, Board of**

R4-1-101.	PM-97
R4-1-341.	PM-97
R4-1-345.	PM-97
R4-1-453.	PM-97
R4-1-454.	PM-97
R4-1-455.	PM-97
R4-1-455.01.	PM-97
R4-1-455.02.	PM-97
R4-1-455.03.	PM-97
R4-1-455.04.	PM-97

**Achievement District Schools**

R7-8-101.	PXN-661
R7-8-201.	PXN-661

**Administration, Department of -  
Benefit Services Division**

R2-6-101.	PM-323
R2-6-105.	PM-323
R2-6-106.	PM-323
R2-6-107.	PM-323
R2-6-108.	PM-323
R2-6-204.	PM-323
R2-6-301.	PM-323
R2-6-302.	PM-323
R2-6-303.	PM-323

**Administration, Department of -  
Risk Management Division**

R2-10-504.	EXP-448
------------	---------

**Agriculture, Department of - Animal  
Services Division**

R3-2-205.	EXP-135
R3-2-403.	EXP-135
R3-2-621.	EXP-135
R3-2-622.	EXP-135

**Arizona Health Care Cost Contain-  
ment System - Administration**

R9-22-712.90.	FN-22
---------------	-------

**Barbers, Board of**

R4-5-103.	FM-490
-----------	--------

**Charter Schools, State Board for**

R7-5-101.	FM-693
R7-5-201.	FM-693
R7-5-202.	FM-693
R7-5-203.	FM-693
R7-5-204.	FM-693
R7-5-205.	FM-693
R7-5-206.	FM-693
R7-5-207.	FM-693
R7-5-208.	FN-693
R7-5-301.	F#-693; FN-693
R7-5-302.	F#-693; FN-693
R7-5-303.	F#-693; FN-693
R7-5-304.	F#-693
R7-5-401.	F#-693; FN-693
R7-5-402.	FN-693
R7-5-403.	FN-693
R7-5-404.	FN-693
R7-5-501.	FR-693; F#-693; FM-693
R7-5-502.	FR-693; F#-693; FM-693
R7-5-503.	FR-693; FN-693
R7-5-504.	FR-693; FN-693
R7-5-505.	FN-693
R7-5-506.	FN-693
R7-5-507.	FN-693
R7-5-508.	FN-693
R7-5-509.	FN-693
R7-5-510.	F#-693; FM-693
R7-5-601.	F#-693; FM-693
R7-5-602.	FN-693
R7-5-603.	FN-693
R7-5-604.	FN-693
R7-5-605.	FN-693

R7-5-606.	FN-693
R7-5-607.	FN-693

**Clean Elections Commission, Citi-  
zens**

R2-20-101.	FXM-113
R2-20-104.	FXM-115
R2-20-105.	FXM-117
R2-20-107.	FXM-119
R2-20-109.	FXM-121
R2-20-110.	FXM-124
R2-20-111.	FXM-126
R2-20-112.	FXM-128
R2-20-402.01.	FXM-130
R2-20-402.02.	FXN-131
R2-20-702.	PXM-610; PXM-658; PXM-722
R2-20-703.	FXM-133
R2-20-703.01.	PXN-610

**Economic Security, Department of -  
Child Support Enforcement**

R6-7-611.	EXP-466
R6-7-716.	EXP-466
R6-7-801.	EXP-466

**Economic Security, Department of -  
Developmental Disabilities**

R6-6-402.	EXP-465
-----------	---------

**Economic Security, Department of -  
Social Services**

R6-5-5501.	EXP-581
R6-5-5502.	EXP-581
R6-5-5503.	EXP-581
R6-5-5504.	EXP-581
R6-5-5505.	EXP-581
R6-5-5506.	EXP-581
R6-5-5507.	EXP-581
R6-5-5508.	EXP-581
R6-5-5509.	EXP-581

