



Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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Information 3194

Rulemaking Guide 3195

RULES AND RULEMAKING

Proposed Rulemaking, Notices of

 2 A.A.C. 12 Office of the Secretary of State..... 3197

 9 A.A.C. 10 Department of Health Services - Health Care Institutions: Licensing..... 3201

OTHER AGENCY NOTICES

Docket Opening, Notices of Rulemaking

 2 A.A.C. 12 Office of the Secretary of State..... 3208

Substantive Policy Statement, Notices of Agency

 Board of Technical Registration..... 3209

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..... 3210

INDEXES

 Register Index Ledger..... 3212

 Rulemaking Action, Cumulative Index for 2017..... 3213

 Other Notices and Public Records, Cumulative Index for 2017..... 3227

CALENDAR/DEADLINES

 Rules Effective Dates Calendar..... 3229

 Register Publishing Deadlines..... 3231

GOVERNOR'S REGULATORY REVIEW COUNCIL

 Governor's Regulatory Review Council Deadlines..... 3232

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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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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., and 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 page.

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This publication is available online for
free at www.azsos.gov.

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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an equal opportunity employer.*

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.

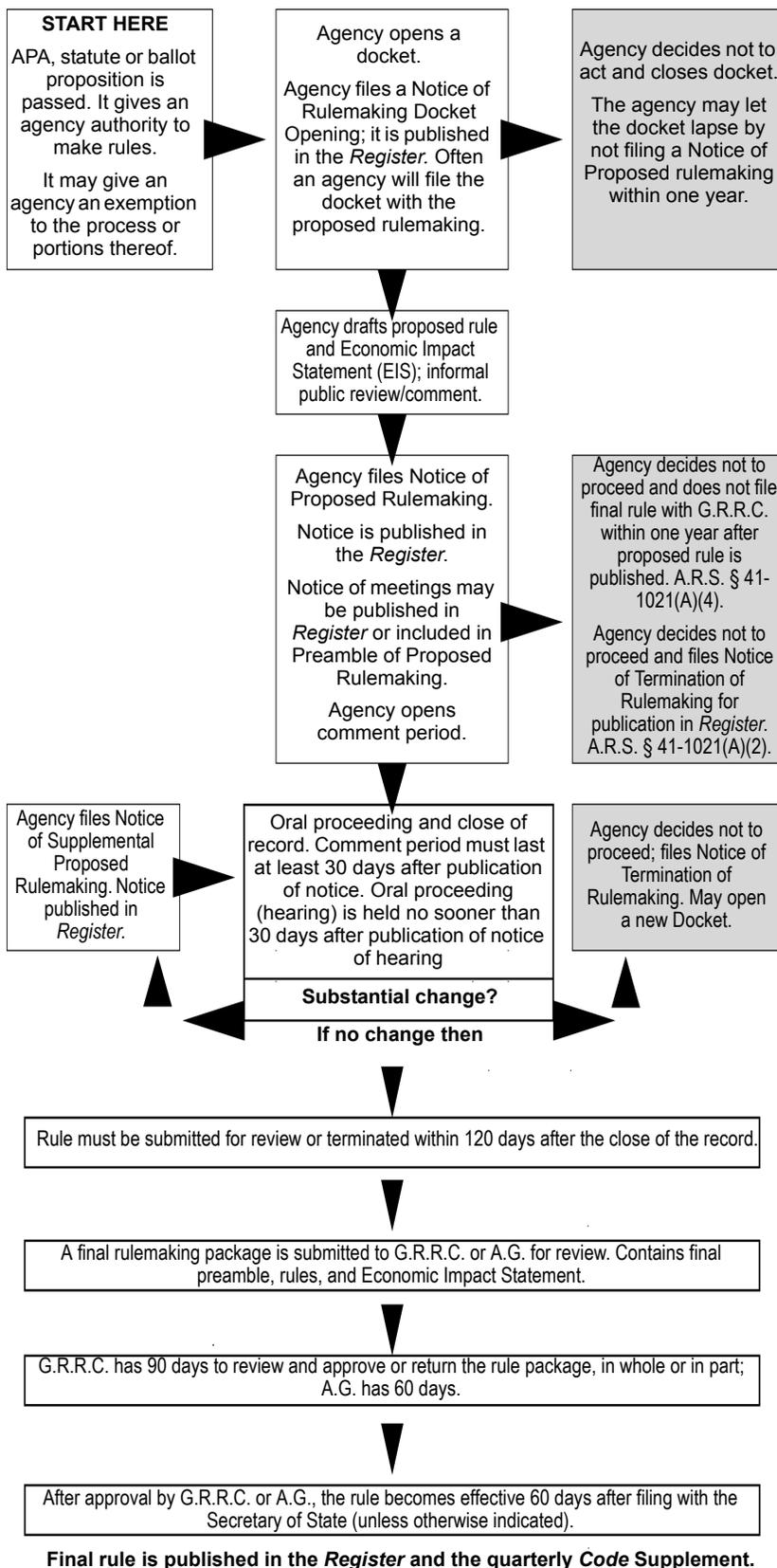
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

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.

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

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at 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.

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.

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.



NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 12. DEPARTMENT OF STATE - OFFICE OF THE SECRETARY OF STATE

[R17-221]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| Article 1 | New Article |
| R2-12-101 | New Section |
| R2-12-102 | New Section |
| R2-12-103 | New Section |
| R2-12-104 | New Section |
| R2-12-105 | New Section |
| R2-12-106 | New Section |
| R2-12-107 | New Section |
| R2-12-108 | New Section |
| R2-12-109 | New Section |
| R2-12-110 | New Section |
- 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. § 41-130
 Implementing statute: A.R.S. §§ 41-130 and 41-121(3)
 - 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 23 A.A.R. 3208, November 17, 2017 (*in this issue*)
 - 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Scott Cancelosi, Director
 Mailing address: Administrative Rules Division
 Office of the Secretary of State
 1700 W. Washington St., 7th Floor
 Phoenix, AZ 85007
 Telephone: (602) 542-0223
 E-mail: scancelosi@azsos.gov
 - 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
 These standards are necessary to ensure the integrity of the use of the Great Seal of Arizona. The standards also help to preserve the Great Seal of Arizona as a historical artifact.
 - 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:**
 The Secretary of State's Office does not plan to review or rely on a study for any of the rules in this rulemaking. These rules are however similar in the scope of seal usage in other states.
 - 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:**
 Not applicable



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

Since the Office already grants the use of the Great Seal of Arizona to state agencies upon request, agencies shall continue to incur the financial costs associated with its use. Therefore these proposed rules shall have minimal impact on state agencies. Agencies may find that approved vendors as stated on the Certificate of Approval may reduce the cost of its use.

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

Name: Scott Cancelosi, Director
Mailing address: Administrative Rules Division
Office of the Secretary of State
1700 W. Washington St., 7th Floor
Phoenix, AZ 85007
Telephone: (602) 542-0223
E-mail: scancelosi@azsos.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:

An oral proceeding is not scheduled. Persons may request an oral proceeding by contacting the Office's contact listed under item 4. If an oral proceeding is not requested, the rulemaking record will close 30 days upon publication of this notice in the Register.

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:

This proposed rule is not subject to Council review.

- 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 of the competitiveness of business in this state to the impact on business in other states:**
Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 12. DEPARTMENT OF STATE - OFFICE OF THE SECRETARY OF STATE

ARTICLE 1. REPEALED THE GREAT SEAL OF THE STATE OF ARIZONA

Section	
<u>R2-12-101.</u>	<u>Definitions</u>
<u>R2-12-102.</u>	<u>Official Seal Description</u>
<u>R2-12-103.</u>	<u>Prohibited Use</u>
<u>R2-12-104.</u>	<u>Seal Preservation</u>
<u>R2-12-105.</u>	<u>Exemptions</u>
<u>R2-12-106.</u>	<u>Application Process</u>
<u>R2-12-107.</u>	<u>Standards for Approval or Disapproval</u>
<u>R2-12-108.</u>	<u>Approval and Certificate</u>
<u>R2-12-109.</u>	<u>Notice of Disapproval of Application</u>
<u>R2-12-110.</u>	<u>Violation of Use</u>

ARTICLE 1. REPEALED THE GREAT SEAL OF THE STATE OF ARIZONA

R2-12-101. Definitions

Unless the context requires otherwise, the definitions in this Section apply to this Article.

- 1. "Agency" means, for the purposes of this Article, the state's executive, legislative and judicial departments and its subdivisions, including any authority, board, commission, council, department, division, office, or unit. State agency includes public universities.
- 2. "Applicant" means a person who is at least 18 years old, who applies for use of the seal.
- 3. "Article 22" means the Arizona Constitution, Article 22, Schedule and Miscellaneous § 20, Design of State Seal.
- 4. "Seal" is the Great Seal of Arizona as defined in the Arizona Constitution, Article 22, Schedule and Miscellaneous § 20, Design of State Seal.



5. “Mottor seal” The Great State of Arizona Seal designed by E.E. Motter.
6. “Secretary” is the Arizona Secretary of State or designee.
7. “Historical artifact” means an object produced or shaped by human craft, of significant historical or archaeological interest.
8. “Imply endorsement” or “endorsement” means that it looks like the seal is being used, or is being used to promote, recommend, approve, or guarantee a business, organization, idea, product, or service. The seal cannot be used to endorse a business even if a company has contracted with the state as a vendor or if it has had a product certified for use by an agency.
9. “Notary Public” has the same meaning as in A.R.S. § 41-311(8). A Notary Public is commissioned by the Secretary of State and is an officer of the state.
10. “Office” means the Department of State, Office of the Secretary of State.
11. “Peace officer” shall have the same meaning as under A.R.S. § 1-215(27).
12. “Permanent seal” means a seal in place before the adoption of this Article and is:
 - a. Part of the interior or exterior of a building’s facade, which are embedded or attached to a:
 - i. Wall;
 - ii. Column or post;
 - iii. Door;
 - iv. Doorknob; or
 - iv. Flooring.
 - b. Part of signage, benches, statues, monuments or memorials, which are embedded or attached or:
 - i. Etched in glass;
 - ii. Precasted or sculptured, in metal, concrete or plaster;
 - iii. Carved in stone or wood; or
 - iv. Engraved.
 - c. Printed on paper or on an electronic publication, report, document, award or certificate; or
 - d. Engraved on an award or a certificate.
12. “Political or campaign purposes” means all uses related to past, present, or future political campaigns;
13. “Vendor” means a business, supplier, or firm that offers goods or services under state contract.

R2-12-102. Official Seal Description

- A. The design of the state seal is located in the Arizona Constitution, Article 22, § 20.
- B. The official seal of record is the Motter seal issued by the Office.
- C. The following shall be official color schemes:
 1. Black and white;
 2. Full color (color pallet available from the office and posted on the Secretary of State’s website at: <https://www.azsos.gov/about-office/great-seal-arizona>);
 3. Metallic Copper, PMS 876; or
 4. Metallic Gold, PMS 871.
 5. The Department of Public Safety shall use state seals on its badges with a gold-metal finish.
 - a. Wallet and hat badges. The circular band surrounding the motto and shield shall be blue enamel with the inscription “Great Seal of the State of Arizona” and 1912 in gold-metal finish.
 - b. Breast badges shall have the circular band surrounding the motto and shield in gold finish with the inscription “Great Seal of the State of Arizona” and 1912 in gold-metal finish.
- D. The seal shall not be distorted, manipulated or cropped in any shape or manner, nor an element added or removed.
- E. The seal shall not be merged into another illustration, nor shall text or graphics be superimposed over the image.

R2-12-103. Prohibited Use

- A. No person or entity shall manufacture, display, copy or reproduce the seal without first applying for use under R2-12-106 and receiving an approval certificate under R2-12-107 unless exempt under R2-12-105.
- B. A person, business or entity shall not use the seal, a part of the seal, or a deceptively similar looking or imitation of the seal that could suggest an endorsement from or relationship with the State of Arizona or state agency.
- C. No person, candidate, political committee, or organization shall use the state seal:
 1. On political campaign materials, political advertising or on political collateral material; or
 2. To advocate on behalf of or against a candidate for public office or a ballot measure.

R2-12-104. Seal Preservation

- A. Green Initiative:
 1. A state seal created as a wall plaque or on signage shall be preserved and put in storage if a building is being renovated, demolished, or sold by the State of Arizona to a private entity.
 2. Any state seal removed under subsection (A)(1) shall be maintained by the Arizona Department of Administration (ADOA) and re-purposed. If the seal is deemed a historical artifact under (B)(1) and is not re-purposed, ADOA shall provide the seal to Archives and Records Management, a division of Arizona State Library, Archives and Public Records.
- B. Protection of a state seal more than 50 years old:



1. A state seal shall be protected and preserved as a historical artifact if it is located on or in a building on the National Register of Historic Places (36 C.F.R. 67). Examples include but are not limited to a seal attached to a building’s facade, wall, floor, column, post, door, doorknob, or etched in glass.
2. A state seal preserved as a historical artifact under subsection (B)(1) shall not be tampered with, removed, vandalized, mutilated, defaced, or abused contemptuously. A person or persons suspected of causing damage to a state seal shall be referred to the proper law enforcement agency. For the purposes of this subsection any authorized personnel may, if necessitated, remove a state seal for preservation under subsection (A)(1) or for repair.
3. An agency may use signage, stanchions, rope or queue barriers, protective glass, plexiglass or other acceptable means to protect a state seal under subsection (B)(1). A person or persons suspected of removing a protective barrier to preserve a state seal under subsection (B)(1) shall result in the removal of the person or persons by the proper law enforcement agency. If the removal of barriers causes damage to a state seal, the person or persons suspected of causing the damage shall be referred to the proper law enforcement agency.

