



Arizona Administrative REGISTER

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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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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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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.

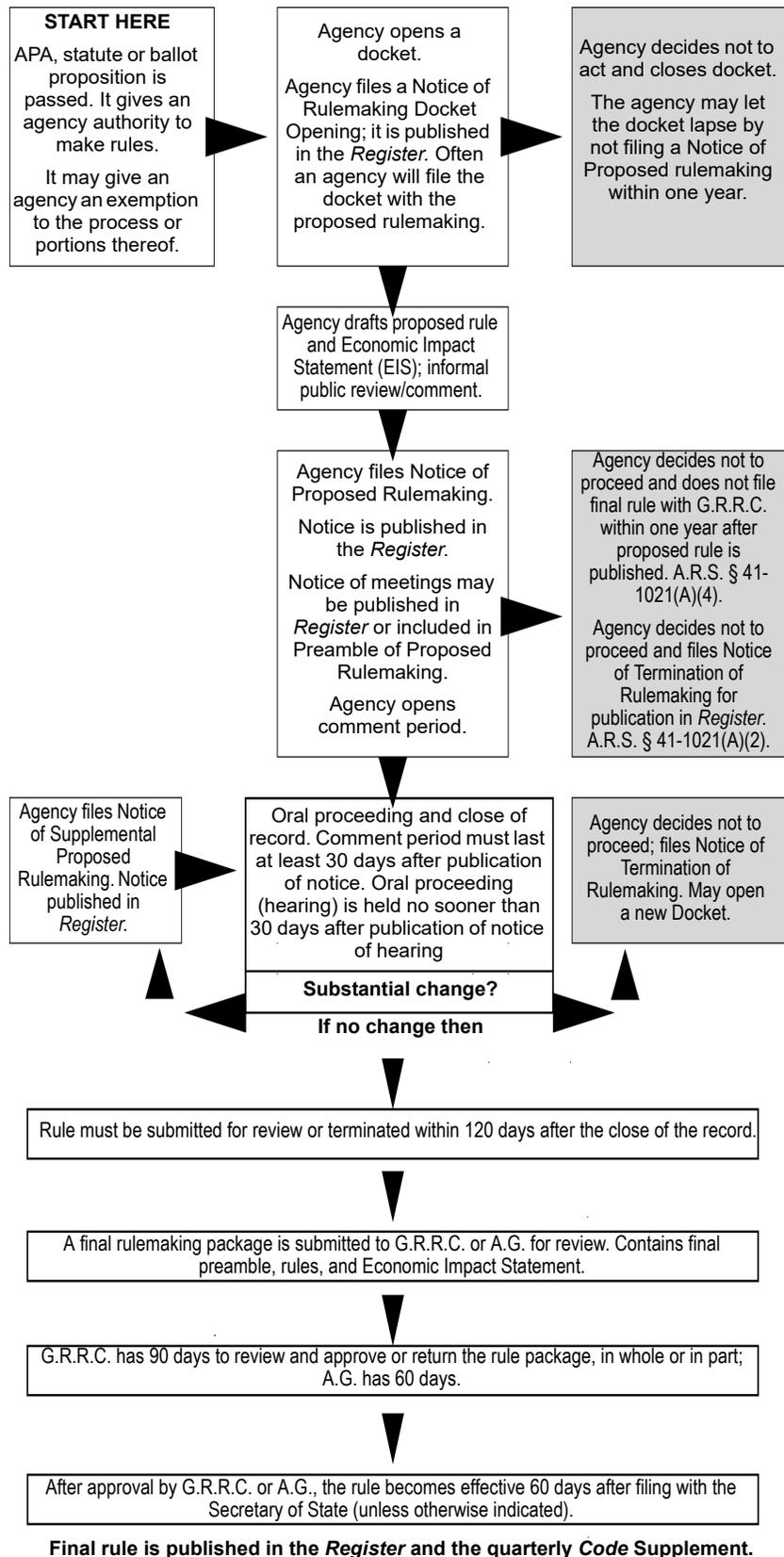
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

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 Rulemaking.

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 oral 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 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 20. BOARD OF DISPENSING OPTICIANS**

[R18-167]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R4-20-102 | Amend |
| R4-20-103 | Repeal |
| R4-20-104 | Repeal |
| R4-20-105 | Repeal |
| R4-20-106 | Repeal |
| R4-20-107 | Amend |
| R4-20-109 | Amend |
| R4-20-110 | Amend |
| R4-20-112 | Amend |
| R4-20-113 | Amend |
| R4-20-115 | Amend |
| R4-20-119 | Amend |
| R4-20-123 | Repeal |
| R4-20-124 | Repeal |
| R4-20-125 | Repeal |
| R4-20-126 | Repeal |
| Table 1 | Amend |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 32-1673
 Implementing statute: A.R.S. § 32-1671, 32-1672, 32-1673, 32-1674, 32-1681, 32-1682, 32-1683, 32-1684, 32-1684.01, 32-1685, 32-1686, 32-1687, 32-1691, 32-1691.01, 32-1693, 32-1694, 32-1695, 32-1695, 32-1696, 32-1697, 32-1698, 32-1699
 - 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: 24 A.A.R. 2093, July 27, 2018
 - 4. The agency’s contact person who can answer questions about the rulemaking:**
 Name: Megan Darian, Executive Director
 Address: Board of Dispensing Opticians
 1740 W. Adams, Suite 3001
 Phoenix, AZ 85007
 Telephone: (602) 542-8158
 Fax: (602) 926-8103
 E-mail: mdarian@do.az.gov
 Web site: www.do.az.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:**
 The rule provides detailed licensing, regulatory information, and procedural instructions. The Board is proposing to amend rule



R4-20-102 for clarification on material necessary to submit with the application for licensure. The Board is proposing to accept national practical examination results for licensure in State of Arizona. The Board is also, including language to assist military veterans with qualification for licensure.

R4-20-103, R4-20-104, R4-20-105, and R4-20-106 are being repealed to allow the Board more flexibility in accepting national practical examination results versus the Board proctoring a practical every six months. This will allow applicants more flexibility in taking the practical exam offered by national organizations more frequently and at various locations throughout the country.

R4-20-107, R4-20-109 and R4-20-110, are being amended to remove the notarization requirement as all applications are now accepted online through E-Licensing.

R4-20-112 is being amended to remove the license application fee and re-numbering remaining fees.

R4-20-113 is amended as a housekeeping measure to correct a misspelling.

R4-20-115 is amended to remove the word postmarked as all applications are now accepted on line through E-Licensing.

R4-20-119 is amended to update the ANSI Standards incorporated by reference.

R4-20-123, R4-20-124, R4-20-125, and R4-20-126 are being repealed due to duplication of GRRC Rules. Table 1 is amended to remove the time frame for approval to take the practical exam.

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:

Not applicable

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:

The proposed amendments/repeals do not diminish a previous grant of authority of a political subdivision of this state.

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

Amending/repealing these rules would not have any adverse economic impact on consumers and small businesses.

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

Name: Megan Darian, Executive Director
Address: Board of Dispensing Opticians
1740 W. Adams, Suite 3001
Phoenix, AZ 85007
Telephone: (602) 542-8158
Fax: (602) 926-8103
E-mail: mdarian@do.az.gov
Web site: www.do.az.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:

Date and time: Monday, September 24, 2018; 10:00 a.m.
Location: Board of Dispensing Opticians
1740 W. Adams
Phoenix, AZ 85007
Board Room C

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:

Not applicable

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

Not applicable

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

Not applicable

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

No

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

R4-20-119. Substandard Care

1. ANSI Z80.1 1999, "Prescription Ophthalmic Lenses-Recommendations."
2. ANSI Z80-20-1998, "Contact Lenses- Standard Terminology, Tolerances, Measurements And Physiochemical Properties."
3. ANSI Z80.5-2004, "Requirements for Ophthalmic Frames."
4. ANSI Z87.1-2003, "Occupational and Educational Personal Eye and Face Protection Devices."



5. ANSI Z80.9 1998, "Optical Devices for Low Vision."

13. The full text of the rules follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 20. BOARD OF DISPENSING OPTICIANS**

ARTICLE 1. GENERAL

Section

R4-20-102.	Application for a Dispensing Optician's License by Examination
R4-20-103.	Approval to Take Dispensing Optician Examination <u>Repealed</u>
R4-20-104.	Dispensing Optician Practical Examination <u>Repealed</u>
R4-20-105.	Practical Examination Procedures <u>Repealed</u>
R4-20-106.	Scoring of Examination; Failure to Pass <u>Repealed</u>
R4-20-107.	Application for a Dispensing Optician's License by Comity
R4-20-109.	Renewal of Dispensing Optician's License; Late Renewal; Reinstatement
R4-20-110.	Application for an Optical Establishment License; Qualifications
R4-20-112.	Fees
R4-20-113.	Display of Licenses; Nontransferability <u>Non-transferability</u>
R4-20-115.	Renewal of Optical Establishment License; Late Renewal; Re-application
R4-20-119.	Substandard Care
R4-20-123.	Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statements; Objection Based Upon Economic, Small Business, or Consumer Impact <u>Repealed</u>
R4-20-124.	Public Comments <u>Repealed</u>
R4-20-125.	Oral Proceedings <u>Repealed</u>
R4-20-126.	Written Criticism <u>Repealed</u>
Table 1	Time-frames (in days)

ARTICLE 1. GENERAL

R4-20-102. Application for a Dispensing Optician's License by Examination

At least ~~45~~ 30 days before an ~~examination~~ a regularly scheduled board meeting date, an applicant for a dispensing optician's license by examination shall submit to the Board an application packet that contains:

1. An application form provided by the Board, signed and dated by the applicant, ~~and notarized~~ that contains:
 - a. The applicant's name, Social Security number, address, and telephone number;
 - b. The name and address of the applicant's employer at the time of application, if applicable;
 - c. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(b), the name and address of each dispensing optician, physician, or optometrist for whom the applicant served as an apprentice for three of the six years immediately preceding the application date, and the beginning and ending dates of each apprenticeship;
 - d. If demonstrating technical skill and training under A.R.S. § 32-1683(5) (c), the name and address of the school from which the applicant graduated, dates of attendance, date of graduation, degree received, and the name and address of each dispensing optician for whom the applicant served as a dispensing optician apprentice for one of the six years immediately preceding the application date and the beginning and ending dates of service. The applicant shall submit a photocopy of the applicant's diploma from the optical dispensing school;
 - e. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(c) received during military service, the name and address of the school/course from which the applicant graduated, dates of attendance, date of graduation, and degree/certification received, the location and name of the duty station or stations at which the applicant has worked for three of the six years immediately preceding the application date and the beginning and ending dates of service.
 - ~~e.f.~~ If demonstrating technical skill and training under A.R.S. § 32-1683(5)(d), the name and address of each dispensing optician, physician, or optometrist for whom the applicant has worked for three of the six years immediately preceding the application date and the beginning and ending dates of employment;
 - ~~f.g.~~ A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in any state;
 - ~~g.h.~~ A statement of whether the applicant has ever had an application for a professional license denied or had a license suspended or revoked in any state; and
 - ~~h.i.~~ A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the applicant's:
 - a. High school diploma or general educational diploma issued in any state; or
 - b. Transcripts from a high school or college; or
 - c. Evidence of a college degree or admission to any college in any state;
3. Verification of passing ~~an ABO and NCLE Board both spectacle and contact lens written and practical examination~~ examinations in opticianry administered by a nationally recognized body as evidenced by an original notice of examination results or a copy of the original certificate of passage issued by the organization that prepared the examination;
4. A letter attesting to good moral character from each of three individuals who are not family members, who have known the applicant for two years immediately before the date of the application, and support the applicant's licensure;
5. A letter from each physician, optometrist, or dispensing optician named in subsection (1)(c), (d), or (e) that contains:



- a. The individual's printed name, address, and telephone number; and
- b. A statement that the applicant has either served as an apprentice or been employed as a dispensing optician by the physician, optometrist, or dispensing optician for the time required in subsection (1)(c), (d), or (e);
- 6. A photograph of the applicant no smaller than 1 ½ x 2 inches and taken not more than six months before the date of application; and
- 7. The fee required in R4-20-112.

R4-20-103. ~~Approval to Take Dispensing Optician Examination Repealed~~

- ~~A. An applicant shall file an application to take the dispensing optician license examination with the Board 45 days before the date of the examination.~~
- ~~B. The Board may reduce or waive the 45 day requirement for any portion of the application if its nonavailability is outside the applicant's control.~~
- ~~C. The Board shall notify an applicant whose application is approved before the date of the examination as to the time and place of the examination.~~

R4-20-104. ~~Dispensing Optician Practical Examination Repealed~~

- ~~A. At least twice each year, the Board shall administer a dispensing optician practical examination. The Board shall not space the examinations more than eight months apart.~~
- ~~B. The practical examination shall include measurement of optical devices, interpupillary distance, segment heights, corneal curvature, and the identification of lens styles and tints. An applicant shall use only Board-supplied measuring equipment and optical devices in the practical examination.~~

R4-20-105. ~~Practical Examination Procedures Repealed~~

- ~~A. For the practical examination, an applicant shall not bring books or notes into the examination room, communicate by any means with other applicants while the examination is in progress unless expressly authorized by the presiding examiner, or leave the examination room without first securing the presiding examiner's permission. If an applicant violates this subsection, the presiding examiner shall confiscate the examination answer sheet and the Board shall not allow the applicant to complete the examination.~~
- ~~B. For the practical examination, only applicants, Board members, employees of the Board and persons having the express permission of the Board are permitted in the examination room while the examination is in progress.~~
- ~~C. Examination papers are the property of the Board. The Board shall not return examination papers to the applicant.~~

R4-20-106. ~~Scoring of Examination; Failure to Pass Repealed~~

- ~~A. To pass, an applicant shall achieve a grade of 75% or more on the practical examination. For the written examination, the applicant shall achieve a grade of 70% or more on the ABO examination and shall achieve a grade of 72% or more on the NCLE examination.~~
- ~~B. An applicant who fails to pass the practical examination shall re-apply as an original applicant as described in R4-20-102.~~

R4-20-107. Application for a Dispensing Optician's License by Comity

An applicant for a dispensing optician's license by comity shall submit an application packet to the Board that contains:

- 1. An application form provided by the Board, signed and dated by the applicant, ~~and notarized~~ that contains:
 - a. The applicant's name, Social Security number, address, and telephone number;
 - b. The applicant is dispensing optician license number and the state and date of licensure;
 - c. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in any state;
 - d. A statement of whether the applicant has ever been denied a license or had a license suspended or revoked in any state; and
 - e. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
- 2. A photocopy of the unexpired license and a written statement, signed by an officer of the Board that issued the license, that states the license is in good standing, and that the license is valid to dispense both eyeglasses and contact lenses;
- 3. A photograph of the applicant no smaller than 1 ½ x 2 inches and taken not more than six months before the date of application; and
- 4. The fee required in R4-20-112.

R4-20-109. Renewal of Dispensing Optician's License; Late Renewal; Reinstatement

- A. No later than December 31 of each year, an applicant for renewal of a dispensing optician's license shall submit to the Board the fee required by R4-20-112, proof of continuing education credits required by R4-20-120, and an application form, provided by the Board, signed and dated by the applicant, ~~and notarized~~ that contains:
 - 1. The applicant's name, Social Security number, address, and telephone number;
 - 2. The name, address, telephone number, and Arizona license number of the optical establishment at which the applicant is currently practicing as a dispensing optician; and
 - 3. A statement that the information contained on the renewal application is correct.
- B. A licensee who submits a renewal application and renewal fee ~~postmarked~~ after December 31 but before January 31 of the following year shall pay the late fee in R4-20-112.
- C. A licensee who fails to submit a renewal application ~~postmarked~~ before January 31 following a license expiration of December 31, and who wishes to reinstate the license, shall:
 - 1. Submit a reinstatement application within one year of license expiration;
 - 2. Pay the renewal fee and the late fee in R4-20-112;
 - 3. Achieve a passing grade on the practical examination, unless the applicant has successfully completed the practical examination in the five-year period immediately preceding the license expiration.



R4-20-110. Application for an Optical Establishment License; Qualifications

- A. Any person, corporation, company, partnership, firm, association or society operating an optical establishment, except those exempt under A.R.S. §32-1691, shall obtain an optical establishment license.
- B. An applicant for an optical establishment license shall submit an application packet to the Board that contains:
 - 1. An application form provided by the Board, signed and dated by the applicant, ~~and notarized~~ that contains:
 - a. The applicant's name, establishment name, establishment address, and telephone number. An application form shall be signed by the following:
 - i. If a sole proprietorship, the individual owning the optical establishment;
 - ii. If a corporation, each individual owning 20% or more of the voting stock in the corporation;
 - iii. If a partnership, the managing partner and a general partner;
 - iv. If a limited liability company, the designated manager, or if no manager is designated, any two members of the limited liability company;
 - b. The hours the establishment will be open to the public for business;
 - c. If applicable, the name, business address, and telephone number of each licensed optical establishment currently being operated by the applicant in Arizona;
 - d. If a corporation, the name of the statutory agent, the corporation's officers, and the state of incorporation; and
 - e. The name, business address, telephone number, and license number of each licensed dispensing optician who is scheduled to work at the establishment on a full-time basis, consisting of 32 hours or more per week;
 - 2. If a corporation, the articles of incorporation; and
 - 3. The fee required in R4-20-112.
- C. To be licensed, an optical establishment shall employ at least one dispensing optician licensed by the Board, for at least 32 hours or more per week.

R4-20-112. Fees

- A. Dispensing optician fees, which are non-refundable, unless A.R.S. §41-1077 applies, are as follows:

1. License application fee	\$100
2. <u>1.</u> License issuance fee	\$100
3. <u>2.</u> Renewal of dispensing optician license	\$135
4. <u>3.</u> License renewal late fee	\$100
- B. Optical establishment license fees are as follows:

1. License application fee	\$100
2. License issuance fee	\$100
3. Renewal of optical establishment license	\$135
4. License renewal late fee	\$100
- C. Fees for copies of public records are:

1. Duplicate optician license	\$25
2. Duplicate establishment license	\$25
3. Dispensing Optician Statutes and rules	\$10
4. Directories:	
a. Commercial use	\$2.50 per page
b. Non-commercial use	\$1.00 per page
5. Labels	
a. Commercial use	\$.30 per name
b. Non-commercial use	\$.10 per name
6. All other records	\$.50 per page

R4-20-113. Display of Licenses; ~~Nontransferability~~ Non-transferability

- A. A licensee shall display all licenses in a conspicuous place. If a license is renewed, the licensee shall display the evidence of renewal in public view.
- B. Optical establishment and dispensing optician licenses are not transferable.
- C. A licensee shall return an optical establishment license to the Board upon transfer of ownership or going out of business.