R6-5-5510.	EXP-581	R6-5-5838.	EXP-581	R18-2-312.	FM-333
R6-5-5511.	EXP-581	R6-5-5839.	EXP-581	R18-2-319.	FM-333
R6-5-5512.	EXP-581	R6-5-5840.	EXP-581	R18-2-320.	FM-333
R6-5-5513.	EXP-581	R6-5-5841.	EXP-581	R18-2-324.	FM-333
R6-5-5514.	EXP-581	R6-5-5842.	EXP-581	R18-2-326.	FM-333
R6-5-5515.	EXP-581	R6-5-5843.	EXP-581	R18-2-326.01.	EXP-613
R6-5-5516.	EXP-581	R6-5-5844.	EXP-581	R18-2-327.	FM-333
R6-5-5517.	EXP-581	R6-5-5845.	EXP-581	R18-2-330.	FM-333
R6-5-5518.	EXP-581	R6-5-5846.	EXP-581	R18-2-332.	FM-333
R6-5-5519.	EXP-581	R6-5-5847.	EXP-581	R18-2-334.	FM-333
R6-5-5520.	EXP-581	R6-5-5848.	EXP-581	R18-2-401.	FM-333
R6-5-5521.	EXP-581	R6-5-5849.	EXP-581	R18-2-402.	FM-333
R6-5-5522.	EXP-581	R6-5-5850.	EXP-581	R18-2-403.	FM-333
R6-5-5523.	EXP-581	R6-5-5903.	EXP-581	R18-2-404.	FM-333
R6-5-5524.	EXP-581	R6-5-5904.	EXP-581	R18-2-405.	FM-333
R6-5-5525.	EXP-581	R6-5-5906.	EXP-581	R18-2-406.	FM-333
R6-5-5526.	EXP-581	R6-5-5907.	EXP-581	R18-2-407.	FM-333
Appendix 1.	EXP-581	R6-5-5908.	EXP-581	R18-2-408.	FM-333
Appendix 2.	EXP-581	R6-5-5909.	EXP-581	R18-2-410.	FM-333
R6-5-5601.	EXP-465	R6-5-5910.	EXP-581	R18-2-411.	FN-333
R6-5-5602.	EXP-465	R6-5-6001.	EXP-581	R18-2-412.	FM-333
R6-5-5603.	EXP-465	R6-5-6002.	EXP-581	R18-2-502.	FM-333
R6-5-5604.	EXP-465	R6-5-6003.	EXP-581	R18-2-503.	FM-333
R6-5-5605.	EXP-465	R6-5-6004.	EXP-581	R18-2-504.	FM-333
R6-5-5606.	EXP-465	R6-5-6005.	EXP-581	R18-2-507.	FR-333
R6-5-5607.	EXP-465	R6-5-6006.	EXP-581	R18-2-508.	FR-333
R6-5-5608.	EXP-465	R6-5-6007.	EXP-581	R18-2-512.	FM-333
R6-5-5609.	EXP-465	R6-5-6008.	EXP-581	R18-2-513.	FM-333
R6-5-5610.	EXP-465	R6-5-6009.	EXP-581	R18-2-514.	FN-333
R6-5-5801.	EXP-581	R6-5-6010.	EXP-581	R18-2-515.	FN-333
R6-5-5802.	EXP-581	R6-5-6011.	EXP-581	R18-2-715.	FM-767
R6-5-5803.	EXP-581	R6-5-6012.	EXP-581	R18-2-715.01.	FM-767
R6-5-5804.	EXP-581	R6-5-6013.	EXP-581	R18-2-715.02.	FM-767
R6-5-5805.	EXP-581	R6-5-6014.	EXP-581	R18-2-1205.	FM-333
R6-5-5806.	EXP-581	R6-5-6015.	EXP-581	Appendix 1.	FR-333
R6-5-5807.	EXP-581	Exhibit 1.	EXP-581	R18-2-B1301.	FN-767
R6-5-5808.	EXP-581			R18-2-B1301.01.	FN-767
R6-5-5809.	EXP-581			R18-2-B1302.	FN-767
R6-5-5810.	EXP-581	<b>Education, State Board of</b>		R18-2-C1301.	FN-767
R6-5-5811.	EXP-581	R7-2-205.	FXM-725	R18-2-C1302.	FN-767
R6-5-5812.	EXP-581	R7-2-607.01	FXN-725	Appendix 14.	FN-767
R6-5-5813.	EXP-581	R7-2-612.	FXM-725	Appendix 15.	FN-767
R6-5-5814.	EXP-581	R7-2-614.	FXM-725	R18-2-1701.	EXP-135
R6-5-5815.	EXP-581	R7-2-617.	FXM-231	Table 1.	EXP-135
R6-5-5816.	EXP-581	R7-2-701.	FXM-725	R18-2-1702.	EXP-135
R6-5-5817.	EXP-581	R7-2-705.	FXM-725	R18-2-1703.	EXP-135
R6-5-5818.	EXP-581	R7-2-1304.	FXM-725	R18-2-1704.	EXP-135
R6-5-5819.	EXP-581	R7-2-1307.	FXM-725	R18-2-1705.	EXP-135
R6-5-5820.	EXP-581	R7-2-1308.	FXM-725	R18-2-1706.	EXP-135
R6-5-5821.	EXP-581			R18-2-1707.	EXP-135
R6-5-5822.	EXP-581			R18-2-1708.	EXP-135
R6-5-5823.	EXP-581	<b>Environmental Quality, Department of - Air Pollution Control</b>		Table 3.	EXP-135
R6-5-5824.	EXP-581	R18-2-101.	FM-333	R18-2-1709.	EXP-135
R6-5-5825.	EXP-581	R18-2-102.	FM-333		
R6-5-5826.	EXP-581	R18-2-201.	FM-333	<b>Game and Fish Commission</b>	
R6-5-5827.	EXP-581	R18-2-203.	FM-333	R12-4-402.	FM-492
R6-5-5828.	EXP-581	R18-2-217.	FM-333	R12-4-501.	PM-273
R6-5-5829.	EXP-581	R18-2-218.	FM-333	R12-4-502.	PM-273
R6-5-5830.	EXP-581	R18-2-301.	FM-333	R12-4-503.	PM-273
R6-5-5831.	EXP-581	R18-2-302.	FM-333	R12-4-504.	PM-273
R6-5-5832.	EXP-581	R18-2-302.01.	FM-333	R12-4-505.	PM-273
R6-5-5833.	EXP-581	R18-2-303.	FM-333	R12-4-506.	PM-273
R6-5-5834.	EXP-581	R18-2-304.	FM-333	R12-4-507.	PM-273
R6-5-5835.	EXP-581	R18-2-306.	FM-333	R12-4-509.	PM-273
R6-5-5836.	EXP-581	R18-2-306.01.	FM-333	R12-4-510.	PM-273
R6-5-5837.	EXP-581	R18-2-307.	FM-333	R12-4-511.	PM-273
		R18-2-311.	FM-333		