R2-12-105. Exemptions

A. All state agencies shall be exempt from applying to use the Motter state seal on the following:

1. Office supplies and materials to include:
 - a. Business cards.
 - b. Business forms.
 - c. Envelopes.
 - d. Fax cover sheets.
 - e. Folders.
 - f. Invitations and printed cards.
 - g. Letterhead and stationary.
 - h. Memo pads.
 - i. Name plates, table tents and name tags.
 - j. Pens and pencils.
 - k. Plaques, awards, and certificates.
 - l. Postcards.
 - m. Rubber stamps, self-inking rubber stamps.
 - n. Signage to include wood, concrete, magnetic, glass etching, metal, polystyrene, plastic or acrylic, and vinyl decals, and
 - o. Wall and podium decor.
2. Licensing applications and permits;
3. Agency reports, handbooks or other agency publications;
4. Aircraft, state owned or leased as defined under A.R.S. § 42-14251(2);
5. Boat or watercraft, state owned or leased as defined under A.R.S. § 5-301; and
6. Motor vehicle as defined under A.R.S. § 28-101(37).

B. All Arizona peace officers, fire and EMS shall be exempt from applying to use the state seal on the following:

1. Uniforms;
2. Hats;
3. Vests or jackets;
4. Shirts; and
5. Breast, wallet and hat badges.

C. All state universities shall be exempt from applying for use on diplomas.

D. All persons shall be exempt from applying to use the state seal if it is to be used for educational purposes or in classroom civics lessons.

E. Agencies shall use the Motter state seal on websites, blogs and social media sites under state agency control.

F. Exemptions under this Section shall use the Motter seal under R2-12-102. The seal is available upon request from the Office or available for download at www.azsos.gov/about-office/great-seal-arizona.

G. Any permanent seal in place before the adoption of this Article is exempt and does not have to be removed or replaced.

H. Upon the adoption of this Article any item with a seal other than the Motter seal listed under subsections (A)(1), (2) and (3) shall be used and consumed until the stock has been depleted. Once depleted, the Motter seal shall be used on items listed under subsections (A)(1), (2) and (3).

I. A vendor intending to produce items listed under subsections (A) and (B) shall apply to use the state seal.

R2-12-106. Application Process

A. Any person, government agency, company, vendor or business shall apply to obtain approval from the Secretary to use the state seal unless exempt under the provisions listed in R2-12-105.

B. The application shall be in writing and include a description of intended use. The application shall include:

1. The purpose and place of use; and
2. What type of materials, if applicable, will be used to produce the seal.

C. If necessary, photos or drawings may be submitted or attached to the application. If a vendor intends to receive permission to use the state seal on a notary self-inking stamp, the applicant shall review and follow the requirements listed in A.R.S. §§ 41-313(E) and 41-321.

D. The applicant contact information shall include:

1. First and last name;
2. Title, if applicable;
3. Name of governmental agency or business, and division, making the request, if applicable;



Telephone: (602) 542-6383
 Fax: (602) 364-4808
 E-mail: Colby.Bower@azdhs.gov
 or
 Name: Robert Lane, Chief
 Address: Arizona Department of Health Services
 Office of Administrative Counsel and Rules
 150 N. 18th Ave., Suite 200
 Phoenix, AZ 85007
 Telephone: (602) 542-1020
 Fax: (602) 364-1150
 E-mail: Robert.Lane@azdhs.gov

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

Arizona Revised Statutes (A.R.S.) § 36-405 requires the Arizona Department of Health Services (Department) to adopt rules establishing minimum standards and requirements for the construction, modification, and licensure of health care institutions necessary to assure public health, safety, and welfare. In Arizona Administrative Code (A.A.C.) Title 9, Chapter 10, Article 1, the Department has implemented requirements related to this statute that are applicable to more than one class or subclass of health care institution.

In the last 15 years, prescription opioid sales in the United States have risen by 300%, resulting in more than 33,000 opioid overdose deaths in 2015 nationwide. In Arizona, 790 individuals died in 2016 of an opioid overdose, a 74% increase since 2012. This figure represents over half of all drug overdoses in Arizona in 2016. In response to this epidemic, Governor Doug Ducey, on June 5, 2017, issued a Declaration of Emergency (Opioid Overdose Epidemic). In compliance with the Governor's Declaration of Emergency and after obtaining an exception from the rulemaking moratorium established by Executive Order 2017-02, the Department has adopted a rule in 9 A.A.C. 10, Article 1 for licensed health care institutions through emergency rulemaking. The emergency rule, effective July 28, 2017, requires licensed health care institutions to establish, document, and implement policies and procedures for prescribing, ordering, or administering opioids as part of treatment; to include specific processes related to opioids in a licensed health care institution's quality management program; and to notify the Department of the death of a patient from an opioid overdose. The Department also specified requirements with which an individual will need to comply before prescribing opioids, ordering opioids, or administering opioids in the treatment of a patient. To reduce the burden on licensed health care institutions, the Department exempted the prescription, ordering, or administration of opioids as part of treatment for a patient with a terminal condition.

Concurrent with this emergency action, the Department initiated a regular rulemaking to address opioid-related deaths in licensed health care institutions. As part of this rulemaking, the Department is revising what is in the emergency rulemaking to address stakeholder concerns and improve the effectiveness of the rule. By providing licensed health care institutions with comprehensive requirements related to the prescription and use of opioids in treatment, the Department anticipates an immediate effect on opioid prescribing practices, a decrease in the number of unnecessary opioid prescriptions, and an attendant reduction in overdose-related events thereafter. The proposed amendments will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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:

The Department based the need for this rulemaking on the following two documents:

- a. The Department's "2016 Arizona Opioid Report," available at <http://azdhs.gov/documents/audiences/clinicians/clinical-guidelines-recommendations/prescribing-guidelines/arizona-opioid-report.pdf>; and
- b. The U.S. Centers for Disease Control and Prevention's Morbidity and Mortality Weekly Report (MMWR) "Vital Signs: Changes in Opioid Prescribing in the United States, 2006-2015," published July 7, 2017, available at https://www.cdc.gov/mmwr/volumes/66/wr/mm6626a4.htm?s_cid=mm6626a4_w.

Both documents present factual data describing the extent of the opioid epidemic in Arizona and the United States, respectively.

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:

Not applicable

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

Annual cost/revenue changes are designated as minimal when \$10,000 or less, moderate when between \$10,000 and \$50,000, and substantial when \$50,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification. The Department anticipates that persons affected by the rulemaking include the Department, licensed health care institutions, individuals prescribing or ordering an opioid on behalf of a licensed health care institution, individuals administering an opioid to a patient on behalf of a licensed health care institution or providing assistance in the self-administration of medication for a patient's prescribed opioid, patients of licensed health care institutions and their families, and the general public.

The Department will receive a significant benefit from having a rule that specifically address opioid prescribing and treatment in licensed health care institutions by being better able to, and more easily, assess whether a licensed health care institution is ade-



quately addressing the opioid epidemic occurring in Arizona. Since AHCCCS pays for a large proportion of health care costs in Arizona, the Department believes that AHCCCS may receive up to a substantial cost savings through a reduction in the number of hospitalizations or emergency department visits from individuals suffering an opioid overdose as a result of opioids prescribed, ordered, or administered as part of treatment in licensed health care institutions. Other third-party payors may also receive up to a substantial cost savings, depending on the number of subscribers who are spared from an opioid overdose because of the rule.

For most licensed health care institutions, the Department believes that making changes to their policies and procedures to specifically address opioids would cause the licensed health care institution to incur a minimal cost, although there may be a few with extensive ordering, prescribing, or administration policies and procedures that could incur a moderate cost. Having these policies and procedures in place may provide a significant benefit to a licensed health care institution from the clarity and specificity of the requirements, which may lead to fewer opioid-related adverse reactions or other negative outcomes for a patient. The Department anticipates that specific processes related to opioids could be incorporated into a licensed health care institution's existing quality management program and, for most licensed health care institutions, believes that including these processes may cause the licensed health care institution to incur minimal costs. If a licensed health care institution identifies a larger number of opioid-related adverse reactions or other negative patient outcomes through their revised quality management program, and then investigates and makes changes or take actions as a result of the identification of a concern, the cost incurred by the licensed health care institution may be higher. As stated above, having specific processes related to opioids as part of a licensed health care institution's quality management program may provide a significant benefit to the licensed health care institution from the clarity and specificity of the requirements, which may lead to fewer opioid-related adverse reactions or other negative outcomes for patients. The Department anticipates that licensed health care institutions not already reporting deaths to the Department may incur a minimal-to-moderate increase in costs for reporting these deaths, depending on the number of opioid-related deaths being reported. The rule also specifies some clinical requirements that the administrator of a licensed health care institution is required to ensure take place. These requirements may impose minimal-to-substantial increased cost on a health care institution depending on what practices the health care institution is currently employing. The requirements in the rule related to the administration of an opioid to a patient or to providing assistance in the self-administration of medication for a prescribed opioid may cause a licensed health care institution to incur at most a minimal increased cost.

The rule affects medical practitioners (physicians, physician assistants, and registered nurse practitioners) who work for licensed health care institutions through requirements imposed on these licensed health care institutions. The Department believes that the rule may cause an affected medical practitioner to incur minimal-to-moderate additional costs, depending on the number of patients for whom the medical practitioner orders, prescribes, or administers opioids, and to receive a significant benefit from providing better care to a patient. The Department estimates that the requirements in subsection (E) may cause a personnel member to incur at most a minimal cost and to receive a significant benefit from providing better care to a patient.

Since the requirements in the rule were designed to improve the health and safety of patients receiving an opioid medication as part of treatment in a licensed health care institution, the Department anticipates that patients and their families may receive a significant benefit from the requirements in the rule. If a licensed health care institution passes on any increases in cost due to the rule, a patient could incur a minimal increase in the cost of services provided by the licensed health care institution. The Department anticipates that the general public will receive a significant benefit from the rule, which was developed to help combat the opioid overdose epidemic and reduce the number of opioid overdose deaths.

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

Name: Colby Bower, Assistant Director
 Address: Department of Health Services
 Public Health Licensing Services
 150 N. 18th Ave., Suite 510
 Phoenix, AZ 85007
 Telephone: (602) 542-6383
 Fax: (602) 364-4808
 E-mail: Colby.Bower@azdhs.gov

or
 Name: Robert Lane, Chief
 Address: Arizona Department of Health Services
 Office of Administrative Counsel and Rules
 150 N. 18th Ave., Suite 200
 Phoenix, AZ 85007
 Telephone: (602) 542-1020
 Fax: (602) 364-1150
 E-mail: Robert.Lane@azdhs.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:

The Department has scheduled the following oral proceeding:

Date and time: Monday, December 18, 2017, 11:00 a.m.
 Location: 150 N. 18th Ave., Room 540A
 Phoenix, AZ 85007
 Close of record: Monday, December 18, 2017, 4:00 p.m.



A person may submit written comments on the proposed rule no later than the close of record to either of the individuals listed in items 4 and 9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Robert Lane at Robert.Lane@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

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:

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:

The rule does not require a permit.

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 of the competitiveness of business in this state to the impact on business in other states:

No business competitiveness analysis was received by the Department.

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

Not applicable

13. The full text of the rules follows:

**TITLE 9. HEALTH SERVICES
CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSING**

ARTICLE 1. GENERAL

Section
R9-10-120. Opioid Prescribing and Treatment

ARTICLE 1. GENERAL

R9-10-120. Opioid Prescribing and Treatment

A. In addition to the definitions in A.R.S. § 36-401(A) and R9-10-101, the following definitions apply this Section:

1. "Active malignancy" means a cancer for which:
 - a. A patient is undergoing treatment, such as through:
 - i. One or more surgical procedures to remove the cancer;
 - ii. Chemotherapy, as defined in A.A.C. R9-4-401; or
 - iii. Radiation treatment, as defined in A.A.C. R9-4-401;
 - b. There is no treatment; or
 - c. A patient is refusing treatment.
2. "Benzodiazepine" means any one of a class of sedative-hypnotic medications, characterized by a chemical structure that includes a benzene ring linked to a seven-membered ring containing two nitrogen atoms, that are commonly used in the treatment of anxiety.
3. "End-of-life" means that a patient has a documented life expectancy of six months or less.
4. "Episode of care" means medical services, nursing services, or health-related services provided by a health care institution to a patient for a specific period of time, ending in discharge or the completion of the patient's treatment plan, whichever is later.
5. "Opioid" means a controlled substance, as defined in A.R.S. § 36-2501, that meets the definition of "opiate" in A.R.S. § 36-2501.
6. "Order" means to issue written, verbal, or electronic instructions for a specific dose of a specific medication in a specific quantity and route of administration to be obtained and administered to a patient in a health care institution.
7. "Prescribe" means to issue written or electronic instructions to a pharmacist to dispense a specific dose of a specific medication in a specific quantity and route of administration directly to a patient.
8. "Sedative-hypnotic medication" means any one of several classes of drugs that have sleep-inducing, anti-anxiety, anti-convulsant, and muscle-relaxing properties.
9. "Short-acting opioid antagonist" means a drug approved by the U.S. Department of Health and Human Services, Food and Drug Administration, that, when administered, quickly but for a small period of time reverses, in whole or in part, the pharmacological effects of an opioid in the body.
10. "Substance use disorder" means a condition in which the misuse or dependence on alcohol or a drug results in adverse physical, mental, or social effects on an individual.
11. "Substance use risk assessment" means an evaluation of an individual's unique likelihood for addiction, misuse, diversion, or another adverse consequence resulting from the individual being prescribed or receiving treatment with opioids.
12. "Tapering" means the gradual reduction in the dosage of a medication administered to a patient, often with the intent of eventually discontinuing the use of the medication for the patient.