R4-20-115. Renewal of Optical Establishment License; Late Renewal; Re-application

- A. No later than June 30 of each year, an applicant for renewal of an optical establishment license shall submit to the Board the fee required by R4-20-112 and an application form, provided by the Board that contains:
 - 1. The name, address, and telephone number of the optical establishment;
 - 2. The name and license number of each dispensing optician who is scheduled to work 32 hours or more each week at the optical establishment; and
 - 3. The applicant's signature and title.
- B. A licensee who submits a renewal application and renewal fee ~~postmarked~~ after June 30 but before July 31 of the renewal year shall pay the late fee in R4-20-112.
- C. A licensee who fails to submit a renewal application ~~postmarked~~ before July 31 following a license expiration of June 30, and who wishes to re-apply for an establishment license, shall submit an original application, and pay the application fee and license fee in R4-20-112.

R4-20-119. Substandard Care

- A. It is substandard care for a dispensing optician:



1. To dispense improperly manufactured eyeglasses or contact lenses. If a complaint indicates that eyeglasses or contact lenses dispensed by a dispensing optician or other employee of an optical establishment may have been improperly manufactured, the Board shall be guided in its determination of the facts by referring to the standards incorporated by reference in subsection (B) with regard to the individual parameters listed in the standards and considering patient wear, care, and usage;
 2. When interpreting written prescriptions:
 - a. To fail to follow standards incorporated by reference in subsection (B) in determining lens powers due to differences in vertex distances, base curvatures, special lens requirements, and facial fitting problems; or
 - b. To fail to comply with special instructions of the vision practitioner or optometrist shown on the prescription without the full knowledge and consent of the customer, the physician, or optometrist; or
 - c. To fill prescriptions beyond the expiration date indicated on the prescription;
 3. To fail to follow manufacturer’s guidelines regarding usual and customary lens thickness of eyewear;
 4. To intentionally or negligently injure a customer during the course of optical dispensing; or
 5. To fail to give the customer appropriate instructions on the care, handling, and wearing of an optical device.
- B.** The following standards published by the American National Standards Institute, Inc., (ANSI), 1819 L Street, NW, Suite 600, Washington, DC 20036, are incorporated by reference, and no further editions or amendments and are on file with the Board:
1. ANSI Z80.1 4999 2015, “Prescription Ophthalmic Lenses-Recommendations.”
 2. ANSI Z80-20-1998 Z80.20 2016, “Contact Lenses-Standard Terminology, Tolerances, Measurements And Physiochemical Properties.”
 3. ANSI Z80.5 2004, “Requirements for Ophthalmic Frames.”
 - 4.3. ANSI Z87.1-2003 2015, “Occupational and Educational Personal Eye and Face Protection Devices.”
 - 5.4. ANSI Z80.9 4998 2015, “Optical Devices for Low Vision.”

R4-20-123. ~~Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statements; Objection Based Upon Economic, Small Business, or Consumer Impact Repealed~~

~~A person shall file a petition to adopt, amend, or repeal a rule or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. §41-1033 or to object to a rule according to A.R.S. §41-1056.01 as prescribed in this Section. Each petition shall contain:~~

- ~~1. The name and current address of the petitioner;~~
- ~~2. For the adoption of a new rule, the specific language of the proposed rule;~~
- ~~3. For the amendment of a current rule, the applicable A.A.C. citation and Section heading. The request shall include the specific language of the current rule, any language to be deleted shall be stricken through but legible, and any new language shall be underlined;~~
- ~~4. For the repeal of a current rule, the applicable A.A.C citation and Section heading;~~
- ~~5. The reasons the rule should be adopted, amended, or repealed, and if for an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including:

 - ~~a. Any statistical data or other justification, with clear reference to an attached exhibit;~~
 - ~~b. An identification of what persons or segment of the public would be affected and how they would be affected; and~~
 - ~~e. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or as written comments offered by the public;~~~~
- ~~6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reasons the existing Board practice or substantive policy statement constitutes a rule and the proposed action requested of the Board;~~
- ~~7. For an objection to a rule based upon the economic, small business or consumer impact, evidence that:

 - ~~a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the rule; or~~
 - ~~b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the rule and the actual impact imposes a significant burden on persons subject to the rule; and~~~~
- ~~8. The signature of the person submitting the petition.~~

R4-20-124. ~~Public Comments Repealed~~

- ~~A.~~ On or before the close of record, a person may comment upon a rule proposed by the Board by submitting written comments to the Board.
- ~~B.~~ The Board considers a written comment submitted on the date it is received by the Board, except if a comment is mailed the date of receipt is the postmark date.
- ~~C.~~ The Board shall consider all written comments submitted during the public comment period.

R4-10-125. ~~Oral Proceedings Repealed~~

- ~~A.~~ A person requesting an oral proceeding as prescribed in AR.S. §41-1023, shall:
 - ~~1. File a request with the Board;~~
 - ~~2. Include the name and current address of the person making the request; and~~
 - ~~3. Refer to the proposed rule and include, if known, the date and issue of the Arizona Administrative Register in which the proposed rule was published.~~
- ~~B.~~ The Board shall record an oral proceeding either electronically or stenographically, and make any cassette tapes, transcripts, and written comments submitted during the proceeding part of the official record;
- ~~C.~~ The presiding officer shall use the following guidelines to conduct an oral proceeding:
 - ~~1. Registration of attendees. Registration of attendees is voluntary.~~



2. Registration of persons intending to speak. Registration information shall include the person's name, representative capacity, if applicable, a notation of the person's position with regard to the proposed rule and the approximate length of time the person wishes to speak.
3. Opening of the record. The presiding officer shall open the proceeding by identifying the rules to be considered, the location, date, time, and purpose of the proceeding, and present the agenda;
4. A statement by Board representative. A Board representative shall explain the background and general content of the proposed rules;
5. A public oral comment period. The presiding officer may limit comments to a reasonable time, as determined by the presiding officer and to prevent undue repetition; and
6. Closing remarks. The presiding officer shall announce the location where written public comments are to be sent.

R4-20-126. ~~Written Criticism Repealed~~

- ~~A. Any person may file a written criticism of an existing rule with the Board.~~
- ~~B. The criticism shall clearly identify the rule and specify why the existing rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.~~
- ~~C. The Board shall acknowledge receipt of a criticism within 15 days and shall place the criticism in the official record for review by the Board under A.R.S. §41-1056.~~

Table 1. Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval to Take a Dispensing Optician Examination (R4-20-102)	A.R.S. § 32-1682	90	30	60
License by Examination (R4-20-102)	A.R.S. § 32-1682 A.R.S. § 32-1684	60	30	30
License by Comity (R4-20-107)	A.R.S. § 32-1683	90	30	60
Optical Establishment License (R4-20-110)	A.R.S. § 32-1684.01	60	30	30
Optician's License Renewal (R4-20-109)	A.R.S. § 32-1682	60	30	30
Establishment License Renewal (R4-20-115)	A.R.S. § 32-1684.01	60	30	30



NOTICES OF FINAL RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING
TITLE 13. PUBLIC SAFETY
CHAPTER 13. DEPARTMENT OF PUBLIC SAFETY
SCHOOL BUSES

[R18-153]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific)
3. The effective date of the rules:
a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):
4. 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:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In accordance with A.R.S. § 28-3228, the Department consulted with the Arizona School Bus Advisory Council on March 6, 2018



where the council voted and approved the proposed rulemaking.

The Department received a rulemaking waiver from Mr. Tim Roemer, Public Safety Policy Advisor to Governor Ducey on November 30, 2017.

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

The Department did not rely on any study in its evaluation of or justification for the rule.

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

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

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

The Department intends to amend R13-13-101 and R13-13-102 for the purpose of updating the language relating to recently signed House Bill 2247; which eliminated the need for school bus driver applicants to submit processing fees and a full set of fingerprints to the Department for the purpose of obtaining a state and federal criminal records check pursuant to A.R.S. § 41-1750 and Public Law 92-544. Effective August 8, 2017, and in accordance with A.R.S. § 28-3228, additional language requiring an identity verified fingerprint clearance card to become a certified school bus driver needs to be added to the text of the rule.

Under the current rule, all school bus drivers undergo a background check at a cost of \$22 per application, which is now outdated. There are approximately 7,856 bus drivers statewide with an approximate average annual new driver application rate of 1,178. As a result of new legislation, all existing and new school bus drivers will be required to obtain an identity verified fingerprint clearance card. The cost to obtain an identity verified fingerprint clearance card is \$67, which is valid for six years. The Department assesses a \$67 fee under A.R.S. § 15-106 for every clearance card application and renewal. The \$67 is derived from the following: \$15 is deposited into the Records Processing Fund to pay for the initial state criminal history check (A.R.S. § 41-1750(J)); \$10 is allocated to the FBI for the federal criminal history check; \$35 is deposited into the Fingerprint Clearance Card Fund (A.R.S. § 41-1758.06) for the administration of the fingerprint clearance card program; and, \$7 is distributed to the Board of Fingerprinting Fund (A.R.S. § 41-619.56) to fund their operations.

The Department estimates there are approximately 5,971 existing school bus drivers that will need to obtain an identity verified fingerprint clearance card by December 31, 2018. The cost associated with the identity verified fingerprint clearance card will be the responsibility of the school bus driver applicants, school districts, and private transportation providers.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

After consultation with the Governor's Regulatory Review Council staff, nonsubstantive changes were made. The Department narrowed the statutory references for *fingerprint clearance card* and *identity verified fingerprint clearance card* where the intended meanings stay the same. The proposed language in Section 102(K)(2) was amended to remove for clarity *based on the totality of the circumstances* as it is unneeded language when the intent is to cancel or suspend a certificate for a school bus driver under the statutory authorities listed.