R12-4-513. PM-273  
 R12-4-514. PM-273  
 R12-4-515. PM-273  
 R12-4-516. PM-273  
 R12-4-517. PM-273  
 R12-4-520. PM-273  
 R12-4-521. PR-273  
 R12-4-522. PR-273  
 R12-4-524. PM-273  
 R12-4-526. PM-273  
 R12-4-527. PM-273  
 R12-4-529. PM-273  
 R12-4-530. PN-273

**Health Services, Department of -  
 Emergency Medical Services**

R9-25-601. PM-577  
 R9-25-602. PM-577

**Industrial Commission**

R20-5-301. EXP-297  
 R20-5-302. EXP-297  
 R20-5-303. EXP-297  
 R20-5-304. EXP-297  
 R20-5-305. EXP-297  
 R20-5-306. EXP-297  
 R20-5-307. EXP-297  
 R20-5-308. EXP-297  
 R20-5-309. EXP-297  
 R20-5-310. EXP-297  
 R20-5-311. EXP-297  
 R20-5-312. EXP-297  
 R20-5-313. EXP-297  
 R20-5-314. EXP-297  
 R20-5-315. EXP-297  
 R20-5-316. EXP-297  
 R20-5-317. EXP-297  
 R20-5-318. EXP-297  
 R20-5-319. EXP-297  
 R20-5-320. EXP-297  
 R20-5-321. EXP-297  
 R20-5-322. EXP-297  
 R20-5-323. EXP-297  
 R20-5-324. EXP-297  
 R20-5-325. EXP-297  
 R20-5-326. EXP-297  
 R20-5-327. EXP-297  
 R20-5-328. EXP-297  
 R20-5-329. EXP-297

**Insurance, Department of**

R20-6-204. EXP-136  
 R20-6-1001. PXM-151  
 R20-6-1002. PXM-151  
 R20-6-1003. PXM-151  
 R20-6-1004. PXM-151  
 R20-6-1005. PXM-151  
 R20-6-1006. PXM-151  
 R20-6-1007. PXM-151  
 R20-6-1008. PXM-151  
 R20-6-1009. PXM-151  
 R20-6-1010. PXM-151  
 R20-6-1011. PXM-151  
 R20-6-1012. PXR-151;  
 PX#-151;  
 PXM-151