- B.** An administrator of a health care institution where opioids are prescribed or ordered as part of treatment shall:
1. Establish, document, and implement policies and procedures for prescribing or ordering an opioid as part of treatment, to protect the health and safety of a patient, that:
 - a. Cover which personnel members may prescribe or order an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. As applicable and except when contrary to medical judgment for a patient, are consistent with the Arizona Opioid Prescribing Guidelines or national opioid-prescribing guidelines, such as guidelines developed by the:
 - i. Centers for Disease Control and Prevention, or
 - ii. U.S. Department of Veterans Affairs and the U.S. Department of Defense;
 - c. Include how, when, and by whom:
 - i. A patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database is reviewed;
 - ii. A substance use risk assessment of a patient is conducted;
 - iii. The potential risks, adverse outcomes, and complications, including death, associated with the use of opioids are explained to a patient or the patient's representative;
 - iv. Alternatives to a prescribed or ordered opioid are explained to a patient or the patient's representative;
 - v. Informed consent is obtained from a patient or the patient's representative;
 - vi. A patient receiving an opioid is monitored; and
 - vii. The actions taken according to subsections (B)(1)(c)(i) through (vi) are documented;
 - d. Address conditions that may impose a higher risk to a patient when prescribing or ordering an opioid as part of treatment, including:
 - i. Concurrent use of a benzodiazepine or other sedative-hypnotic medication,
 - ii. History of substance use disorder,
 - iii. Co-occurring behavioral health issue, or
 - iv. Pregnancy;
 - e. Cover the criteria for co-prescribing a short-acting opioid antagonist for a patient;
 - f. Include that, if continuing control of a patient's pain after discharge is medically indicated due to the patient's medical condition, a method for continuing pain control will be addressed as part of discharge planning;
 - g. Include the frequency of the following for a patient being prescribed or ordered an opioid for longer than a 30-calendar-day period:
 - i. Face-to-face interactions with the patient,
 - ii. Conducting a substance use risk assessment of the patient,
 - iii. Renewal of a prescription or order for an opioid without a face-to-face interaction with the patient, and
 - iv. Monitoring the effectiveness of the treatment;
 - h. If applicable according to A.R.S. § 36-2608, include documenting a dispensed opioid in the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - i. Cover the criteria and procedures for tapering opioid prescription or ordering as part of treatment; and
 - j. Cover the criteria and procedures for offering or referring a patient for treatment for substance use disorder;
 2. Include in the plan for the health care institution's quality management program a process for:
 - a. Review of known incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths; and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (B)(1);
 3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, or as provided in subsection (G), ensure that, if a patient's death may be related to an opioid prescribed or ordered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the health care institution learns of the patient's death; and
 4. Ensure that informed consent required from a patient or the patient's representative includes:
 - a. The patient's:
 - i. Name,
 - ii. Date of birth or other patient identifier, and
 - iii. Condition for which opioids are being prescribed;
 - b. That an opioid being prescribed or ordered;
 - c. The potential risks, adverse reactions, complications, and medication interactions associated with the use of an opioid;
 - d. If applicable, the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication;
 - e. Alternatives to a prescribed opioid;
 - f. Name and signature of the individual explaining the use of an opioid to the patient; and
 - g. The signature of the patient or patient's representative and the date signed.
- C.** Except as provided in subsection (G), an administrator of a health care institution where opioids are prescribed as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to prescribe an opioid in treating a patient:
1. Before prescribing an opioid for a patient of the health care institution:
 - a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted during the patient's same episode of care;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;



- c. Conducts a substance use risk assessment of a patient or reviews the documentation from a substance use risk assessment conducted during the same episode of care by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct a substance use risk assessment of the patient;
 - d. Explains to the patient the risks and benefits associated with the use of opioids or ensures that the patient understands the risks and benefits associated with the use of opioids, as explained to the patient by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to explain to the patient the risks and benefits associated with the use of opioids;
 - e. Explains alternatives to a prescribed opioid; and
 - f. Obtains informed consent from the patient or the patient’s representative that meets the requirements in subsection (B)(4), including the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication, if the patient:
 - i. Is also prescribed or ordered a sedative-hypnotic medication; or
 - ii. Has been prescribed a sedative-hypnotic medication by another medical practitioner;
2. Includes the following information in the patient’s medical record, an existing treatment plan, or a new treatment plan developed for the patient:
- a. The patient’s diagnosis;
 - b. The patient’s medical history, including co-occurring disorders;
 - c. The opioid to be prescribed;
 - d. Other medications or herbal supplements being taken by the patient;
 - e. If applicable:
 - i. The effectiveness of the patient’s current treatment,
 - ii. The duration of the current treatment, and
 - iii. Alternative treatments tried by or planned for the patient;
 - f. The expected benefit of the treatment and, if applicable, the benefit of the new treatment compared with continuing the current treatment; and
 - g. Other factors relevant to the patient’s being prescribed an opioid; and
3. If applicable, specifies in the patient’s discharge plan how medically indicated pain control will occur after discharge to meet the patient’s needs.
- D.** Except as provided in subsection (G), an administrator of a health care institution where opioids are ordered for administration to a patient in the health care institution as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to order an opioid in treating a patient:
1. Before ordering an opioid for a patient of the health care institution:
- a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted:
 - i. During the patient’s same episode of care; or
 - ii. Within the previous 30 calendar days, by the medical practitioner who referred the patient for admission to the health care institution;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient’s profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. Conducts a substance use risk assessment of the patient or reviews the documentation from a substance use risk assessment conducted within the previous 30 calendar days by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct a substance use risk assessment of the patient;
 - d. Explains to the patient the risks and benefits associated with the use of opioids or ensures that the patient understands the risks and benefits associated with the use of opioids, as explained to the patient by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to explain to the patient the risks and benefits associated with the use of opioids;
 - e. If applicable, explains alternatives to a prescribed opioid; and
 - f. Obtains informed consent from the patient or the patient’s representative, according to subsection (C)(1)(f); and
2. Includes the following information in the patient’s medical record, an existing treatment plan, or a new treatment plan developed for the patient:
- a. The patient’s diagnosis;
 - b. The patient’s medical history, including co-occurring disorders;
 - c. The opioid being ordered and the reason for the order;
 - d. Other medications or herbal supplements being taken by the patient; and
 - e. If applicable:
 - i. The effectiveness of the patient’s current treatment,
 - ii. The duration of the current treatment,
 - iii. Alternative treatments tried by or planned for the patient,
 - iv. The expected benefit of a new treatment compared with continuing the current treatment, and
 - v. Other factors relevant to the patient’s being ordered an opioid.
- E.** For a health care institution where opioids are administered as part of treatment or where a patient is provided assistance in the self-administration of medication for a prescribed opioid, an administrator, a manager as defined in R9-10-801, or a provider, as applicable to the health care institution, shall:
1. Establish, document, and implement policies and procedures for administering an opioid as part of treatment or providing assistance in the self-administration of medication for a prescribed opioid, to protect the health and safety of a patient, that:
- a. Cover which personnel members may administer an opioid in treating a patient and the required knowledge and qualifications of these personnel members;



- b. Cover which personnel members may provide assistance in the self-administration of medication for a prescribed opioid and the required knowledge and qualifications of these personnel members;
- c. Include how, when, and by whom a patient's need for opioid administration is assessed;
- d. Include how, when, and by whom a patient receiving an opioid is monitored; and
- e. Cover how, when, and by whom the actions taken according to subsections (E)(1)(c) and (d) are documented;
- 2. Include in the plan for the health care institution's quality management program a process for:
 - a. Review of incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths; and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (E)(1);
- 3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, or as provided in subsection (G), ensure that, if a patient's death may be related to an opioid administered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the patient's death; and
- 4. Except as provided in subsection (G), ensure that an individual authorized by policies and procedures to administer an opioid in treating a patient or to provide assistance in the self-administration of medication for a prescribed opioid:
 - a. Before administering an opioid or providing assistance in the self-administration of medication for a prescribed opioid in compliance with an order as part of the treatment for a patient, identifies the patient's need for the opioid;
 - b. Monitors the patient's response to the opioid; and
 - c. Documents in the patient's medical record:
 - i. An identification of the patient's need for the opioid before the opioid was administered or assistance in the self-administration of medication for a prescribed opioid was provided; and
 - ii. The effect of the opioid administered or for which assistance in the self-administration of medication for a prescribed opioid was provided.
- F. A medical practitioner authorized by a health care institution's policies and procedures to order an opioid in treating a patient is exempt from the requirements in subsection (D), if:
 - 1. The health care institution's policies and procedures, required in subsection (B)(1) or the applicable Article in 9 A.A.C. 10, contain procedures for:
 - a. Providing treatment without obtaining the consent of a patient's or the patient's representative,
 - b. Ordering and administering opioids in an emergency situation, and
 - c. Complying with the requirements in subsection (D) after the emergency is resolved;
 - 2. The order for the administration of an opioid is:
 - a. Part of the treatment for a patient in an emergency, and
 - b. Issued in accordance with policies and procedures; and
 - 3. The emergency situation is documented in the patient's medical record.
- G. The requirements in subsections (C), (D), and (E)(4), as applicable, do not apply to a health care institution's:
 - 1. Prescribing, ordering, or administration of an opioid as part of treatment for a patient with an end-of-life condition or pain associated with an active malignancy;
 - 2. Prescribing an opioid as part of treatment for a patient when changing the type or dosage of an opioid, which had previously been prescribed by a medical practitioner of the health care institution for the patient according to the requirements in subsection (C):
 - a. Before a pharmacist dispenses the opioid to the patient; or
 - b. If changing the opioid because of an adverse reaction to the opioid experienced by the patient, within 72 hours after the opioid was dispensed to the patient by a pharmacist;
 - 3. Ordering an opioid as part of treatment for no longer than three calendar days for a patient remaining in the health care institution and receiving continuous medical services or nursing services from the health care institution; or
 - 4. Ordering an opioid as part of treatment:
 - a. For a patient receiving a surgical procedure or other invasive procedure; or
 - b. When changing the type, dosage, or route of administration of an opioid, which had previously been ordered by a medical practitioner of the health care institution for a patient according to the requirements in subsection (D), to meet the patient's needs.



NOTICES OF RULEMAKING DOCKET OPENING

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.

NOTICE OF RULEMAKING DOCKET OPENING
OFFICE OF THE SECRETARY OF STATE

[R17-223]

- 1. Title and its heading: Chapter and its heading: Article and its heading: Section numbers:
2. The subject matter of the proposed rule: This docket opening is being prepared to propose the use of the state seal in rule under the authority of A.R.S. § 41-130.
3. A citation to all published notices relating to the proceeding: Notice of Proposed Rulemaking: 23 A.A.R. 3197, November 17, 2017 (in this issue)
4. The name and address of agency personnel with whom persons may communicate regarding the rule: Name: Scott Cancelosi, Director; Mailing address: Administrative Rules Division, Office of the Secretary of State, 1700 W. Washington St., 7th Floor, Phoenix, AZ 85007; Telephone: (602) 542-0223; E-mail: scancelosi@azsos.gov
5. The time during which the agency will accept written comments and the time and place where oral comments may be made: Written comments will be accepted at the Office, Monday through Friday, 8 a.m. to 5 p.m., except for state holidays. Please submit comments to the individual listed in item #4 above.
6. A timetable for agency decisions or other action on the proceeding, if known: None



NOTICES OF SUBSTANTIVE POLICY STATEMENT

The *Administrative Procedure Act* (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(14)).

Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency's internal

procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

NOTICE OF SUBSTANTIVE POLICY STATEMENT BOARD OF TECHNICAL REGISTRATION

[M17-296]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

Policy Number 17 - Whether acting as an expert witness constitutes "engineering practice" under Arizona statutes.

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:

October 24, 2017

3. Summary of the contents of the substantive policy statement:

The Board interprets the definition of "professional service or creative work" as used in the definition of "Engineering Practice" to include acting as an expert witness as defined by Rule 702 of the Arizona Rules of Evidence.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:

A.R.S. § 32-101(11)

5. A statement as to whether the substantive policy statement is a new statement or a revision:

This is a new policy statement.