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

The Department consulted with the School Bus Advisory Council on March 6, 2018 pursuant to A.R.S. § 28-3228. The council had no substantive comments relevant to this rulemaking and during the open public comment portion of the agenda no public member from the audience spoke on the rulemaking. The council voted and approved of the rulemaking as presented in the Notice of Proposed Rulemaking at the March 6 meeting.

The Department conducted a public meeting on May 8, 2018 with one attendee.

Attendee: Mr. John Spilary, Agua Fria School District

Question: School bus drivers are upset that we have to get a new card costing us \$75 and our current one is no longer valid, why?

Answer: School bus drivers with cards issued before August 9, 2017 are grandfathered until they expire. After August 9, 2017, any drivers with expired cards or new drivers are required to obtain the new identity-verified fingerprint card by January 2019. The cost is \$67.

Question: What federal law is requiring this and why do we have to go through new hoops to get this new card? Why was this law passed without driver input?

Answer: There is no related federal law, this is a state law requirement. While the Department understands Mr. Spilary's concerns, the Department is required to follow state law enacted by the Governor and legislature.

Question: Why do only school bus drivers need this? Other CDL commercial drivers are not required to have it.

Answer: Other commercial drivers are typically hauling cargo or adults and have separate rules to follow by the Arizona Motor Vehicle Division. School bus drivers are now statutorily mandated to receive the same level clearance card as teachers and other school employees for the protection of the children on the school bus. Previous to this new law, school bus drivers did not receive the same level of background check as teachers and other school employees; this law brings the school bus drivers up to the same standards.

Question: Why did DPS not notify any of the drivers and districts of the law change?

Answer: The Department notified all school district transportation directors over a year ago of the upcoming legislation and provides monthly e-mail updates to the transportation directors. The School Bus Advisory Council is aware of the legislative change. More specific information is available on the Department's website.



Question: If I get this new card while I'm working for my current district and then I change jobs to a new district, does my card remain valid and travel with me?

Answer: Yes, your card remains with you and remains valid until the expiration date on the card regardless of a change in employers.

The Department did not receive any written comments by the close of the rulemaking record as specified in the Notice of Proposed Rulemaking.

12. All agency's 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 reason why a general permit is not used:

Pursuant to A.R.S. § 28-3228, the rules require a permit for each individual driver of a school bus. For the safety of the transported children, each individual school bus driver is subject to a physical examination, controlled substance and alcohol testing, physical performance tests, must possess a driver license of sufficient endorsements, have a driving record review, and receive specialty training including first aid and cardiopulmonary resuscitation. These driver-specific requirements, pursuant to A.R.S. § 41-1037(A)(3) do not allow for a general permit to be issued.

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:

There is no corresponding federal law applicable to the rules.

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:

The Department did not receive any analysis that compares the rule's impact on business competitiveness in this state compared to other states.

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

Not applicable

14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

**TITLE 13. PUBLIC SAFETY
CHAPTER 13. DEPARTMENT OF PUBLIC SAFETY
SCHOOL BUSES**

ARTICLE 1. SCHOOL BUS MINIMUM STANDARDS

- Section
- R13-13-101. Definitions
- R13-13-102. Certification of School Bus Drivers

ARTICLE 1. SCHOOL BUS MINIMUM STANDARDS

R13-13-101. Definitions

In this Chapter, unless otherwise specified:

“Accident” means any unexpected occurrence involving a moving or non-moving school bus that results in any bodily injury or fatality to a passenger or non-passenger, damage to personal or real property outside the school bus, or damage to the school bus that affects the integrity of the school bus or results in a major defect as described in R13-13-108(B).

“Alternately flashing signal lamps” means a system of red or red and amber lamps that are mounted horizontally to both the front and rear of the school bus body and used to inform the public that the school bus is preparing to stop or has stopped to load or unload passengers. Alternately flashing signal lamps can be either a four-lamp system as described in R13-13-107(17)(c)(i) or an eight-lamp system as described in R13-13-9-107(c)(ii).

“Alteration” means any addition, modification, or removal of any equipment or component after a school bus is inspected by the Department, which may affect the operations of the school bus; compliance with the statutes or rules applicable to school buses; or the health, safety, or welfare of any individual.

“Applicant” means an individual who submits an application to the Department to obtain a certificate to operate a school bus.

“ASE” means National Institute of Automotive Service Excellence.

“Auxiliary fan” means a device mounted inside the school bus body used to supplement the heating, defrosting, or air-conditioning systems by circulating air in the school bus.

“Behind-the-wheel instructor” means an individual qualified under R13-13-103 to provide behind-the-wheel training to applicants.



“Behind-the-wheel training” means the complete physical control of a school bus by an applicant while accompanied by and under direct observation of a behind-the-wheel instructor.

“Belt cutter” means a hand-held instrument containing a blade used to sever a seat belt or a wheelchair-securement device.

“Certificate” means a written authorization issued by the Department to operate a school bus in Arizona.

“Chassis” means the part of a school bus that consists of all base components, including the frame, front and rear suspension, exhaust system, brakes, engine, engine hood or cover, transmission, front and rear axles, front fenders, drive train and shaft, fuel system, engine air intake and filter, clutch and accelerator pedals, steering wheel, tires, heating and cooling system, battery, and controls and instruments to operate the school bus.

“Chassis cowl” means those parts of a Type C school bus that are located in front of the cowl and attached before a school bus manufacturer adds the school bus body.

“Citation” has the same meaning as at A.R.S. § 28-1872.

“Classroom instructor” means an individual qualified under R13-13-103 to provide classroom training to:

- Applicants to operate a school bus,
- Individuals becoming qualified to teach classroom training,
- Individuals becoming qualified to teach techniques of behind-the-wheel training, or
- School bus drivers taking refresher training.

“Classroom training” means the courses required by the Department of an applicant before the applicant is certified or of an individual seeking qualification as a classroom or behind-the-wheel instructor.

“Commercial driver license” has the same meaning as at A.R.S. § 28-3001.

“Controlled substances and alcohol testing” means a determination of an applicant's or school bus driver's use of marijuana, cocaine, phencyclidine, opiates, amphetamines, and alcohol prescribed by 49 CFR 382, October 2006 (no later amendments or editions), and conducted in accordance with the procedures at 49 CFR 40, October 2006 (no later amendments or editions), both published by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328, incorporated by reference, and on file with the Department; and a determination of an applicant's or school bus driver's use of marijuana, cocaine, phencyclidine, opiates, amphetamines, barbiturates, benzodiazepines, methadone, and propoxphene as required by these rules and conducted in accordance with a procedure that is generally accepted in the scientific community to be accurate and reliable.

“Cowl” means the portion of the chassis in a Type C school bus that separates the school bus engine from the school bus driver's compartment.

“Cutaway van” means a chassis to which a completed driver's compartment is attached before a school bus manufacturer adds a school bus body.

“dB(A)” means decibels A scale, a term denoting that noise level has been adjusted to duplicate human hearing.

“Driver's compartment” means the part of a school bus body that is separated from the passenger compartment by a barrier and contains the controls and instruments for the operation of the school bus.

“Emergency-brake system” means mechanical components used to slow or stop a school bus after a failure of the service-brake system.

“Emergency exit” means an opening in a school bus, including a door, push-out window, or roof hatch, used to unload passengers in the event of an occurrence that requires immediate evacuation of the school bus.

“Employer” means a private business or school district that hires applicants and certified school bus drivers to operate school buses.

“Fingerprint clearance card” has the same requirements as in A.R.S. § 41-1758.03.

“Frame” means the structural foundation upon which a school bus chassis is constructed.

“Frontage road” means a street that parallels an interstate highway and furnishes access to streets and property that would otherwise be unreachable from the interstate highway.

“Gross vehicle weight rating” means the value specified by the manufacturer as the maximum total loaded weight of a school bus, calculated in accordance with R13-13-106(27).

“Health care professional” means:

- A physician licensed to practice medicine under A.R.S. § 32-1401 et seq., osteopathy under A.R.S. § 32-1800 et seq., or chiropractic under A.R.S. § 32-900 et seq.;
- A physician licensed to practice medicine, osteopathy, or chiropractic in a state contiguous to Arizona;
- A physician employed by the United States government and licensed by a state or territory of the United States;
- A physician assistant licensed under A.R.S. § 32-2501 et seq.; or
- A registered nurse practitioner licensed under A.R.S. § 32-1601 et seq.

“Highway” has the same meaning as at A.R.S. § 28-101.

“Identification” means the signs, lettering, or numbers placed on the interior or exterior of a school bus body, including the glass areas, but does not include the lettering, numbers, or logos of a manufacturer or distributor of the manufacturer's product.



“Identity verified fingerprint clearance card” has the same requirements as A.R.S. § 15-106.

“Ignition power-deactivation switch” means a device that when set causes the engine of a motor vehicle to stop operating if the transmission is placed into gear or the parking-brake system is released.

“Interstate highway” means the designation given by the federal government to the system of highways connecting two or more states of the United States.

“Lamp” means a device that is covered by a lens and used to produce artificial light.

“Major defect” means a condition that exists to the interior or exterior of a school bus that causes the Department or owner to place the school bus out of service while the defect is being corrected.