R20-6-1013. PX#-151;  
 PXM-151  
 R20-6-1014. PX#-151;  
 PXM-151  
 R20-6-1015. PX#-151;  
 PXN-151  
 R20-6-1017. PXM-151  
 R20-6-1018. PXM-151  
 R20-6-1019. PXM-151  
 R20-6-1020. PXM-151  
 R20-6-1021. PXM-151  
 R20-6-1023. PXM-151  
 R20-6-1024. PX#-151;  
 PXN-151  
 R20-6-1025. PXN-151  
 R20-6-1026. PX#-151  
 Appendix A. PXM-151  
 Appendix B. PXM-151  
 Appendix C. PXM-151  
 Appendix D. PXM-151  
 Appendix E. PXM-151  
 Appendix F. PXM-151  
 Appendix H. PXM-151  
 Appendix I. PXM-151  
 Appendix J. PXM-151

**Land Department, State**

R12-5-1902. EXP-297

**Osteopathic Examiners in Medicine  
 and Surgery, Board of**

R4-22-104. FM-763  
 Table 1. FM-763  
 R4-22-207. FM-763

**Pharmacy, Board of**

R4-23-407.1. PN-5;  
 EN-31  
 R4-23-411. FM-211  
 R4-23-703. SPM-607

**Psychologist Examiners, Board of**

R4-26-401. FM-215  
 R4-26-403. FM-215  
 R4-26-404. FM-215  
 R4-26-404.1. FN-215  
 R4-26-405. FM-215  
 R4-26-406. FM-215  
 R4-26-407. FM-215  
 R4-26-408. FM-215  
 R4-26-409. FM-215  
 R4-26-410. FM-215  
 R4-26-414. FM-215  
 R4-26-417. FM-215

**Retirement System Board, State**

R2-8-117. FN-209  
 R2-8-124. PN-647  
 R2-8-125. PN-647  
 R2-8-201. EXP-34  
 R2-8-207. EXP-34  
 R2-8-301. PN-441  
 R2-8-302. PN-441  
 R2-8-303. PN-441  
 R2-8-304. PN-441  
 R2-8-305. PN-441

R2-8-306. PN-441  
 R2-8-401. FM-487  
 R2-8-403. FM-487  
 R2-8-405. FM-487  
 R2-8-801. PN-444  
 R2-8-802. PN-444  
 R2-8-803. PN-444  
 R2-8-804. PN-444  
 R2-8-805. PN-444  
 R2-8-806. PN-444  
 R2-8-807. PN-444  
 R2-8-808. PN-444  
 R2-8-809. PN-444  
 R2-8-810. PN-444

**Revenue, Department of - General  
 Administration**

R15-10-301. PM-108  
 R15-10-302. PM-108  
 R15-10-303. PM-108  
 R15-10-304. PM-108  
 R15-10-305. PM-108  
 R15-10-306. PM-108

**Transportation, Department of -  
 Commercial Programs**

R17-5-301. PM-7  
 R17-5-302. PM-7  
 R17-5-303. PM-7  
 R17-5-305. PM-7  
 R17-5-306. PM-7  
 R17-5-307. PM-7  
 R17-5-308. PM-7  
 R17-5-309. PM-7  
 R17-5-311. PM-7  
 R17-5-313. PM-7  
 R17-5-315. PM-7  
 R17-5-318. PM-7  
 R17-5-323. PM-7  
 R17-5-401. PN-16  
 R17-5-402. PM-16  
 R17-5-405. PM-16  
 R17-5-406. PM-16  
 R17-5-407. PM-16  
 R17-5-408. PM-16  
 R17-5-901. FR-223; FN-223  
 R17-5-902. FR-223; FN-223  
 R17-5-903. FR-223; FN-223  
 R17-5-904. FR-223; FN-223  
 R17-5-905. FR-223; FN-223  
 R17-5-906. FR-223; FN-223  
 R17-5-1001. FN-223  
 R17-5-1002. FN-223  
 R17-5-1003. FN-223  
 R17-5-1004. FN-223  
 R17-5-1005. FN-223  
 R17-5-1006. FN-223  
 R17-5-1007. FN-223  
 R17-5-1008. FN-223  
 R17-5-1009. FN-223

**Transportation, Department of -  
 Title, Registration, and Driver  
 Licenses**

R17-4-703. EXP-34  
 R17-4-711. EXP-34

**Water Resources, Department of**

R12-15-105. PM-650  
R12-15-401. PM-650

**OTHER NOTICES AND PUBLIC RECORDS INDEX**

Other notices related to rulemakings are listed in the Index by notice type, agency/county and by volume page number. Agency policy statements and proposed delegation agreements are included in this section of the Index by volume page number. Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index as published by volume page number.

**THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 14 OF VOLUME 23.**

**Agency Guidance Document, Notices of**

Health Services, Department of; p. 417

**Agency Ombudsman, Notice of**

Game and Fish Commission; p. 449  
Transportation, Department of; p. 309

**County Notices Pursuant to A.R.S. § 49-112**

Maricopa County; pp. 37-71; 236-256; 542-561

**Governor's Office**

**Executive Order:** pp. 540 (E.O. #2017-01); 540-541 (E.O. #2017-02)

**Governor Proclamations:** pp. 586-592 (M17-44 through M17-56); 625-629 (M17-64 through M17-71); 673-676 (M17-72 through M17-78)

**Governor's Regulatory Review Council**

Notices of Action Taken at Monthly Meetings: pp. 264-265; 479-480; 639-640

**Oral Proceeding on Proposed Rulemaking, Notice of**

Administration, Department of - Benefit Services Division; p. 450  
Insurance, Department of; pp. 234-235

**Proposed Delegation Agreement, Notices of**

Environmental Quality, Department of; pp. 35-36; 525-526; 617-621; 669  
Health Services, Department of; pp. 526-537

**Public Information, Notices of**

Board of Regents, Arizona; pp. 418-427  
Economic Security, Department of; p. 622  
Environmental Quality, Department of; pp. 300-306  
Health Services, Department of - Emergency Medical Services; p. 538  
Industrial Commission of Arizona; p. 467

**Rulemaking Docket Opening, Notices of**

Administration, Department of - Benefit Services Division; 2 A.A.C. 6; pp. 415-416  
Game and Fish Commission; 12 A.A.C. 4; p. 299  
Health Services, Department of - Medical Marijuana Program; 9 A.A.C. 17; p. 614  
Pharmacy, Board of; 4 A.A.C. 23; p. 137  
Psychologist Examiners, Board of; 4 A.A.C. 26; p. 524  
Retirement System Board, State; 2 A.A.C. 8; p. 667  
Revenue, Department of; 15 A.A.C. 10; p. 138  
Water Infrastructure Finance Authority of Arizona; 18 A.A.C. 15; p. 615  
Water Resources, Department of; 12 A.A.C. 15; p. 667

**Substantive Policy Statement, Notices of**

Contractors, Registrar of; p. 468  
Health Services, Department of; p. 193  
Insurance, Department of; p. 194  
Land Department, State; pp. 469-470  
Psychologist Examiners, Department of; p. 539  
Water Infrastructure Finance Authority; pp. 307-308



RULE EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

Table with 12 columns: January, February, March, April, May, June. Each month has sub-columns for Date Filed and Effective Date. Rows list dates from 1/1 to 1/31 and corresponding effective dates.



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from October 2016 to April 2017.



### GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit [www.grrc.state.az.us](http://www.grrc.state.az.us).

### GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES FOR 2017

[M16-300]

DEADLINE FOR PLACEMENT ON AGENDA	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 22, 2016	Tuesday December 20, 2016	Wednesday December 28, 2016	Wednesday January 4, 2017
Tuesday December 27, 2016	Tuesday January 24, 2017	Tuesday January 31, 2017	Tuesday February 7, 2017
Tuesday January 24, 2017	Tuesday February 21, 2017	Tuesday February 28, 2017	Tuesday March 7, 2017
Tuesday February 21, 2017	Tuesday March 21, 2017	Tuesday March 28, 2017	Tuesday April 4, 2017
Tuesday March 21, 2017	Tuesday April 18, 2017	Tuesday April 25, 2017	Tuesday May 2, 2017
Tuesday April 25, 2017	Tuesday May 23, 2017	Wednesday May 31, 2017	Tuesday June 6, 2017
Tuesday May 23, 2017	Tuesday June 20, 2017	Tuesday June 27, 2017	Thursday July 6, 2017
Tuesday June 20, 2017	Tuesday July 18, 2017	Tuesday July 25, 2017	Tuesday August 1, 2017
Tuesday July 25, 2017	Tuesday August 22, 2017	Tuesday August 29, 2017	Wednesday September 6, 2017
Tuesday August 22, 2017	Tuesday September 19, 2017	Tuesday September 26, 2017	Tuesday October 3, 2017
Tuesday September 26, 2017	Tuesday October 24, 2017	Tuesday October 31, 2017	Tuesday November 7, 2017
Tuesday October 24, 2017	Tuesday November 21, 2017	Tuesday November 28, 2017	Tuesday December 5, 2017
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday December 27, 2017	Wednesday January 3, 2018

\*Materials must be submitted by 5 P.M. on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.