6. The agency contact person who can answer questions about the substantive policy statement:

Name: Patrice Pritzl
 Address: Board of Technical Registration
 1110 W. Washington St.
 Phoenix AZ 85007
 Telephone: (602) 364-4955
 Fax: (602) 364-4931
 E-mail: Patrice.pritzl@azbtr.gov
 Web site: <https://btr.az.gov>

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:

Copies of Substantive Policy Statement #17 are available from the Board of Technical Registration, located at 1110 W. Washington Street, Suite 240, Phoenix, AZ 85007, at no charge and is available on our website at www.azbtr.gov.



GOVERNOR EXECUTIVE ORDERS

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.

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

REGISTER INDEXES

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

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 16, April 21, 2017.....857-890	Issue 31, Aug. 4, 2017.....2111-2154
Issue 2, Jan. 13, 2017.....93-146	Issue 17, April 28, 2017.....891-1000	Issue 32, Aug. 11, 2017.....2155-2198
Issue 3, Jan. 20, 2017.....147-204	Issue 18, May 5, 2017.....1001-1062	Issue 33, Aug. 18, 2017.....2199-2260
Issue 4, Jan. 27, 2017.....205-268	Issue 19, May 12, 2017.....1063-1342	Issue 34, Aug. 25, 2017.....2261-2370
Issue 5, Feb. 3, 2017.....269-318	Issue 20, May 19, 2017.....1343-1402	Issue 35, Sept. 1, 2017.....2371-2416
Issue 6, Feb. 10, 2017.....319-436	Issue 21, May 26, 2017.....1403-1464	Issue 36, Sept. 8, 2017.....2417-2456
Issue 7, Feb. 17, 2017.....437-460	Issue 22, June 2, 2017.....1465-1514	Issue 37, Sept. 15, 2017.....2457-2520
Issue 8, Feb. 24, 2017.....461-482	Issue 23, June 9, 2017.....1515-1594	Issue 38, Sept. 22, 2017.....2521-2600
Issue 9, March 3, 2017.....483-572	Issue 24, June 16, 2017.....1595-1658	Issue 39, Sept. 29, 2017.....2601-2728
Issue 10, March 10, 2017.....573-602	Issue 25, June 23, 2017.....1659-1714	Issue 40, Oct. 6, 2017.....2729-2788
Issue 11, March 17, 2017.....603-642	Issue 26, June 30, 2017.....1715-1786	Issue 41, Oct. 13, 2017.....2789-2888
Issue 12, March 24, 2017.....643-688	Issue 27, July 7, 2017.....1787-1842	Issue 42, Oct. 20, 2017.....2889-2984
Issue 13, March 31, 2017.....689-758	Issue 28, July 14, 2017.....1843-1926	Issue 43, Oct. 27, 2017.....2985-3086
Issue 14, April 7, 2017.....759-822	Issue 29, July 21, 2017.....1927-2028	Issue 44, Nov. 3, 2017.....3087-3154
Issue 15, April 14, 2017.....823-856	Issue 30, July 28, 2017.....2029-2110	Issue 45, Nov. 10, 2017.....3155-3192

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 45 OF VOLUME 23.

Accountancy, Board of	R2-6-104.	FR-1719	R2-5-203.	EXP-2489
R4-1-101.	R2-6-105.	PM-323;		
		FM-1719	Administration, Department of -	
R4-1-341.	R2-6-106.	PM-323;	State Procurement Office	
		FM-1719	R2-7-205.	PM-1407;
R4-1-345.	R2-6-107.	PM-323;		EXP-1757
		FM-1719	R2-7-208.	PM-1407;
R4-1-453.	R2-6-108.	PM-323;		EXP-1757
		FM-1719	R2-7-701.	PM-1407;
R4-1-454.	R2-6-201.	FM-1719		EXP-1757
	R2-6-204.	PM-323;	R2-7-1008.	PM-1407;
R4-1-455.		FM-1719		EXP-1757
	R2-6-301.	PM-323;	Agriculture, Department of - Animal	
R4-1-455.01.		FM-1719	Services Division	
	R2-6-302.	PM-323;	R3-2-203.	FXM-1937
R4-1-455.02.		FM-1719	R3-2-205.	EXP-135
	R2-6-303.	PM-323;	R3-2-403.	EXP-135
R4-1-455.03.		FM-1719	R3-2-621.	EXP-135
	Administration, Department of -		R3-2-622.	EXP-135
R4-1-455.04.	Risk Management Division		R3-2-701.	FXM-1937
	R2-10-101.	PM-1407	R3-2-810.	FXM-1937
Achievement District Schools	R2-10-106.	PM-1407		
R7-8-101.	R2-10-107.	PM-1407	Agriculture, Department of - Envi-	
R7-8-201.	R2-10-108.	PM-1407	ronmental Services Division	
	R2-10-201.	PM-1407	R3-3-702.	FXM-1940
Administration, Department of -	R2-10-202.	PM-1407		
Benefit Services Division	R2-10-207.	PM-1407	Agriculture, Department of - Office	
R2-6-101.	R2-10-504.	EXP-448	of Commodity Development and	
	Administration, Department of -		Promotion	
R2-6-102.	State Personnel System		R3-6-102.	FXM-1943

Agriculture, Department of - Pest Management Division

R3-8-101.	FXM-1949; RC-1976	R3-8-314. R3-8-315. R3-8-316. R3-8-317. R3-8-318. R3-8-319. R3-8-320. R3-8-401.	RC-1976 RC-1976 RC-1976 RC-1976 RC-1976 RC-1976 RC-1976 RC-1976
R3-8-102.	FXM-1949; RC-1976	R3-8-402. R3-8-403.	RC-1976 FXM-1949; RC-1976
R3-8-103.	FXM-1949; RC-1976	R3-8-404. R3-8-405.	RC-1976 FXM-1949; RC-1976
R3-8-104.	FXM-1949; RC-1976	R3-8-406.	FXM-1949; RC-1976
R3-8-105.	RC-1976	R3-8-407.	FXM-1949; RC-1976
R3-8-106.	RC-1976	R3-8-408.	RC-1976
R3-8-107.	FXM-1949; RC-1976	R3-8-409.	RC-1976
Table 1.	FXM-1949; RC-1976	R3-8-410.	RC-1976
R3-8-108.	RC-1976	R3-8-411.	RC-1976
R3-8-201.	FXM-1949; RC-1976	R3-8-412.	RC-1976
R3-8-202.	FXM-1949; RC-1976	R3-8-413.	RC-1976
R3-8-203.	FXM-1949; RC-1976	R3-8-414.	RC-1976
R3-8-204.	FXM-1949; RC-1976	R3-8-415.	RC-1976
R3-8-205.	FXM-1949; RC-1976	R3-8-416.	RC-1976
R3-8-206.	FXM-1949; RC-1976	R3-8-417.	RC-1976
R3-8-207.	FXM-1949; RC-1976	R3-8-418.	RC-1976
R3-8-208.	FXM-1949; RC-1976	R3-8-501.	FXM-1949; RC-1976
R3-8-209.	FXM-1949; RC-1976	R3-8-502.	RC-1976
R3-8-210.	RC-1976	R3-8-503.	FXM-1949; RC-1976
R3-8-211.	FXM-1949; RC-1976	R3-8-504.	FXM-1949; RC-1976
R3-8-212.	RC-1976	R3-8-505.	FXM-1949; RC-1976
R3-8-213.	FXM-1949; RC-1976	Appendix A.	RC-1976
R3-8-214.	RC-1976	R3-8-601.	FXM-1949; RC-1976
R3-8-215.	FXM-1949; RC-1976	R3-8-602.	FXM-1949; RC-1976
R3-8-216.	FXM-1949; RC-1976	R3-8-603.	FXM-1949; RC-1976
R3-8-301.	FXM-1949; RC-1976	R3-8-604.	RC-1976
R3-8-302.	RC-1976	R3-8-605.	FXM-1949; RC-1976
R3-8-303.	RC-1976	R3-8-606.	FXM-1949; RC-1976
R3-8-304.	FXM-1949; RC-1976	R3-8-607.	RC-1976
R3-8-305.	RC-1976	R3-8-608.	RC-1976
R3-8-306.	FXM-1949; RC-1976	R3-8-609.	RC-1976
R3-8-307.	FXM-1949; RC-1976	R3-8-701.	FXM-1949; RC-1976
R3-8-308.	FXM-1949; RC-1976	R3-8-702.	FXM-1949; RC-1976
R3-8-309.	FXM-1949; RC-1976	R3-8-703.	FXM-1949; RC-1976
R3-8-310.	FXM-1949; RC-1976	R3-8-704.	RC-1976
R3-8-311.	RC-1976	R3-8-705.	FXM-1949; RC-1976
R3-8-312.	RC-1976	R3-8-706.	RC-1976
R3-8-313.	RC-1976	R3-8-707.	RC-1976

R3-8-708.	RC-1976
Agriculture, Department of - Plant Services Division	
R3-4-301.	FXM-1941

Agriculture, Department of - Weights and Measures Services Division

R3-7-101.	PM-895; FM-2280
R3-7-102.	PM-895; FM-2280
R3-7-103.	PM-895; FM-2280
R3-7-104.	PM-895; FM-2280
R3-7-108.	PM-895; FM-2280
R3-7-109.	PM-895; FM-2280
R3-7-110.	PM-895; FM-2280
Table 1.	PM-895; FM-2280
R3-7-201.	PM-895; FM-2280
R3-7-203.	PM-895; FM-2280
R3-7-302.	PM-895; FM-2280
R3-7-402.	PM-895; FM-2280
R3-7-501.	PM-895; FM-2280
R3-7-502.	PM-895; FM-2280
R3-7-503.	PM-895; FM-2280
R3-7-504.	PM-895; FM-2280
R3-7-505.	PM-895; FM-2280
R3-7-506.	PM-895; FM-2280
R3-7-507.	PM-895; FM-2280
R3-7-601.	PM-895; FM-2280
R3-7-602.	PM-895; FM-2280
R3-7-603.	PM-895; FM-2280
R3-7-604.	PM-895; FM-2280
R3-7-701.	PM-895; FM-2280
R3-7-702.	PM-895; FM-2280
R3-7-703.	PM-895; FM-2280
R3-7-704.	PM-895; FM-2280
R3-7-705.	PM-895; FM-2280