“Manufacturer” means an entity engaged in the manufacturing or assembling of a school bus chassis, school bus body, or school bus chassis and body.

“Medical practitioner” has the same meaning as at A.R.S. § 32-1901.

“Minor defect” means a condition that exists to the interior or exterior of a school bus that is not a major defect and allows the school bus to remain in operation while the defect is being corrected.

“Off-duty” means the time a school bus driver is not on-duty.

“On-duty” means the period between the time a school bus driver begins to work for the employer or is required to be ready to work for the employer until the time the school bus driver is relieved from work and all responsibility for performing work for the employer. The time on-duty is used only to determine when a school bus driver must be provided time off-duty. Time on-duty may be compensated by the employer or an entity other than the employer or may be uncompensated. On-duty includes:

- All time at an employer's place of business, waiting to be dispatched;

- All time performing an operations check of a school bus in accordance with R13-13-108, or servicing or conditioning a school bus;

- All time driving a school bus, including loading or unloading the school bus, and remaining in readiness to drive a school bus;

- All time, at the direction of the employer, travelling but not driving a school bus or assuming any other responsibility to the employer. If the school bus driver is afforded at least eight consecutive hours off-duty upon arrival at the school bus driver's destination after travelling but not driving a school bus or assuming any other responsibility to the employer, the school bus driver shall be considered off-duty for the entire period travelling but not driving the school bus or assuming any other responsibility to the employer;

- All time repairing, obtaining assistance, or remaining in attendance upon a disabled school bus;

- All time preparing required reports and records;

- All time providing a breath or urine sample, including travel time to and from the collection site, to comply with the testing requirements of this Chapter;

- All time performing any other work for the employer; and

- All time performing any compensated work for any entity other than the employer.

“Out of service” means a school bus cannot be used to transport passengers.

“Owner” means the public or governmental agency or institution or private company in whose name a school bus is titled.

“Parking-brake system” means mechanical components used to prevent the movement of a school bus while loading or unloading a passenger or when the school bus is parked.

“Passenger” means an individual who rides in a school bus but does not participate in the operation of the school bus.

“Passenger compartment” means that part of the school bus body that is separated from the school bus driver's compartment by a barrier and holds the passengers to be transported.

“Physical examination” means an evaluation of an applicant's or school bus driver's medical status performed by a health care professional according to this Article.

“Physical examination form” means the Arizona Department of Transportation, Motor Vehicle Division, Medical Examination Report, which is used to record the results of a physical examination and may be obtained from the Department or Arizona Department of Transportation, Motor Vehicle Division.

“Physical performance test” means an evaluation of an applicant's or school bus driver's reflexes, agility, and strength performed according to this Article.

“Physical performance test form” means the document used to record the results of a physical performance test and may be obtained from the Department.

“Push-out window” means safety glass enclosed in a frame on a school bus that moves to the outside of the school bus when force is applied to the window from inside the school bus.

“Refresher training” means the courses required by the Department of each school bus driver to maintain certification as a school bus driver in Arizona.

“Restraining barrier” means a structure located in front of any school bus seat that restricts the forward motion of a passenger.

“Rub rail” means a horizontal steel bar attached to the outside of a school bus body used to reinforce the sides of the school bus.

“Safety glass” has the same meaning as at A.R.S. § 28-959(F).



“School” means a school as defined by A.R.S. § 15-101(19), accommodation school as defined by A.R.S. § 15-101(1), charter school as defined by A.R.S. § 15-101(3), or private school as defined by A.R.S. § 15-101(18).

“School bus” has the same meaning as at A.R.S. § 28-101.

“School bus body” means a structure assembled upon a chassis designed to carry a school bus driver and passengers.

“School bus driver” means an individual who is certified by the Department as meeting the requirements at A.R.S. § 28- 3228 and R13-13-102 to operate a school bus in Arizona.

“School district” has the same meaning as at A.R.S. § 15-101 (20).

“Service-brake system” means mechanical components used to slow or stop a school bus.

“Service door” means a metal structure used to close the opening of a service entrance.

“Service entrance” means an opening in a school bus used to load or unload passengers.

“Special needs school bus” means a school bus that is designed to transport disabled passengers, some of whom may use a wheelchair, and is constructed with a service entrance and a special-service entrance.

“Special-service entrance” means an opening in a school bus that accommodates a wheelchair lift for the loading or unloading of a passenger who uses a wheelchair.

“Special-service entrance door” means a metal structure used to close the opening of a special-service entrance.

“Street” has the same meaning as at A.R.S. § 28-101.

“Traffic control signal” has the same meaning as at A.R.S. § 28-601.

“Training” means the instruction, courses, classes, or workshops provided by the Department or the employer that are required to obtain or maintain certification as a school bus driver or qualification as a classroom or behind-the-wheel instructor, or qualification to administer the physical performance test in Arizona.

“Transport” or “transporting” means a school bus driver sets a school bus in motion to carry passengers or objects authorized by the school district to be carried in a school bus.

“Type A school bus” means a conversion bus constructed utilizing a cutaway front section vehicle with a left side driver's door. This definition includes two classifications: Type A-1, with a Gross Vehicle Weight Rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 pounds and less than or equal to 21,500 pounds.

“Type B school bus” means a school bus constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less, and Type B-2, with a GVWR greater than 10,000 pounds.

“Type C school bus,” also known as a conventional style school bus, means a school bus constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels. A Type C school bus may have a cutaway truck chassis or truck chassis with cab with or without a left side door and with a GVWR greater than 21,500 pounds.

“Type D school bus,” also known as a rear engine or front engine transit-style school bus, means a school bus constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

“Van” means a covered or enclosed truck.

“Wheelchair” means a mobility aid consisting of a frame, seat, and three or four wheels, which is used to support and carry a disabled passenger.

“Wheelchair lift” means an electric hydraulic mechanism and platform in a school bus used to raise and lower a passenger in a wheelchair.

“Wheelchair-lift platform” means a horizontal surface upon which a wheelchair sits while being raised or lowered.

“Wheelchair-passenger restraint” means a combination of a pelvic and an upper torso restraint, including buckles and fasteners, designed to secure a passenger in a wheelchair within a school bus.

“Wheelchair-passenger restraint anchorage” means equipment for fastening wheelchair-passenger restraints to the interior of a school bus.

“Wheelchair-securement anchorage” means equipment for fastening a wheelchair-securement device to a school bus floor.

“Wheelchair-securement device” means a strap or webbing, including buckles and fasteners, used for fastening a wheelchair to a wheelchair-securement anchorage.

“Wheelchair-securement system” means components used to fasten a wheelchair to the interior of a school bus, including a wheelchair-securement anchorage and a wheelchair-securement device.

R13-13-102. Certification of School Bus Drivers

A. Certification requirements: An individual shall not operate a school bus in Arizona without being certified by the Department. An applicant for certification shall:

1. Be a minimum of 18 years of age;
2. Possess a valid identity verified fingerprint clearance card.
- ~~2.3.~~ Submit all of the following to the Department through the employer:
 - ~~a. A completed fingerprint card and fingerprint card processing fee.~~
 - ~~b.a.~~ An application signed and dated by the applicant that states the applicant's:
 - i. Name, home address, and home phone number;
 - ii. Any alias ever used by the applicant;



- iii. Social Security number;
- iv. Date of birth;
- v. Arizona commercial driver license number;
- vi. Date of previous application for certification, if any;
- vii. Intended employer's name;
- viii. Convictions for a felony or misdemeanor, if any, in this state or any other state; ~~and~~
- ix. Total points accumulated against the applicant's driving record during the two years immediately preceding the date of application using the point system contained in A.A.C. R17-4-404; and
- x. Identity verified fingerprint clearance card number.

~~e-b.~~ Completed physical examination form, completed physical performance test form, and results of controlled substances testing; and

~~e-c.~~ A verification made under penalty of perjury that all submitted information is true and complete;

~~3-4.~~ Possess a current Arizona commercial driver license under A.R.S. § 28-3101;

~~4-5.~~ Possess any Arizona driver license endorsement required under A.R.S. § 28-3103;

~~5-6.~~ Meet the driving record requirements listed in this Article; and

~~6-7.~~ Complete the training requirements listed in this Article.

B. Physical examination

1. An applicant or school bus driver shall submit to a physical examination that is conducted by a health care professional in accordance with the physical examination form. An applicant or school bus driver is qualified to be certified as a school bus driver only if the health care professional conducts the physical examination in accordance with the physical examination form and concludes that the applicant or school bus driver has no condition that would interfere with the applicant's or school bus driver's ability to:
 - a. Operate a school bus safely,
 - b. Evacuate a school bus during an emergency or during a drill required under R13-13-104(D), and
 - c. Perform the operations checks required under R13-13-108(D).
2. An applicant or school bus driver who is insulin dependent shall obtain the waiver described in A.A.C. R17-5-208.
3. An applicant shall submit the completed physical examination form and, if applicable, a copy of the waiver required under subsection (B)(2), to the Department through the employer.
4. The initial physical examination of an applicant, conducted in accordance with the physical examination form, expires 24 months from the date of the physical examination unless a shorter time is specified by the health care professional who administers the physical examination. A school bus driver shall submit to a physical examination before the expiration date of the previous physical examination and send the completed physical examination form to the Department through the employer before the end of the month in which the previous physical examination expires.
5. If a health care professional determines that further testing of an applicant or school bus driver is needed by an ophthalmologist or optometrist, the health care professional shall refer the applicant or school bus driver to:
 - a. An ophthalmologist licensed under A.R.S. § 32-1401 et seq.,
 - b. An optometrist licensed under A.R.S. § 32-1701 et seq.,
 - c. An ophthalmologist licensed to practice ophthalmology or optometrist licensed to practice optometry by a state contiguous to Arizona, or
 - d. An ophthalmologist licensed to practice ophthalmology or optometrist licensed to practice optometry by any state or territory of the United States and employed by the United States government.
6. In addition to the physical examinations required by this Article, the Department or the employer may require a physical examination of an applicant or school bus driver for an impairment that would affect the ability to perform the activities listed in subsection (B)(1). The Department or employer shall base its decision to require an additional physical examination upon consideration of the appearance or actions of the applicant or school bus driver or of medical information received by the Department regarding the applicant or school bus driver. The applicant or school bus driver shall submit results of a physical examination conducted under this subsection to the Department through the employer within 30 days of the date of the physical examination.