R3-7-706.	PR-895; FR-2280	R3-7-905.	PM-895; FM-2280	R9-22-712.72.	PM-1791; FM-2896
R3-7-707.	PM-895; FM-2280	R3-7-907.	PM-895; FM-2280	R9-22-712.80.	PM-1791; FM-2896
R3-7-708.	PM-895; FM-2280	R3-7-908.	PM-895; FM-2280	R9-22-712.81.	FM-2896
R3-7-709.	PR-895; FR-2280	R3-7-909.	PM-895; FM-2280	R9-22-712.90.	FN-22
R3-7-710.	PM-895; FM-2280	R3-7-910.	PM-895; FM-2280	R9-22-730.	PXM-1633; FXM-1945
R3-7-711.	PM-895; FM-2280	R3-7-911.	PM-895; FM-2280	Arizona Health Care Cost Containment System - Arizona Long-term Care System	
R3-7-712.	PM-895; FM-2280	R3-7-912.	PM-895; FM-2280	R9-28-703.	PM-2738
R3-7-713.	PM-895; FM-2280	R3-7-913.	PM-895; FM-2280	Barbers, Board of	
R3-7-714.	PM-895; FM-2280	R3-7-1001.	PM-895; FM-2280	R4-5-103.	FM-490
R3-7-715.	PM-895; FM-2280	R3-7-1002.	PM-895; FM-2280	Behavioral Health Examiners, Board of	
R3-7-716.	PM-895; FM-2280	R3-7-1003.	PM-895; FM-2280	R4-6-215.	PR-1007; PN-1007
R3-7-717.	PM-895; FM-2280	R3-7-1004.	PM-895; FM-2280	Boxing and Mixed Martial Arts Commission, State	
R3-7-718.	PM-895; FM-2280	R3-7-1005.	PM-895; FM-2280	R4-3-101.	PR-2989
R3-7-749.	PM-895; FM-2280	R3-7-1007.	PM-895; FM-2280	R4-3-102.	PR-2989
R3-7-750.	PM-895; FM-2280	R3-7-1008.	PM-895; FM-2280	R4-3-103.	PR-2989
R3-7-751.	PM-895; FM-2280	R3-7-1009.	PM-895; FM-2280	R4-3-104.	PR-2989
R3-7-752.	PM-895; FM-2280	R3-7-1010.	PM-895; FM-2280	R4-3-105.	PR-2989
R3-7-753.	PM-895; FM-2280	R3-7-1011.	PM-895; FM-2280	R4-3-201.	PR-2989
R3-7-754.	PM-895; FM-2280	R3-7-1012.	PM-895; FM-2280	R4-3-202.	PR-2989
R3-7-755.	PM-895; FM-2280	R3-7-1013.	PM-895; FM-2280	R4-3-203.	PR-2989
R3-7-756.	PM-895; FM-2280	Arizona Health Care Cost Containment System - Administration		R4-3-301.	PR-2989
R3-7-757.	PM-895; FM-2280	R9-22-712.05.	PM-2733	R4-3-302.	PR-2989
R3-7-759.	PM-895; FM-2280	R9-22-712.35.	PM-1015; FM-2338	R4-3-303.	PR-2989
Table A.	PM-895; FM-2280	R9-22-712.60.	PM-1791; FM-2896	R4-3-304.	PR-2989
R3-7-760.	PM-895; FM-2280	R9-22-712.61.	PM-1015; FM-2338	R4-3-305.	PR-2989
R3-7-761.	PM-895; FM-2280	R9-22-712.62.	PM-1791; FM-2896	R4-3-306.	PR-2989
R3-7-762.	PM-895; FM-2280	R9-22-712.63.	PM-1791; FM-2896	R4-3-307.	PR-2989
Table 1.	PM-895; FM-2280	R9-22-712.64.	PM-1791; FM-2896	R4-3-308.	PR-2989
Table 2.	PM-895; FM-2280	R9-22-712.65.	PM-1791; FM-2896	R4-3-309.	PR-2989
R3-7-901.	PM-895; FM-2280	R9-22-712.66.	PM-1791; FM-2896	R4-3-310.	PR-2989
R3-7-902.	PM-895; FM-2280	R9-22-712.68.	PM-1791; FM-2896	R4-3-401.	PR-2989
R3-7-903.	PM-895; FM-2280	R9-22-712.71.	PM-1015; FM-2338;	R4-3-402.	PR-2989
R3-7-904.	PM-895; FM-2280		FM-2896	R4-3-403.	PR-2989
				R4-3-404.	PR-2989
				R4-3-405.	PR-2989
				R4-3-406.	PR-2989
				R4-3-407.	PR-2989
				R4-3-408.	PR-2989
				R4-3-409.	PR-2989
				R4-3-410.	PR-2989
				R4-3-411.	PR-2989
				R4-3-412.	PR-2989
				R4-3-412.01.	PR-2989
				R4-3-413.	PR-2989
				R4-3-414.	PR-2989
				Table 1.	PR-2989
				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	R2-20-402.01.	FXM-130;	PN-1869;
R7-5-207.	FM-693		PXM-1935;	P#-1869;
R7-5-208.	FN-693		FXM-2944	PM-1869;
R7-5-301.	F#-693; FN-693	R2-20-402.02.	FXN-131	FN-2822;
R7-5-302.	F#-693; FN-693	R2-20-702.	PXM-610;	F#-2822;
R7-5-303.	F#-693; FN-693		PXM-658;	FM-2822
R7-5-304.	F#-693		PXM-722;	E#-865;
R7-5-401.	F#-693; FN-693		FXM-2342	P#-1869;
R7-5-402.	FN-693	R2-20-703.	FXM-133	F#-2822
R7-5-403.	FN-693	R2-20-703.01.	PXN-610;	R14-2-A1204. EN-865; E#-865;
R7-5-404.	FN-693		FXN-2344	EM-865;
R7-5-501.	FR-693; F#-693; FM-693	Contractors, Registrar of		PN-1869;
R7-5-502.	FR-693; F#-693; FM-693	R4-9-102.	FM-1029;	P#-1869;
R7-5-503.	FR-693; FN-693		PM-1599;	PM-1869;
R7-5-504.	FR-693; FN-693	R4-9-103.	FM-2525	FN-2822;
R7-5-505.	FN-693		PM-1599;	F#-2822;
R7-5-506.	FN-693	R4-9-104.	FM-2525	FM-2822
R7-5-507.	FN-693		PM-1599;	R14-2-1205. E#-865;
R7-5-508.	FN-693	R4-9-106.	FM-2525	P#-1869;
R7-5-509.	FN-693		PM-1599;	F#-2822
R7-5-510.	F#-693; FM-693	R4-9-108.	FM-2525	R14-2-A1205. EN-865; E#-865;
R7-5-601.	F#-693; FM-693		PM-1599;	EM-865;
R7-5-602.	FN-693	R4-9-109.	FM-2525	PN-1869;
R7-5-603.	FN-693		PM-1599;	P#-1869;
R7-5-604.	FN-693	R4-9-111.	FN-2525	PM-1869;
R7-5-605.	FN-693		PM-1599;	FN-2822;
R7-5-606.	FN-693	R4-9-113.	FM-2525	F#-2822
R7-5-607.	FN-693		PM-1599;	R14-2-1206. E#-865;
		R4-9-115.	FM-2525	P#-1869;
Child Safety, Department of - Foster Home and Child Welfare Agency Facility Safety			PM-1599;	F#-2822
R21-8-112.	SPM-1025; EM-1040; EM-2946	R4-9-117.	FM-2525	R14-2-A1206. EN-865; E#-865;
R21-8-113.	SPM-1025; EM-1040; EM-2946	R4-9-118.	PM-1599; FN-2525	EM-865;
		Corporation Commission - Fixed Utilities		PN-1869;
Chiropractic Examiners, Board of		R14-2-1201.	E#-865;	PM-1869;
R4-7-502.	PM-1847		P#-1869;	FN-2822;
R4-7-503.	PM-1847	R14-2-A1201.	F#-2822	FM-2822
R4-7-602.	PM-1847		EN-865; E#-865;	R14-2-A1207. EN-865; E#-865;
R4-7-801.	PM-1847		EM-865;	EM-865;
R4-7-1301.	PM-1847		PN-1869;	FN-2822;
R4-7-1401.	PM-1847		P#-1869;	F#-2822;
R4-7-1403.	PM-1847		PM-1869;	FM-2822
R4-7-1404.	PM-1847		FN-2822;	R14-2-1208. E#-865;
			F#-2822;	P#-1869;
Clean Elections Commission, Citizens			FM-2822	F#-2822
R2-20-101.	FXM-113	R14-2-1202.	E#-865;	R14-2-A1208. EN-865; E#-865;
R2-20-104.	FXM-115		P#-1869;	EM-865;
R2-20-105.	FXM-117		F#-2822	PN-1869;
R2-20-106.	PXM-2936		EN-865; E#-865;	P#-1869;
R2-20-107.	FXM-119		EM-865;	PM-1869;
R2-20-109.	FXM-121; EXP-1757; PXM-2938		PN-1869;	FN-2822;
			P#-1869;	F#-2822;
R2-20-110.	FXM-124		PM-1869;	FM-2822
R2-20-111.	FXM-126; EXP-1757;	R14-2-1203.	FN-2822;	R14-2-1209. E#-865;
	PXM-2941		F#-2822;	P#-1869;
R2-20-112.	FXM-128	R14-2-A1203.	FM-2822	F#-2822
			E#-865;	R14-2-A1209. EN-865; E#-865;
			P#-1869;	EM-865;
			EN-865; E#-865;	PN-1869;
			EM-865;	P#-1869;



R14-2-1210.	FN-2822; F#-2822; FM-2822 E#-865; P#-1869; F#-2822	R14-2-1216.	FN-2822; F#-2822; FM-2822 E#-865; P#-1869; F#-2822
R14-2-A1210.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869; FN-2822; F#-2822; FM-2822	R14-2-A1216.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869; FN-2822; F#-2822; FM-2822
R14-2-1211.	E#-865; P#-1869; F#-2822	R14-2-1217.	E#-865; P#-1869; F#-2822
R14-2-A1211.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869; FN-2822; F#-2822; FM-2822	R14-2-A1217.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869; FN-2822; F#-2822; FM-2822
R14-2-1212.	E#-865; P#-1869; F#-2822	R14-2-B1218.	EN-865; PN-1869; FN-2822
R14-2-A1212.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869; FN-2822; F#-2822; FM-2822	R14-2-B1219.	EN-865; PN-1869; FN-2822
R14-2-1213.	E#-865; P#-1869; F#-2822	R14-2-B1220.	EN-865; PN-1869; FN-2822
R14-2-A1213.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869; FN-2822; F#-2822; FM-2822	R14-2-B1221.	EN-865; PN-1869; FN-2822
R14-2-1214.	E#-865; P#-1869; F#-2822	R14-2-B1222.	EN-865; PN-1869; FN-2822
R14-2-A1214.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869; FN-2822; F#-2822; FM-2822	R14-2-B1223.	EN-865; PN-1869; FN-2822
R14-2-1215.	E#-865; P#-1869; F#-2822		
R14-2-A1215.	EN-865; E#-865; EM-865; PN-1869; P#-1869; PM-1869;		

Cosmetology, Board of

R4-10-101.	PM-1859; FM-3028
R4-10-104.	PM-1859; FM-3028
R4-10-105.	PM-1859; FM-3028
R4-10-107.	PM-1859; FM-3028
R4-10-108.	PM-1859; FM-3028
R4-10-110.	PM-1859; FM-3028
R4-10-203.	PM-1859; FM-3028
R4-10-204.	PM-1859; FM-3028
R4-10-205.	PM-1859; FM-3028
R4-10-206.	PM-1859; FM-3028

R4-10-206.1.	PN-1859; FN-3028
R4-10-208.	PM-1859; FM-3028
R4-10-302.	PM-1859; FM-3028
R4-10-304.1.	PN-1859; FN-3028
R4-10-306.	PM-1859; FM-3028
R4-10-403.	PM-1859; FM-3028
R4-10-404.	PM-1859; FM-3028

Criminal Justice Commission, Arizona

R10-4-101.	PM-2793
R10-4-102.	PM-2793
R10-4-103.	PM-2793
R10-4-104.	PM-2793
R10-4-106.	PM-2793
R10-4-107.	PM-2793
R10-4-108.	PM-2793
R10-4-109.	PM-2793
R10-4-110.	PM-2793
R10-4-201.	PM-2793
R10-4-202.	PM-2793
R10-4-203.	PM-2793
R10-4-204.	PM-2793

Dental Examiners, Board of

R4-11-801.	EXP-2575
R4-11-802.	EXP-2575
R4-11-905.	EXP-2575
R4-11-906.	EXP-2575
R4-11-1001.	EXP-2575
R4-11-1002.	EXP-2575

Economic Security, Department of

R6-1-101.	PM-861; FM-2757
R6-1-102.	PM-861; FM-2757
R6-1-103.	PM-861; FM-2757
R6-1-104.	PM-861; FM-2757
R6-1-105.	PM-861; FM-2757
R6-1-106.	PM-861; FM-2757
R6-1-107.	PM-861; FM-2757
R6-1-201.	P#-2421; PN-2421; PM-2421
R6-1-202.	P#-2421; PM-2421
R6-1-203.	P#-2421; PN-2421; PM-2421

Economic Security, Department of - Child Support Enforcement

R6-7-611.	EXP-466
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**Economic Security, Department of -
Developmental Disabilities**

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

R6-6-301. P#-3159;
PN-3159
R6-6-302. P#-3159;
PM-3159
R6-6-303. PR-3159;
P#-3159;
PM-3159
R6-6-304. PN-3159
R6-6-305. PN-3159
R6-6-306. PN-3159
R6-6-307. PN-3159
R6-6-308. PN-3159
R6-6-309. PN-3159
R6-6-402. EXP-465
R6-6-501. PR-3159
R6-6-502. PR-3159
R6-6-503. PR-3159
R6-6-504. PR-3159
R6-6-505. PR-3159
R6-6-1801. PR-1519;
PN-1519
R6-6-1802. PR-1519;
PN-1519
R6-6-1803. PR-1519;
PN-1519
R6-6-1804. PR-1519;
PN-1519
R6-6-1805. PR-1519;
PN-1519
R6-6-1806. PN-1519
R6-6-1807. PN-1519
R6-6-1808. PN-1519
R6-6-1809. PN-1519
R6-6-1810. PN-1519
R6-6-1811. PN-1519
R6-6-1812. PN-1519
R6-6-1813. PN-1519
R6-6-1814. PN-1519

**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
R6-5-5511. EXP-581
R6-5-5512. EXP-581
R6-5-5513. EXP-581
R6-5-5514. EXP-581
R6-5-5515. EXP-581
R6-5-5516. EXP-581
R6-5-5517. EXP-581
R6-5-5518. EXP-581
R6-5-5519. EXP-581
R6-5-5520. EXP-581