C. Controlled substances and alcohol testing

1. An applicant or school bus driver shall submit to alcohol and controlled substances testing as required by A.R.S. § 28-3228(C)(2) and as prescribed by this Article and 49 CFR 382 October 2006 (no later amendments or editions). The testing shall be conducted in accordance with the procedures at 49 CFR 40 October 2006 (no later amendments or editions), both published at the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328, incorporated by reference and on file with the Department, except for the changes in 49 CFR 40 and 49 CFR 382 listed in subsections (C)(1)(a) through (C)(1)(i).
 - a. 49 CFR 40.3
 - i. "Employee," means an applicant or a school bus driver as defined at R13-13-101.
 - ii. "Employer" has the same meaning as at R13-13-101.
 - b. 49 CFR 382.107
 - i. "Commercial motor vehicle" has the same meaning as at A.R.S. § 28-3001(3).
 - ii. "Driver" means a school bus driver as defined at R13-13-101.
 - iii. "Employer" has the same meaning as at R13-13-101.
 - iv. "Performing a safety-sensitive function" means any time during which a school bus driver is on-duty except when the school bus driver is being compensated by an entity other than the employer.
 - v. "Safety-sensitive function" means any activity for which a school bus driver is on-duty except when the school bus driver is performing an activity for and being compensated by an entity other than the employer.



- c. 49 CFR 382.207. In both sentences, the word “four” is changed to “eight.”
 - d. 49 CFR 382.301(b), (c), and (d): Delete these subsections.
 - e. 49 CFR 382.303(a) and (b): Change the word “occurrence” to “accident,” as defined in R13-13-101, and delete the words “operating on a public road in commerce.”
 - f. 49 CFR 382.303(a)(1) and (b)(1): Delete the words “, if the accident involved the loss of human life”
 - g. 49 CFR 382.303(a)(2) and (b)(2): Delete the words “, if the accident involved.”
 - h. 49 CFR 382.303(a)(2)(i) and (ii) and (b)(2)(i) and (ii): Delete these subsections.
 - i. 49 CFR 382.303(c): In the table, in the column headed “Test must be performed by employer,” change “No” to “Yes.”
2. In addition to the testing required by 49 CFR 382, an applicant shall submit to testing for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine, benzodiazepines, barbiturates, methadone, and propoxyphene by a procedure that is generally accepted in the scientific community to be accurate and reliable.
 3. In addition to the testing required by 49 CFR 382, a school bus driver shall submit annually to testing for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine, benzodiazepines, barbiturates, methadone, and propoxyphene by a procedure that is generally accepted in the scientific community to be accurate and reliable.
 4. The employer shall ensure that a school bus driver is tested for use of marijuana, cocaine, opiates, amphetamines, phencyclidine, benzodiazepines, barbiturates, methadone, or propoxyphene or alcohol when required to do so by these rules or when requested by the Department.
 5. The employer shall submit any and all negative results of testing done under subsection (C) to the Department within 30 days of the date of testing or within 12 months of the school bus driver's previous test, whichever is sooner, by providing the Department a copy of the report submitted to the employer by the entity that conducted the testing.
 6. The employer shall immediately notify the Department by telephone of any and all positive results of testing done under subsection (C) and shall submit to the Department within five days a copy of the report submitted to the employer by the entity that conducted the testing.
- D. Physical performance test**
1. An applicant shall pass a physical performance test that consists of the following eight standards:
 - a. Climbing and descending the steps of a school bus three times in 30 seconds;
 - b. Alternately activating the throttle and the service-brake system of a school bus 10 times in 10 seconds;
 - c. Depressing and holding the clutch, if applicable, and service-brake system of a school bus for three seconds, five consecutive times;
 - d. Opening and closing a manually operated service door three times without stopping. If the school bus has an automatic service door, operate the manual override of the service door;
 - e. Operating at least two hand controls, one on each side of the steering wheel, within eight seconds while maintaining control of a moving school bus;
 - f. Starting in a seat-belted position, exit a school bus from the rear-most floor-level emergency exit within 20 seconds;
 - g. Carrying or dragging a 125-pound object 30 feet in 30 seconds; and
 - h. Lowering a 30-pound object from a floor-level emergency exit to the ground and lifting the same object from the ground to the school bus floor.
 2. A school bus driver who is certified on the effective date of this subsection shall pass the physical performance test within one year from the effective date of this subsection.
 3. A school bus driver shall pass the physical performance test again no later than 24 months after previously passing the physical performance test.
 4. An applicant or school bus driver who fails the physical performance test may take the test again after 24 hours. An applicant or school bus driver may take the physical performance test no more than three times in 90 days. If an applicant fails the physical performance test on the third attempt, the Department shall not further consider the applicant for certification unless the applicant complies again with the requirements of this Section.
 5. The employer shall ensure that a school bus driver who fails the physical performance test does not operate a school bus until the school bus driver passes the physical performance test.
 6. If a school bus driver takes and fails the physical performance test three times, the Department shall cancel the school bus driver's certification.
 7. An employer shall ensure that the physical performance test is administered by a person who has completed Department-authorized training, using the largest type of school bus that an applicant or school bus driver may be required to operate.
 8. A person who administers the physical performance test shall either pass or fail the applicant or school bus driver taking the test, complete the physical performance test form, and submit the completed form to the Department and the employer within seven days of the physical performance test.
- E. Driving record**
1. During the 24 months before the date of application or during any 24-month period while certified as a school bus driver, an applicant or school bus driver shall not accumulate eight or more points against a driving record in this state using the point system contained in A.A.C. R17-4-404.
 2. During the 10 years before the date of application, an applicant shall not have repeatedly received citations for violation of traffic law.
- F. Training requirements of a school bus driver**
1. Before being certified by the Department as a school bus driver, an applicant shall complete a minimum of 14 hours of classroom training in the following:
 - a. State and federal traffic laws,
 - b. Behind-the-wheel driving operations,
 - c. School bus driver's responsibilities to passengers and school,



- d. Inspections and operations checks,
- e. Records and reports,
- f. Special needs transportation, and
- g. Accidents and emergencies.
- 2. An employer shall ensure that classroom training is taught by a classroom instructor who is qualified under R13-13-103.
- 3. At least seven days before classroom training, the classroom instructor shall notify the Department in writing of the date, time, and location of classroom training. The classroom instructor shall notify the Department by any means available at least 24 hours before the date, time, or location of classroom training is changed or canceled.
- 4. After completion of classroom training, the classroom instructor shall administer to the applicant a written examination standardized by the Department.
 - a. The written examination shall consist of a combination of 50 true or false, multiple choice, and fill-in-the-blank questions. The examination questions shall cover the topics listed in subsection (F)(1).
 - b. Each question has a value of two points. To pass the examination an applicant shall receive a score that equals or exceeds 80% of the total possible score.
 - c. If an applicant is unable to read or speak English, the employer shall arrange to have the examination administered orally to the applicant in the language with which the applicant is most familiar.
 - d. If an applicant does not pass the examination on the first attempt, the applicant may take an examination two more times within 12 months of the first attempt. A different examination shall be administered to an applicant who is taking an examination for the second or third time. The period between examinations shall be a minimum of 24 hours. If the applicant fails the examination on the third attempt, the applicant shall be considered further only if the applicant complies again with the requirements in this Section.
- 5. The classroom instructor shall submit the following information in a written report to the Department and the employer within seven days from the date of the conclusion of a classroom training course:
 - a. Instructor's name,
 - b. Instructor's identification number,
 - c. Date of training,
 - d. Location of training,
 - e. Number of hours of training taught by the classroom instructor,
 - f. Each applicant's name, and
 - g. Each applicant's examination score.
- 6. In addition to the report required under subsection (F)(5), the classroom instructor shall maintain and submit to the employer within seven days from the conclusion of a classroom training course, a classroom-training course log that includes:
 - a. Instructor's name,
 - b. Instructor's identification number,
 - c. Date of the training course,
 - d. Name of each applicant attending the training course,
 - e. Subject matter taught in each hour, and
 - f. Which hours of training were attended by each applicant.
- 7. In addition to the classroom training, an applicant shall complete behind-the-wheel training consisting of a minimum of 20 hours operating a school bus in Arizona.
 - a. An employer shall ensure that behind-the-wheel training is taught by a behind-the-wheel instructor who is qualified under R13-13-103.
 - b. During behind-the-wheel training, a behind-the-wheel instructor shall be present and observing the applicant while the applicant is operating the school bus.
 - c. The employer shall ensure that no one except the applicant, behind-the-wheel instructor, employer, and Department employees are aboard the school bus while the applicant actually operates the school bus.
 - d. The behind-the-wheel instructor shall maintain and submit to the employer within seven days from the conclusion of the applicant's behind-the-wheel training, a behind-the-wheel training log that includes:
 - i. Instructor's name,
 - ii. Instructor's identification number,
 - iii. Applicant's name,
 - iv. Date of each behind-the-wheel training session, and
 - v. Actual number of hours at each training session that the applicant operates a school bus.
 - e. At the conclusion of behind-the-wheel training, the behind-the-wheel instructor shall use a copy of the Proof of Completion of Behind-the-wheel Training and Driving Test form to administer to the applicant the driving test described on the form. The driving test shall measure the applicant's ability to operate a school bus safely and in a manner consistent with state law. The behind-the-wheel instructor shall either pass or fail the applicant and submit the completed form to the Department and the employer within seven days of the driving test.

G. First aid and cardiopulmonary resuscitation

- 1. Before being certified, an applicant shall complete classroom instruction in cardiopulmonary resuscitation and basic first aid. The instruction in cardiopulmonary resuscitation shall include performing cardiopulmonary resuscitation on adults, children, and infants.
- 2. The instruction shall be conducted by an individual currently certified as an instructor in first aid and cardiopulmonary resuscitation by a program approved by a nationally recognized organization such as the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute, or Arizona Bureau of Mines; by an emergency medical technician licensed in Arizona; or by an agency of the U.S. government.



3. An applicant shall submit to the Department, through the employer, a copy of the front and back of the first-aid card and cardiopulmonary resuscitation card issued to the applicant or other written documentation as proof of completion of the first-aid and cardiopulmonary resuscitation training.
 4. A school bus driver shall renew first-aid and cardiopulmonary resuscitation training before expiration of the current training. Renewal instruction shall be provided by an individual described in subsection (G)(2). The school bus driver shall submit to the Department, through the employer, a copy of the front and back of the first-aid card and cardiopulmonary resuscitation card or other written documentation as proof of renewal of training.
- H.** The Department shall process an application for certification as a school bus driver under R13-13-109.
- I.** Refresher training
1. A school bus driver shall have refresher training no later than 24 months following completion of the training required by subsection (F). Refresher training shall consist of a minimum of 6 1/2 hours of classroom training in the topics listed in subsection (F)(1).
 2. After completing the first refresher training, the school bus driver shall complete a minimum of 6 1/2 hours of classroom training in the topics listed in subsection (F)(1) every 24 months following the last refresher training.
 3. An employer shall ensure that refresher training is taught by a classroom instructor who is qualified under R13-13-103.
 4. A classroom instructor shall teach refresher training and shall submit the following information in a written report to the Department and the employer within seven days from completion of the refresher training:
 - a. Instructor's name,
 - b. Instructor's identification number,
 - c. Date of training,
 - d. Location of training,
 - e. Number of hours of training taught by the classroom instructor,
 - f. Each school bus driver's name, and
 - g. Each school bus driver's certification number.
 5. In addition to the report required under subsection (I)(4), the classroom instructor shall maintain and submit to the employer within seven days from the conclusion of a refresher training course, a refresher-training course log that includes:
 - a. Instructor's name,
 - b. Instructor's identification number,
 - c. Date of the refresher training course,
 - d. Name and certification number of each school bus driver attending the refresher training course,
 - e. Subject matter taught in each hour, and
 - f. Which hours of refresher training were attended by each school bus driver.
- J.** Records
1. The employer shall maintain qualification and training records of an applicant who is certified and of a school bus driver who terminates employment, and qualification records of an applicant who is denied certification, for 24 months from the date of certification, termination of employment, or denial of certification.
 2. The employer shall maintain records of testing required under subsection (C) in accordance with 49 CFR 382.401, October 2006 (no later amendments or editions), published at the U. S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328, incorporated by reference, and on file with the Department. In this subsection, "controlled substances," as used in 49 CFR 382.401, means marijuana, cocaine, opiates, amphetamines, phencyclidine, benzodiazepines, barbiturates, methadone, and propoxyphene.
 3. The employer shall transfer the records of a school bus driver to a subsequent employer upon written request by the subsequent employer or school bus driver.
 4. Qualification records include:
 - a. Application,
 - b. Driving record,
 - c. Copy of physical examination form, and
 - d. Physical performance test form.
 5. Training records include:
 - a. A copy of the classroom-training course log required under subsection (F)(6) that shows the applicant's attendance,
 - b. A copy of the refresher-training course log required under subsection (I)(5) that shows the school bus driver's attendance,
 - c. The classroom training examination score,
 - d. The applicant's behind-the-wheel training log,
 - e. The Proof of Completion of Behind-the-wheel Training and Driving Test form,
 - f. A copy of the first-aid card and cardiopulmonary resuscitation card or other written documentation of completion of first-aid and cardiopulmonary resuscitation training, and
 - g. A copy of the school bus driver certification card issued by the Department.
- K.** Denial, cancellation, or suspension of certificate
1. Based on an assessment of the totality of the circumstances, the Department may deny a certificate to an applicant or may cancel or suspend a certificate of a school bus driver for:
 - a. Failing to meet or comply with the requirements of this Article;
 - b. Being convicted of or subject to an outstanding warrant for any felony;
 - c. Being convicted of or subject to an outstanding warrant for any misdemeanor reasonably related to the occupation of a school bus driver including, but not limited to:
 - i. Citation for any moving motor vehicle violation, including but not limited to, violations of A.R.S. § 28-1591 et seq.;
 - ii. Driving under the influence (A.R.S. § 28-1381 et seq.);



Occupational Safety and Health Standards for General Industry, 29 CFR 1910”) to incorporate by reference recent OSHA rule updates to 29 CFR 1926 (“Safety and Health Regulations for Construction”) and 29 CFR 1910 (“Occupational Safety and Health Standards”), as published on March 25, 2016, in OSHA’s Final Rules titled “Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection” and “Occupational Exposure to Respirable Crystalline Silica.” OSHA’s Final Rules were effective April 25, 2016, and June 23, 2016, respectively. The proposed amendments to R20-5-601 and R20-5-602 directly affect the health and safety of employees working in the State of Arizona and the Commission anticipates that the amended rules will help reduce workplace deaths, injuries, and illnesses.

b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

4. 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: 22 A.A.R. 2570, September 16, 2016

Notice of Proposed Rulemaking: 22 A.A.R. 2561, September 16, 2016

Notice of Public Information: 23 A.A.R. 467, February 24, 2017

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

Name: Larry Gast, Assistant Director
Address: Industrial Commission of Arizona
800 W. Washington St., Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
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6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Section 18(c) of the Federal Occupational Safety and Health Act of 1970 requires state-administered occupational safety and health programs to adopt standards that are at least as effective as those adopted by Federal OSHA. *See also* 29 CFR 1953.5; Ariz. Rev. Stat. § 23-405(3). The Commission is amending R20-5-601 (“The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926”) and R20-5-602 (“The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910”) to incorporate by reference recent OSHA rule updates to 29 CFR 1926 (“Safety and Health Regulations for Construction”) and 29 CFR 1910 (“Occupational Safety and Health Standards”), as published on March 25, 2016, in OSHA’s Final Rules titled “Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection” and “Occupational Exposure to Respirable Crystalline Silica.” The Final Rules were published in the *Federal Register* at 81 FR 16085 and 81 FR 16285, respectively.

29 CFR 1926 (which is incorporated by reference into R20-5-601) sets forth safety and health standards promulgated by OSHA for the construction industry. 29 CFR 1910 (which is incorporated by reference into R20-5-602) sets forth safety and health standards promulgated by OSHA for general industry. Under 29 CFR 1910 and 1926, employers are required to ensure that their employees use eye and face protection where necessary to protect against flying objects, splashes or droplets of hazardous chemicals, and other workplace hazards that could injure eyes or face. The standards state that the protection employers provide must meet specified consensus standards. For operations covered by OSHA’s general industry standards, the protection must comply with one of the following standards: ANSI Z87.1-2003, ANSI Z87.1-1989 (R-1998), or ANSI Z87.1-1989. Alternatively, an employer may show that the protective devices used are at least as effective as one of the consensus standards (*see* 29 CFR 1910.133(b); 29 CFR 1915.153(b); 29 CFR 1917.91(a)(1); 29 CFR 1918.101(a)(1)). The construction standard requires that eye and face protection meet the requirements of ANSI Z87.1-1968 (*see* 29 CFR 1926.102(a)(2)).

OSHA’s Final Rule titled “Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection” updates the eye and face protection requirements in 29 CFR 1910 and 1926. The changes involve incorporation by reference of the latest ANSI/ISEA Z87.1-2010 standard on Occupational and Educational Eye and Face Protection Devices and removal of the oldest ANSI (Z87.1-1989) version of the same standard. OSHA has stated that the rule change allows employers to continue to follow the existing ANSI standards referenced or the latest version of the same ANSI/ISEA standard. Employers will not be required to update or replace protection devices solely as a result of the new rule and may continue to follow their current and usual practices for eye and face protection. The Final Rule became effective on April 25, 2016.

Next, under 29 CFR 1910 and 1926, employers are subject to standards for occupational exposure to respirable crystalline silica. Crystalline silica is a common mineral found in many naturally-occurring materials and used in many industrial products and at construction sites. Materials like sand, concrete, stone, and mortar contain crystalline silica. Crystalline silica is also used to make products such as glass, pottery, ceramics, bricks, concrete, and artificial stone. Industrial sand used in certain operations, such as foundry work and hydraulic fracturing (fracking), is also a source of crystalline silica exposure. Respirable crystalline silica can be generated by high-energy operations like cutting, sawing, grinding, drilling, and crushing stone, rock, concrete, brick, block, and mortar; or when using industrial sand. Activities such as abrasive blasting with sand; sawing brick or concrete; sanding or drilling into concrete walls; grinding mortar; manufacturing brick, concrete blocks, or ceramic products; and cutting or crushing stone generates respirable dust.