R6-5-5521. EXP-581
R6-5-5522. EXP-581
R6-5-5523. EXP-581
R6-5-5524. EXP-581
R6-5-5525. EXP-581
R6-5-5526. EXP-581
Appendix 1. EXP-581
Appendix 2. EXP-581
R6-5-5601. EXP-465
R6-5-5602. EXP-465
R6-5-5603. EXP-465
R6-5-5604. EXP-465
R6-5-5605. EXP-465
R6-5-5606. EXP-465
R6-5-5607. EXP-465
R6-5-5608. EXP-465
R6-5-5609. EXP-465
R6-5-5610. EXP-465
R6-5-5801. EXP-581
R6-5-5802. EXP-581
R6-5-5803. EXP-581
R6-5-5804. EXP-581
R6-5-5805. EXP-581
R6-5-5806. EXP-581
R6-5-5807. EXP-581
R6-5-5808. EXP-581
R6-5-5809. EXP-581
R6-5-5810. EXP-581
R6-5-5811. EXP-581
R6-5-5812. EXP-581
R6-5-5813. EXP-581
R6-5-5814. EXP-581
R6-5-5815. EXP-581
R6-5-5816. EXP-581
R6-5-5817. EXP-581
R6-5-5818. EXP-581
R6-5-5819. EXP-581
R6-5-5820. EXP-581
R6-5-5821. EXP-581
R6-5-5822. EXP-581
R6-5-5823. EXP-581
R6-5-5824. EXP-581
R6-5-5825. EXP-581
R6-5-5826. EXP-581
R6-5-5827. EXP-581
R6-5-5828. EXP-581
R6-5-5829. EXP-581
R6-5-5830. EXP-581
R6-5-5831. EXP-581
R6-5-5832. EXP-581
R6-5-5833. EXP-581
R6-5-5834. EXP-581
R6-5-5835. EXP-581
R6-5-5836. EXP-581
R6-5-5837. EXP-581
R6-5-5838. EXP-581
R6-5-5839. EXP-581
R6-5-5840. EXP-581
R6-5-5841. EXP-581
R6-5-5842. EXP-581
R6-5-5843. EXP-581
R6-5-5844. EXP-581
R6-5-5845. EXP-581
R6-5-5846. EXP-581
R6-5-5847. EXP-581
R6-5-5848. EXP-581

R6-5-5849. EXP-581
R6-5-5850. EXP-581
R6-5-5903. EXP-581
R6-5-5904. EXP-581
R6-5-5906. EXP-581
R6-5-5907. EXP-581
R6-5-5908. EXP-581
R6-5-5909. EXP-581
R6-5-5910. EXP-581
R6-5-6001. EXP-581
R6-5-6002. EXP-581
R6-5-6003. EXP-581
R6-5-6004. EXP-581
R6-5-6005. EXP-581
R6-5-6006. EXP-581
R6-5-6007. EXP-581
R6-5-6008. EXP-581
R6-5-6009. EXP-581
R6-5-6010. EXP-581
R6-5-6011. EXP-581
R6-5-6012. EXP-581
R6-5-6013. EXP-581
R6-5-6014. EXP-581
R6-5-6015. EXP-581
Exhibit 1. EXP-581

**Economic Security, Department of -
Unemployment Insurance**

R6-3-51140. PM-1627
R6-3-5205. PM-1627
R6-3-5240. PM-1627
R6-3-52235. PM-1627
R6-3-55460. PM-1627

Education, State Board of

R7-2-205. FXM-725
R7-2-318. FXN-1637
R7-2-607.01. FXN-725
R7-2-612. FXM-725
R7-2-614. FXM-725
R7-2-617. FXM-231
R7-2-701. FXM-725
R7-2-705. FXM-725
R7-2-1304. FXM-725
R7-2-1307. FXM-725
R7-2-1308. FXM-725

**Emergency and Military Affairs,
Department of - Division of Military
Affairs**

R8-3-201. EXP-840
R8-3-202. EXP-840
R8-3-203. EXP-840
R8-3-204. EXP-840
R8-3-205. EXP-840
R8-3-206. EXP-840
Exhibit 1. EXP-840

**Emergency and Military Affairs,
Department of - Project ChalleNGe**

R8-5-101. EXP-840
R8-5-102. EXP-840
R8-5-103. EXP-840
R8-5-104. EXP-840
R8-5-105. EXP-840
R8-5-106. EXP-840

Environmental Quality, Department of - Administration

R18-1-201. EXP-1575;
EXP-2207
R18-1-202. EXP-1575;
EXP-2207
R18-1-203. EXP-1575;
EXP-2207
R18-1-204. EXP-1575;
EXP-2207
R18-1-206. EXP-1575;
EXP-2207
R18-1-207. EXP-1575;
EXP-2207

Environmental Quality, Department of - Air Pollution Control

R18-2-101. FM-333
R18-2-102. FM-333
R18-2-201. FM-333
R18-2-203. FM-333
R18-2-217. FM-333
R18-2-218. FM-333
R18-2-301. FM-333
R18-2-302. FM-333
R18-2-302.01. FM-333
R18-2-303. FM-333
R18-2-304. FM-333
R18-2-306. FM-333
R18-2-306.01. FM-333
R18-2-307. FM-333
R18-2-311. FM-333
R18-2-312. FM-333
R18-2-319. FM-333
R18-2-320. FM-333
R18-2-324. FM-333
R18-2-326. FM-333
R18-2-326.01. EXP-613
R18-2-327. FM-333
R18-2-330. FM-333
R18-2-332. FM-333
R18-2-334. FM-333
R18-2-401. FM-333
R18-2-402. FM-333
R18-2-403. FM-333
R18-2-404. FM-333
R18-2-405. FM-333
R18-2-406. FM-333
R18-2-407. FM-333
R18-2-408. FM-333
R18-2-410. FM-333
R18-2-411. FN-333
R18-2-412. FM-333
R18-2-502. FM-333
R18-2-503. FM-333
R18-2-504. FM-333
R18-2-507. FR-333
R18-2-508. FR-333
R18-2-512. FM-333
R18-2-513. FM-333
R18-2-514. FN-333
R18-2-515. FN-333
R18-2-715. FM-767
R18-2-715.01. FM-767
R18-2-715.02. FM-767
R18-2-731. PM-827

R18-2-901. PM-827
R18-2-1205. FM-333
Appendix 1. FR-333
R18-2-B1301. FN-767
R18-2-B1301.01. FN-767
R18-2-B1302. FN-767
R18-2-C1301. FN-767
R18-2-C1302. FN-767
Appendix 14. FN-767
Appendix 15. FN-767
R18-2-1701. EXP-135
Table 1. EXP-135
R18-2-1702. EXP-135
R18-2-1703. EXP-135
R18-2-1704. EXP-135
R18-2-1705. EXP-135
R18-2-1706. EXP-135
R18-2-1707. EXP-135
R18-2-1708. EXP-135
Table 3. EXP-135
R18-2-1709. EXP-135

Environmental Quality, Department of - Environmental Reviews and Certification

R18-5-201. PM-1882
R18-5-202. PM-1882
R18-5-203. PM-1882
R18-5-204. PM-1882
R18-5-205. PR-1882
R18-5-206. PR-1882
R18-5-207. PR-1882
R18-5-208. PR-1882
R18-5-209. PR-1882
R18-5-210. PR-1882
R18-5-211. PR-1882
R18-5-212. PR-1882
R18-5-213. PR-1882
R18-5-214. PR-1882
R18-5-215. PR-1882
R18-5-217. PR-1882
R18-5-218. PR-1882
R18-5-219. PR-1882
R18-5-220. PR-1882
R18-5-221. PR-1882
R18-5-222. PR-1882
R18-5-223. PR-1882
R18-5-224. PR-1882
R18-5-225. PR-1882
R18-5-226. PR-1882
R18-5-227. PR-1882
R18-5-228. PR-1882
R18-5-229. PR-1882
R18-5-230. PR-1882
R18-5-231. PR-1882
R18-5-232. PR-1882
R18-5-233. PR-1882
R18-5-234. PR-1882
R18-5-235. PR-1882
R18-5-236. PR-1882
R18-5-237. PR-1882
R18-5-238. PR-1882
R18-5-239. PR-1882
R18-5-240. PR-1882
R18-5-241. PR-1882
R18-5-242. PR-1882

R18-5-243. PR-1882
R18-5-244. PR-1882
R18-5-245. PR-1882
R18-5-246. PR-1882
R18-5-247. PR-1882
R18-5-248. PR-1882
R18-5-249. PM-1882

Environmental Quality, Department of - Water Infrastructure Finance Authority of Arizona

R18-15-101. PM-2464
R18-15-102. PM-2464
R18-15-103. PM-2464
R18-15-104. PM-2464
R18-15-105. PM-2464
R18-15-106. PM-2464
R18-15-107. PM-2464
R18-15-201. PM-2464
R18-15-203. PM-2464
R18-15-204. PM-2464
R18-15-205. PM-2464
R18-15-206. PM-2464
R18-15-207. PM-2464
R18-15-303. PM-2464
R18-15-304. PM-2464
R18-15-305. PM-2464
R18-15-306. PM-2464
R18-15-307. PM-2464
R18-15-401. PM-2464
R18-15-402. PR-2464;
P#-2464;
PM-2464
R18-15-403. P#-2464;
PM-2464
R18-15-404. P#-2464;
PM-2464
R18-15-405. PR-2464;
P#-2464;
PM-2464
R18-15-406. P#-2464;
PM-2464
R18-15-407. P#-2464
R18-15-408. P#-2464
R18-15-501. PM-2464
R18-15-502. PM-2464
R18-15-503. PM-2464
R18-15-504. PM-2464
R18-15-505. PM-2464
R18-15-602. PM-2464
R18-15-701. PM-2464

Environmental Quality, Department of - Water Pollution Control

R18-9-601. PR-1663;
FR-3091
R18-9-602. PR-1663;
FR-3091
R18-9-603. PR-1663;
FR-3091
R18-9-701. P#-1663;
F#-3091
R18-9-702. P#-1663;
F#-3091
R18-9-703. P#-1663;
F#-3091

R12-4-610.	PEM-2840	R9-6-101.	PM-1524;	F#-2605;
R12-4-611.	PEM-2840		FM-2605	FM-2605
R12-4-901.	PE#-2853	R9-6-201.	PM-1524;	R9-6-312.
R12-4-902.	PE#-2853;		FM-2605	P#-1524;
	PEM-2853	R9-6-202.	PM-1524;	PM-1524;
R12-4-1101.	PE#-2853		FM-2605	F#-2605;
R12-4-1102.	PE#-2853	Table 1.	PR-1524;	FM-2605
			FR-2605	R9-6-313.
Governor's Regulatory Review Council		Table 2.1.	PN-1524;	P#-1524;
			FN-2605	PM-1524;
R1-6-101.	PM-1347;	R9-6-203.	PM-1524;	F#-2605;
	FM-2265		FM-2605	FM-2605
R1-6-102.	PM-1347;	Table 2.	PM-1524;	R9-6-314.
	FM-2265;		F#-2605	P#-1524;
	FM-2265	Table 2.2.	FN-2605;	PM-1524;
R1-6-103.	PM-1347;		FM-2605	F#-2605;
	FM-2265	R9-6-204.	PM-1524;	FN-2605
R1-6-104.	PM-1347;		FM-2605	R9-6-316.
	FM-2265	Table 3.	PR-1524;	P#-1524;
R1-6-201.	PM-1347;		FR-2605	PM-1524;
	FM-2265	Table 2.3.	PN-1524;	F#-2605;
R1-6-202.	PM-1347;		FN-2605	FM-2605
	FM-2265	R9-6-205.	PM-1524;	R9-6-317.
R1-6-203.	PM-1347;		FM-2605	P#-1524;
	FM-2265	R9-6-206.	PM-1524;	PM-1524;
R1-6-204.	PM-1347;		FM-2605	F#-2605;
	FM-2265	Table 4.	PR-1524;	FM-2605
R1-6-205.	PM-1347;		FR-2605	R9-6-318.
	FM-2265	Table 2.4.	PN-1524;	P#-1524;
R1-6-206.	PM-1347;		FN-2605	FN-2605
	FM-2265	R9-6-207.	PM-1524;	R9-6-319.
R1-6-207.	PR-1347;		FM-2605	P#-1524;
	FR-2265	R9-6-301.	PM-1524;	PM-1524;
R1-6-301.	PM-1347;		FM-2605	F#-2605;
	FM-2265	R9-6-302.	PM-1524;	FM-2605
R1-6-302.	PM-1347;		FM-2605	R9-6-320.
	FM-2265	R9-6-303.	PM-1524;	P#-1524;
R1-6-303.	PM-1347;		FM-2605	PM-1524;
	FM-2265	R9-6-304.	PM-1524;	F#-2605;
R1-6-304.	PR-1347;		FM-2605	FM-2605
	FR-2265	R9-6-305.	PM-1524;	R9-6-321.
R1-6-401.	PM-1347;		P#-1524;	P#-1524;
	FM-2265		PN-1524;	FN-2605
R1-6-402.	PN-1347;		F#-2605;	R9-6-322.
	FN-2265	R9-6-306.	FN-2605	P#-1524;
R1-6-403.	PN-1347;		P#-1524;	F#-2605;
	FN-2265		PM-1524;	FM-2605
R1-6-404.	PN-1347;		F#-2605;	R9-6-323.
	FN-2265	R9-6-307.	FM-2605	P#-1524;
R1-6-501.	PR-1347;		PR-1524;	PM-1524;
	FR-2265		PN-1524;	F#-2605;
R1-6-502.	PR-1347;		FR-2605;	FM-2605
	FR-2265	R9-6-308.	FN-2605	R9-6-324.
R1-6-601.	PR-1347;		P#-1524;	P#-1524;
	FR-2265		PM-1524;	F#-2605;
R1-6-701.	PR-1347;		F#-2605;	FM-2605
	FR-2265	R9-6-309.	FM-2605	R9-6-325.
R1-6-801.	PR-1347;		P#-1524;	P#-1524;
	FR-2265		PN-1524;	F#-2605;
R1-6-802.	PR-1347;		F#-2605;	FM-2605
	FR-2265	R9-6-310.	FN-2605	R9-6-326.
			P#-1524;	P#-1524;
			PN-1524;	PM-1524;
Health Services, Department of - Communicable Diseases and Infections			F#-2605;	FM-2605
			FN-2605	R9-6-327.
		R9-6-311.	P#-1524;	P#-1524;
			PM-1524;	PM-1524;
			PM-1524;	F#-2605;
				FM-2605

R9-6-328.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-345.	F#-2605; FM-2605 P#-1524; PM-1524;	R9-6-361.	P#-1524; PN-1524; F#-2605; FN-2605
R9-6-329.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-346.	F#-2605; FM-2605 P#-1524; PM-1524;	R9-6-362.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-330.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-347.	F#-2605; FM-2605 P#-1524; PM-1524;	R9-6-363.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-331.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-348.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-364.	PR-1524; P#-1524; PM-1524; F#-2605; FM-2605
R9-6-332.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-349.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-365.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-333.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-350.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-366.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-334.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-351.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-367.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-335.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-352.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-368.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-336.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-353.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-369.	PR-1524; P#-1524; PM-1524; F#-2605; FM-2605
R9-6-337.	P#-1524; PN-1524; F#-2605; FN-2605	R9-6-354.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-370.	P#-1524; PN-1524; F#-2605; FN-2605
R9-6-338.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-355.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-371.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-339.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-356.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-372.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-340.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-357.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-373.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-341.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-358.	P#-1524; PN-1524; F#-2605; FN-2605	R9-6-374.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-342.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-359.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-375.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-343.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-360.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-376.	P#-1524; PM-1524; F#-2605; FM-2605
R9-6-344.	P#-1524; PM-1524;		F#-2605; FM-2605		F#-2605; FM-2605

R9-6-377.	P#-1524; PN-1524; F#-2605; FN-2605	R9-6-393.	P#-1524; PM-1524; F#-2605; FM-2605	R9-25-1305.	F#-2656; FM-2656 PR-1067; P#-1067; PM-1067; FR-2656; F#-2656; FM-2656
R9-6-378.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-394.	P#-1524; PM-1524; F#-2605; FM-2605	R9-25-1306.	PR-1067; PN-1067; FR-2656; F#-2656; FM-2656
R9-6-379.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-395.	P#-1524; PM-1524; F#-2605; FM-2605	R9-25-1307.	PR-1067; P#-1067; PM-1067; FR-2656; F#-2656; FM-2656
R9-6-380.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-396.	P#-1524; PM-1524; F#-2605; FM-2605	R9-25-1308.	PR-1067; P#-1067; PM-1067; FR-2656; F#-2656; FM-2656
R9-6-381.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-397.	P#-1524; PM-1524; F#-2605; FM-2605	R9-25-1309.	PR-1067; FR-2656 F#-2656; FM-2656
R9-6-382.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-398.	PN-1524; F#-2605; FM-2605	Table 1.	PR-1067; FR-2656
R9-6-383.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-601.	PEM-2917	Exhibit I.	PR-1067; FR-2656
R9-6-384.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-1002.	PM-1524; FN-2605	Table 13.1.	PN-1067; FN-2656
R9-6-385.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-1102.	PM-1524; FM-2605	R9-25-1310.	P#-1067; PN-1067; F#-2656; FN-2656 PR-1067; P#-1067; PM-1067; FR-2656; F#-2656; FM-2656
R9-6-386.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-1103.	PM-1524; FM-2605	R9-25-1311.	PR-1067; FR-2656
R9-6-387.	P#-1524; PM-1524; F#-2605; FM-2605	R9-6-1202.	PM-1524; FM-2605	R9-25-1312.	P#-1067; F#-2656
R9-6-388.	P#-1524; PM-1524; F#-2605; FM-2605	Health Services, Department of - Emergency Medical Services		R9-25-1313.	P#-1067; F#-2656
R9-6-389.	P#-1524; PM-1524; F#-2605; FM-2605	Table 5.1.	FXM-1161	R9-25-1315.	PR-1067; FR-2656
R9-6-390.	P#-1524; PM-1524; F#-2605; FM-2605	Table 5.2.	FXM-1161	R9-25-1401.	PR-1067; FR-2656
R9-6-391.	P#-1524; PM-1524; F#-2605; FM-2605	R9-25-301.	PEM-2919	R9-25-1402.	PR-1067; FR-2656
R9-6-392.	P#-1524; PM-1524; F#-2605; FM-2605	R9-25-305.	PEM-2919	Table 1.	PR-1067; FR-2656
		R9-25-306.	PEM-2919	R9-25-1403.	PR-1067; FR-2656
		R9-25-401.	PEM-2919	R9-25-1405.	PR-1067; FR-2656
		R9-25-402.	PEM-2919	R9-25-1406.	P#-1067; F#-2656
		R9-25-403.	PEM-2919	Health Services, Department of - Food, Recreational, and Institu- tional Sanitation	
		R9-25-405.	PEM-2919	R9-8-201.	PEM-3053
		R9-25-406.	PEM-2919	R9-8-203.	PEM-3053
		R9-25-407.	PEM-2919	R9-8-205.	PEM-3053
		R9-25-408.	PEM-2919		
		R9-25-409.	PEM-2919		
		Table 12.1.	PEM-2919		
		R9-25-601.	PM-577; FM-1728		
		R9-25-602.	PM-577; FM-1728		
		R9-25-1301.	PM-1067; FM-2656		
		R9-25-1302.	PM-1067; FM-2656		
		R9-25-1303.	P#-1067; PM-1067; F#-2656; FM-2656		
		R9-25-1303.01.	PN-1067; FN-2656		
		R9-25-1304.	P#-1067; PM-1067;		

R9-8-206.	PEM-3053	R20-5-306.	EXP-297	R20-6-1005.	PXM-151;
R9-8-401.	PEM-3056	R20-5-307.	EXP-297		FXM-1119
R9-8-402.	PEM-3056	R20-5-308.	EXP-297	R20-6-1006.	PXM-151;
Health Services, Department of -		R20-5-309.	EXP-297		FXM-1119
Health Care Institutions: Licensing		R20-5-310.	EXP-297	R20-6-1007.	PXM-151;
R9-10-120.	EN-2203	R20-5-311.	EXP-297		FXM-1119
Health Services, Department of -		R20-5-312.	EXP-297	R20-6-1008.	PXM-151;
Health Programs Services		R20-5-313.	EXP-297		FXM-1119
R9-13-201.	PM-2159	R20-5-314.	EXP-297	R20-6-1009.	PXM-151;
R9-13-203.	PM-2159	R20-5-315.	EXP-297		FXM-1119
R9-13-208.	PM-2159	R20-5-316.	EXP-297	R20-6-1010.	PXM-151;
Health Services, Department of -		R20-5-317.	EXP-297		FXM-1119
Medical Marijuana Program		R20-5-318.	EXP-297	R20-6-1011.	PXM-151;
R9-17-202.	FM-970	R20-5-319.	EXP-297		FXM-1119
R9-17-204.	FM-970	R20-5-320.	EXP-297	R20-6-1012.	PXR-151;
R9-17-310.	FM-970	R20-5-321.	EXP-297		PX#-151;
Health Services, Department of -		R20-5-322.	EXP-297		PXM-151;
Noncommunicable Diseases		R20-5-323.	EXP-297		FXR-1119;
R9-4-601.	EN-2857	R20-5-324.	EXP-297		FX#-1119;
R9-4-602.	EN-2857	R20-5-325.	EXP-297		FXM-1119
Health Services, Department of -		R20-5-326.	EXP-297	R20-6-1013.	PX#-151;
Occupational Licensing		R20-5-327.	EXP-297		PXM-151;
R9-16-117.	EXP-1044	R20-5-328.	EXP-297		FX#-1119;
R9-16-401.	PR-1360;	R20-5-329.	EXP-297		FXM-1119
	PN-1360;	R20-5-1201.	PM-1019;	R20-6-1014.	PX#-151;
	FM-3038		SPM-1799;		PXM-151;
R9-16-402.	PR-1360;	R20-5-1202.	FM-2907		FX#-1119;
	PN-1360;		PM-1019;	R20-6-1015.	FXM-1119
	FM-3038	R20-5-1205.	SPM-1799;		PX#-151;
R9-16-403.	PR-1360;		FM-2907		PXN-151;
	PN-1360;		PM-1019;		FX#-1119;
	FM-3038	R20-5-1206.	SPM-1799;	R20-6-1017.	FXN-1119
R9-16-404.	PR-1360;		FM-2907		PXM-151;
	PN-1360;	R20-5-1208.	PM-1019;	R20-6-1018.	FXM-1119
	FM-3038		SPM-1799;		FXM-1119
R9-16-405.	PR-1360;	R20-5-1209.	FM-2907	R20-6-1019.	PXM-151;
	PN-1360;		PM-1019;		FXM-1119
	FM-3038	R20-5-1210.	SPM-1799;	R20-6-1020.	PXM-151;
R9-16-406.	PR-1360;		FM-2907		FXM-1119
	PN-1360;	R20-5-1211.	PM-1019;	R20-6-1021.	PXM-151;
	FM-3038		SPM-1799;		FXM-1119
R9-16-407.	PR-1360;	R20-5-1213.	FM-2907	R20-6-1023.	PXM-151;
	PN-1360;		PM-1019;		FXM-1119
	FM-3038	R20-5-1218.	SPM-1799;	R20-6-1024.	PX#-151;
Table 1.	PR-1360;		FM-2907		PXN-151;
	FR-3038		PM-1019;	R20-6-1025.	FXN-1119
Table 4.1.	PN-1360;		SPM-1799;		PX#-151;
	FN-3038		FM-2907	R20-6-1026.	FX#-1119
R9-16-408.	PR-1360;	Insurance, Department of		Appendix A.	PXM-151;
	PN-1360;	R20-6-204.	EXP-136	Appendix B.	FXM-1119
	FM-3038	R20-6-607.	PM-2485	Appendix C.	PXM-151;
R9-16-409.	PR-1360;	R20-6-1001.	PXM-151;	Appendix D.	FXM-1119
	PN-1360;		FXM-1119		PXM-151;
	FM-3038	R20-6-1002.	PXM-151;	Appendix E.	FXM-1119
Industrial Commission of Arizona			FXM-1119	Appendix F.	PXM-151;
R20-5-301.	EXP-297	R20-6-1003.	PXM-151;		FXM-1119
R20-5-302.	EXP-297		FXM-1119	Appendix H.	PXM-151;
R20-5-303.	EXP-297	R20-6-1004.	PXM-151;		FXM-1119
R20-5-304.	EXP-297		FXM-1119		
R20-5-305.	EXP-297				

Appendix I.	PXM-151; FXM-1119	R4-29-202. R4-29-203.	RC-1976 RC-1976	R4-29-608. R4-29-609.	RC-1976 RC-1976
Appendix J.	PXM-151; FXM-1119	R4-29-204. R4-29-205.	RC-1976 RC-1976	R4-29-701. R4-29-702.	RC-1976 RC-1976
R20-6-1409.	PM-2168	R4-29-206. R4-29-207.	RC-1976 RC-1976	R4-29-703. R4-29-704.	RC-1976 RC-1976
Land Department, State		R4-29-208. R4-29-209.	RC-1976 RC-1976	R4-29-705. R4-29-706.	RC-1976 RC-1976
R12-5-1902.	EXP-297	R4-29-210. R4-29-211.	RC-1976 RC-1976	R4-29-707. R4-29-708.	RC-1976 RC-1976
Law Enforcement Merit System Council		R4-29-212. R4-29-213.	RC-1976 RC-1976	Pharmacy, Board of	
R13-5-101.	PM-1478; FM-2564	R4-29-214. R4-29-215.	RC-1976 RC-1976	R4-23-205.	FXM-2058; FXM-2383
R13-5-102.	PM-1478; FM-2564	R4-29-216. R4-29-301.	RC-1976 RC-1976	R4-23-402. R4-23-407.1.	PM-1009 PN-5; EN-31; FN-967
R13-5-402.	PM-1478; FM-2564	R4-29-302. R4-29-303.	RC-1976 RC-1976	R4-23-411. R4-23-703.	FM-211 SPM-607; FM-2424
R13-5-701.	PM-1478; FM-2564	R4-29-304. R4-29-305.	RC-1976 RC-1976	R4-23-1104. R4-23-1104.01.	PM-1009 PN-1009
R13-5-702.	PM-1478; FM-2564	R4-29-306. R4-29-307.	RC-1976 RC-1976	Psychologist Examiners, Board of	
R13-5-703.	PM-1478; FM-2564	R4-29-308. R4-29-309.	RC-1976 RC-1976	R4-26-401. R4-26-403.	FM-215 FM-215
R13-5-704.	PM-1478; FM-2564	R4-29-310. R4-29-311.	RC-1976 RC-1976	R4-26-404. R4-26-404.1.	FM-215 FN-215
R13-5-706.	PN-1478; FN-2564	R4-29-312. R4-29-313.	RC-1976 RC-1976	R4-26-405. R4-26-406.	FM-215 FM-215
Medical Board, Arizona		R4-29-314. R4-29-315.	RC-1976 RC-1976	R4-26-407. R4-26-408.	FM-215 FM-215
R4-16-102.	PM-2461	R4-29-316. R4-29-317.	RC-1976 RC-1976	R4-26-409. R4-26-410.	FM-215 FM-215
R4-16-201.1.	PM-2461	R4-29-318. R4-29-319.	RC-1976 RC-1976	R4-26-414. R4-26-417.	FM-215 FM-215
R4-16-205.	FXM-2056; PM-2461	R4-29-320. R4-29-401.	RC-1976 RC-1976	Public Safety, Department of - Criminal Identification Section	
Nursing, State Board of		R4-29-402. R4-29-403.	RC-1976 RC-1976	R13-1- 502. R13-1-504.	PM-2166 PM-2166
R4-19-101.	FM-1420	R4-29-404. R4-29-405.	RC-1976 RC-1976	Racing Commission, Arizona	
Table 1.	FM-1420	R4-29-406. R4-29-407.	RC-1976 RC-1976	R19-2-205. R19-2-601.	FXM-837 P#-2998; PM-2998
R4-19-201.	FM-1420	R4-29-408. R4-29-409.	RC-1976 RC-1976	R19-2-602. R19-2-603.	P#-2998; PM-2998
R4-19-205.	FM-1420	R4-29-410. R4-29-411.	RC-1976 RC-1976	R19-2-604. R19-2-605.	P#-2998; PM-2998
R4-19-207.	FM-1420	R4-29-412. R4-29-413.	RC-1976 RC-1976	R19-2-606. R19-2-606.	P#-2998; PM-2998
R4-19-209.	FM-1420	R4-29-414. R4-29-415.	RC-1976 RC-1976	R19-2-A601. R19-2-A602.	PN-2998 PN-2998
R4-19-216.	FM-1420	R4-29-416. R4-29-417.	RC-1976 RC-1976	R19-2-B601. R19-2-B602.	PN-2998 PN-2998
R4-19-301.	FM-1420	R4-29-418. R4-29-501.	RC-1976 RC-1976	R19-2-B603. R19-2-B604.	PN-2998 PN-2998
R4-19-305.	FM-1420	R4-29-502. R4-29-503.	RC-1976 RC-1976	R19-2-B605. R19-2-B606.	PN-2998 PN-2998
R4-19-312.	FM-1420	R4-29-504. R4-29-505.	RC-1976 RC-1976	R19-2-B607. R19-2-B608.	PN-2998 PN-2998
R4-19-511.	FM-1420	Appendix A. R4-29-601.	RC-1976 RC-1976		
R4-19-801.	FM-1420	R4-29-602. R4-29-603.	RC-1976 RC-1976		
R4-19-802.	FM-1420	R4-29-604. R4-29-605.	RC-1976 RC-1976		
Osteopathic Examiners in Medicine and Surgery, Board of		R4-29-606. R4-29-607.	RC-1976 RC-1976		
R4-22-104.	FM-763				
Table 1.	FM-763				
R4-22-207.	FM-763				
Pest Management, Office of					
R4-29-101.	RC-1976				
R4-29-102.	RC-1976				
R4-29-103.	RC-1976				
R4-29-104.	RC-1976				
R4-29-105.	RC-1976				
R4-29-106.	RC-1976				
R4-29-107.	RC-1976				
Table 1.	RC-1976				
R4-29-108.	RC-1976				
R4-29-201.	RC-1976				

R17-5-1004.	FN-223	R17-4-702.	PM-2804	R12-15-401.	PM-650;
R17-5-1005.	FN-223	R17-4-703.	EXP-34		FM-2375
R17-5-1006.	FN-223	R17-4-705.	PM-2804		
R17-5-1007.	FN-223	R17-4-706.	PM-2804		
R17-5-1008.	FN-223	R17-4-707.	PM-2804		
R17-5-1009.	FN-223	R17-4-709.	PM-2804		
		R17-4-710.	PM-2804		
		R17-4-711.	EXP-34		
		R17-4-712.	PM-2804		

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

R17-4-501.	PM-2804
R17-4-507.	PR-2804
R17-4-508.	PM-2804
R17-4-701.	PM-2804

Water Resources, Department of

R12-15-105.	PM-650;
	FM-2375

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 45 OF VOLUME 23.

Agency Guidance Document, Notices of

Health Services, Department of; pp. 417, 1048, 2428, 2955

Agency Ombudsman, Notice of

First Things First, Early Childhood Development and Health Board; p. 3129
 Game and Fish Commission; p. 449
 Transportation, Department of; p. 309
 Public Safety, Department of; pp. 2172, 2765
 Real Estate, Department of; p. 2429

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

Coconino County; pp. 2217-2218
 Maricopa County; pp. 37-71; 236-256; 542-561, 2011, 2071-2092; 2218-2241
 Pima County; pp. 1170-1329

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); 1383-1388 (M17-89 through M17-98); 1444-1449 (M17-100 through M17-109); 1493-1500 (M17-110 through M17-123); 1764-1770 (M17-146 through M17-158); 1819-1824 (M17-161 through M17-170); 2063-2070 (M17-172 through M17-185);

2125-2135 (M17-188 through M17-207); 2175- 2180 (M17-210 through M17-219); 2212-2216 (M17-225 through M17-234); 2348-2351 (M17-235 through M17-241); 2392-2397 (M17-244 through M17-253); 2432-2436 (M17-257 through M17-265); 2497-2501 (M17-270 through M17-278); 2704-2709 (M17-281 through M17-291)

Governor’s Regulatory Review Council

Notices of Action Taken at Monthly Meetings: pp. 264-265; 479-480; 639-640; 996-997; 1461-1462; 1839-1840; 2453; 2595; 2979-2981

Oral Proceeding on Proposed Rulemaking, Notice of

Administration, Department of - Benefit Services Division; p. 450
 Economic Security, Department of - Unemployment Insurance; pp. 2388-2389
 Insurance, Department of; pp. 234-235

Proposed Delegation Agreement, Notices of

Environmental Quality, Department of; pp. 35-36; 525-526; 617-621; 669; 875; 1378, 1812; 2119-2120; 2492-2493
 Health Services, Department of; pp. 526-537

Public Information, Notices of

Board of Regents, Arizona; pp. 418-427
 Clean Elections Commission, Citizens; p. 1761
 Corporation Commission - Fixed Utilities; p. 2121
 Economic Security, Department of; p. 622
 Environmental Quality, Department of; pp. 300-306, 1440
 Environmental Quality, Department of - Pesticides and Water Pollution Control; pp. 2006-2008
 Game and Fish Commission; p. 2121-2122
 Health Services, Department of - Communicable Diseases and Infestations; p. 2763
 Health Services, Department of - Emergency Medical Services; p. 538
 Industrial Commission of Arizona; p. 467
 Real Estate, Department of; p. 1814

Rulemaking Docket Opening, Notices of

Administration, Department of; 2 A.A.C. 1; p. 2386
 Administration, Department of - Benefit Services Division; 2 A.A.C. 6; pp. 415-416
 Administration, Department of - Public Buildings Maintenance; 2 A.A.C. 11; p. 1759
 Administration, Department of - Risk Management Division; 2 A.A.C. 10; p. 873
 Agriculture, Department of - Weights and Measures Services Division; 3 A.A.C. 7; p. 982

- Arizona Health Care Coast Containment System - Administration; 9 A.A.C. 22; pp. 1046, 1811, 2761
- Arizona Health Care Coast Containment System - Arizona Long-term Care System; 9 A.A.C. 28; p. 2762
- Behavioral Health Examiners, Board of; 4 A.A.C. 6; p. 1045
- Boxing and Mixed Martial Arts Commission, State; 4 A.A.C. 3; p. 2950
- Child Safety, Department of - Child Welfare Agency Licensing; 21 A.A.C. 7; p. 1377
- Chiropractic Examiners, Board of; 4 A.A.C. 7; p. 1905
- Corporation Commission - Fixed Utilities; 14 A.A.C. 2; p. 1906
- Cosmetology, Board of; 4 A.A.C. 10; p. 1576
- Criminal Justice Commission, Arizona; 10 A.A.C. 4; p. 1640
- Economic Security, Department of; 6 A.A.C. 1; p. 2427
- Economic Security, Department of - Developmental Disabilities; 6 A.A.C. 6; p. 3167
- Environmental Quality, Department of - Air Pollution Control; 18 A.A.C. 2; p. 842
- Environmental Quality, Department of - Environmental Reviews and Certification; 18 A.A.C. 5; p. 1907
- Environmental Quality, Department of - Water Pollution Control; 18 A.A.C. 9; p. 1687
- Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers, Board of; 4 A.A.C. 33; p. 983
- Game and Fish Commission; 12 A.A.C. 4; pp. 299, 1489, 2863, 2864
- Governor's Regulatory Review Council; 1 A.A.C. 6; p. 1376
- Health Services, Department of - Communicable Diseases; 9 A.A.C. 6; p. 2951
- Health Services, Department of - Emergency Medical Services; 9 A.A.C. 25; p. 2951
- Health Services, Department of - Food, Recreational, and Institutional Sanitation; 9 A.A.C. 8; pp. 3059-3060
- Health Services, Department of - Health Care Institutions: Licensing; 9 A.A.C. 10; p. 2491
- Health Services, Department of - Health Programs Services; 9 A.A.C. 13; pp. 1810, 3061
- Health Services, Department of - Medical Marijuana Program; 9 A.A.C. 17; p. 614
- Industrial Commission of Arizona; 20 A.A.C. 5; p. 1047
- Insurance, Department of; 20 A.A.C. 6; pp. 2171, 2209
- Law Enforcement Merit System Council; 13 A.A.C. 5; p. 1489
- Manufactured Housing, Board of; 4 A.A.C. 34; pp. 2386-2387
- Medical Board, Arizona; 4 A.A.C. 16; p. 2490
- Pharmacy, Board of; 4 A.A.C. 23; p. 137
- Psychologist Examiners, Board of; 4 A.A.C. 26; p. 524
- Racing Commission, Arizona; 19 A.A.C. 2; p. 2954
- Registrar of Contractors; 4 A.A.C. 9; p. 1639
- Retirement System Board, State; 2 A.A.C. 8; pp. 667; 1045
- Revenue, Department of - General Administration; 15 A.A.C. 10; pp. 138, 2005
- Revenue, Department of - Luxury Tax Section; 15 A.A.C. 3; p. 2952
- Revenue, Department of - Transaction Privilege and Use Tax Section; 15 A.A.C. 5; p. 2953
- Secretary of State, Office of; 2 A.A.C. 12; p. 2118
- Technical Registration, Board of; 4 A.A.C. 30; p. 1488
- Transportation, Department of - Commercial Programs; 17 A.A.C. 5; pp. 2865, 2953
- Transportation, Department of - Title, Registration, and Driver Licenses; 17 A.A.C. 4; pp. 1760, 2864
- 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
- Environmental Quality, Department of; pp. 1380, 1577, 1689
- Health Services, Department of; p. 193, 2956
- Insurance, Department of; pp. 194, 1815, 2494
- Land Department, State; pp. 469-470
- Psychologist Examiners, Department of; p. 539
- Real Estate, Department of; p. 1815
- Water Infrastructure Finance Authority; pp. 307-308



RULES 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.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



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.

Deadline Date (paper only) Friday, 5:00 p.m.	Register Publication Date	Oral Proceeding may be scheduled on or after
August 4, 2017	August 25, 2017	September 25, 2017
August 11, 2017	September 1, 2017	October 2, 2017
August 18, 2017	September 8, 2017	October 10, 2017
August 25, 2017	September 15, 2017	October 16, 2017
September 1, 2017	September 22, 2017	October 23, 2017
September 8, 2017	September 29, 2017	October 30, 2017
September 15, 2017	October 6, 2017	November 6, 2017
September 22, 2017	October 13, 2017	November 13, 2017
September 29, 2017	October 20, 2017	November 20, 2017
October 6, 2017	October 27, 2017	November 27, 2017
October 13, 2017	November 3, 2017	December 4, 2017
October 20, 2017	November 10, 2017	December 11, 2017
October 27, 2017	November 17, 2017	December 18, 2017
November 3, 2017	November 24, 2017	December 26, 2017
November 10, 2017	December 1, 2017	January 2, 2018
November 17, 2017	December 8, 2017	January 8, 2018
November 24, 2017	December 15, 2017	January 16, 2018
December 1, 2017	December 22, 2017	January 22, 2018
December 8, 2017	December 29, 2017	January 29, 2018
December 15, 2017	January 5, 2018	February 5, 2018
December 22, 2017	January 12, 2018	February 12, 2018
December 29, 2017	January 19, 2018	February 20, 2018
January 5, 2018	January 26, 2018	February 26, 2018
January 12, 2018	February 2, 2018	March 5, 2018
January 19, 2018	February 9, 2018	March 12, 2018
January 26, 2018	February 16, 2018	March 19, 2018
February 2, 2018	February 23, 2018	March 26, 2018
February 9, 2018	March 2, 2018	April 2, 2018
February 16, 2018	March 9, 2018	April 9, 2018
February 23, 2018	March 16, 2018	April 16, 2018



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.

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.