OSHA’s Final Rule titled “Occupational Exposure to Respirable Crystalline Silica” updates the existing silica standards. OSHA determined that employees exposed to respirable crystalline silica at the previous permissible exposure limits face a signif-



icant risk of material impairment to their health. The evidence in the record for OSHA’s rulemaking indicates that workers exposed to respirable crystalline silica are at increased risk of developing silicosis and other non-malignant respiratory diseases, lung cancer, and kidney disease. OSHA estimates that approximately 2.3 million workers in approximately 676,000 workplaces are exposed to crystalline silica.

The Final Rule establishes a permissible exposure limit (“PEL”) for respirable crystalline silica of 50 µg/m³ as an 8-hour time-weighted average (“TWA”) in all industries covered by the rule. In addition to the new PEL, the updated rule includes provisions to further protect employees from respirable silica, such as requirements for exposure assessments, methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping. OSHA implemented two separate standards – one for general/maritime industries, and the other for construction industry – in order to tailor requirements to the circumstances found in these sectors. There are, however, numerous common elements in the two standards.

Specific industries affected by the silica rule are detailed in Tables VII-3 of the Final Rule. General industry groups that OSHA identified as being potentially affected by the Final Rule include: asphalt paving products, asphalt roofing materials, hydraulic fracturing, industries with captive foundries, concrete products, cut stone, dental equipment and supplies, dental laboratories, flat glass, iron foundries, jewelry, mineral processing, mineral wool, nonferrous sand casting foundries, non-sand casting foundries, other ferrous sand casting foundries, other glass products, paint and coatings, porcelain enameling, pottery, railroads, ready-mix concrete, refractories, refractory repair, shipyards, and structural clay. Construction activities that OSHA identified as being potentially affected by the Final Rule include: earth drilling, heavy equipment operators and ground crew laborers, hole drillers using handheld or stand-mounted drills, jackhammers and other powered handheld chipping tools, masonry and concrete cutters using portable saws, masonry and concrete cutters using portable or stationary saws, millers using portable or mobile machines, rock and concrete drillers, mobile crushing machine operators and tenders, tuckpointers and grinders.

The Final Rule regarding respirable silica became effective June 23, 2016. However, for general industry and maritime, all obligations for compliance commence two years after the effective date, with two exceptions: (1) the obligation for engineering controls commences five years after the effective date for hydraulic fracturing operations in the oil and gas industry; and (2) the obligation for employers in general industry and maritime to offer medical surveillance commences two years after the effective date for employees exposed above the PEL, and four years after the effective date for employees exposed at or above the action level. For construction, all obligations for compliance are scheduled to commence on September 23, 2017 (delayed from June 23, 2017), with the exception that certain requirements for laboratory analysis commence two years after the effective date.

A copy OSHA’s Final Rule titled “Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection” is available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or is electronically available at <https://www.federalregister.gov/documents/2016/03/25/2016-06359/updating-osh-a-standards-based-on-national-consensus-standards-eye-and-face-protection>.

A copy OSHA’s Final Rule titled “Occupational Exposure to Respirable Crystalline Silica” is available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or is electronically available at <https://www.federalregister.gov/documents/2016/03/25/2016-04800/occupational-exposure-to-respirable-crystalline-silica>.

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

The Commission did not review or rely on any study relevant to the proposed amended rules. However, in adopting the Final Rule titled “Occupational Exposure to Respirable Crystalline Silica,” OSHA reviewed and relied on various studies. Information relating to the studies reviewed, considered, and relied upon by OSHA are contained in the Final Rule titled “Occupational Exposure to Respirable Crystalline Silica.” The Final Rule is available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or is electronically available at <https://www.federalregister.gov/documents/2016/03/25/2016-04800/occupational-exposure-to-respirable-crystalline-silica>.

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

Not applicable

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

The Commission anticipates that the rule change related to OSHA’s Final Rule titled “Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection” will have little to no economic, small business, or consumer impact. OSHA indicates that the Final Rule will allow employers to continue to follow the existing ANSI standards referenced in 29 CFR 1910 and 1926 or allow employers to follow the latest version of the same ANSI/ISEA standard. Employers are therefore not required to update or replace protection devices solely as a result of the rule update and may continue to follow their current and usual practices for eye and face protection. Therefore, OSHA concluded that the rule update has no associated compliance or economic burdens.

The Commission anticipates that the rule change related to OSHA’s Final Rule titled “Occupational Exposure to Respirable Crystalline Silica” will have an economic, small business, and consumer impact. OSHA reports that, nationally, the updated rule is estimated to prevent 642 fatalities and 918 silica-related illnesses annually once it is fully effective, even though there has been a 93% decline since 1968 in silica-related deaths. The discounted monetized benefits of the new rule are estimated to be \$8.7 billion annually, and the new rule is estimated to generate net benefits of up to \$7.7 billion annually. OSHA estimates that the updated standards will have a total cost of \$1.03 billion per year in 2012 dollars. Of that total, \$370.8 million will be borne by the general industry and maritime sectors, and \$659.0 million will be borne by the construction industry. According to OSHA, the Final Rule is expected to result in annual costs of approximately \$1,524 for the average workplace covered by the rule and approximately



\$560 for the average firm with fewer than twenty employees. OSHA's estimate of the annualized cost of the Final Rule in the construction industry ranges from \$360 to \$4,811. For both construction and general industry/maritime, OSHA's estimated costs for the rule represent the additional costs necessary for employers to achieve full compliance with the updated standard, assuming that all firms are compliant with the previous standard.

Other studies have concluded that OSHA underestimated the costs associated with the Final Rule. A National Federation of Independent Businesses Research Foundation study predicted an overall loss of 27,000 jobs nationally and lost output of over \$72 billion in the long run, with at least half the loss expected to occur in the small business sector. An American Chemistry Counsel study estimated economic impacts of \$6.131 billion on 19 general industry sectors (more than 50 times higher than OSHA's general industry cost estimates). And a Construction Industry Safety Coalition ("CISC") study reflects annual costs to construction industries of \$4.9 billion nationally, which includes almost \$3.9 billion of direct compliance costs to construction employers and another \$1.05 billion in costs passed through from general industry to the construction industry. The CISC study translated the estimated \$4.9 billion in annual cost into more than 52,700 lost jobs related to the construction industry.

Additional information related to the economic costs and benefits, including tables of annualized compliance costs for affected sectors of general and construction industry (Tables VII-10, VII-11, VII-18, VII-19, VII-20, VII-21, VII-22, and VII-23) and discussion of the above-mentioned studies, is included in the Final Rule, which is available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or is electronically available at <https://www.federalregister.gov/documents/2016/03/25/2016-04800/occupational-exposure-to-respirable-crystalline-silica>.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

None

11. An agency's summary of the public or stakeholder comments made about the rulemaking:

The Commission did not receive any written or oral comments pertaining to the Final Rule titled "Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection."

The Commission received one comment presented by the Home Builders Association of Central Arizona ("HBACA") concerning the Final Rule titled "Occupational Exposure to Respirable Crystalline Silica." HBACA expressed understanding that, under existing federal law, state-administered occupational safety and health programs are required to adopt standards that are at least as effective as those adopted by Federal OSHA. *See* 29 U.S.C. § 667(c); 29 CFR 1953.5; Ariz. Rev. Stat. § 23-405(3). Although HBACA did not seek to interfere with the Commission's legal responsibility to maintain Arizona's approved occupational safety and health program, HBACA expressed concern that OSHA's Final Rule would be damaging to the construction industry, detrimental to Arizona's economy, and would do little to enhance worker safety. HBACA also expressed its view that the Final Rule is unfair to employers because it is not clear, concise, and understandable to those in the regulated community.

Commission Response to HBACA Comments:

Federal OSHA adopted the Final Rule titled "Occupational Exposure to Respirable Crystalline Silica" despite public comment similar to the comments presented to the Commission by HBACA. Section 18(c) of the Federal Occupational Safety and Health Act of 1970 requires state-administered occupational safety and health programs to adopt standards that are at least as effective as those adopted by Federal OSHA. *See also* 29 CFR § 1904.37; A.R.S. § 23-405(3). Failure to adopt the updated respirable silica standards could result in Federal action against the Arizona's state occupational safety and health program, including withdrawal of federal funding and/or withdrawal of Arizona's authority to administer a state occupational safety and health program.

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

A.R.S. § 23-405(3) requires the Industrial Commission to "[c]ooperate with the federal government to establish and maintain an occupational safety and health program as effective as the federal occupational safety and health program."

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 proposed amended rule does not require issuance of a regulatory permit or license.

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:

Section 18(c) of the Federal Occupational Safety and Health Act of 1970 requires state-administered occupational safety and health programs to adopt standards that are at least as effective as those adopted by Federal OSHA. *See also* 29 CFR § 1904.37. The Commission is amending R20-5-601 ("The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926") and R20-5-602 ("The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910") to incorporate by reference recent OSHA rule updates to 29 CFR 1926 ("Safety and Health Regulations for Construction") and 29 CFR 1910 ("Occupational Safety and Health Standards"), as published on March 25, 2016, in OSHA's Final Rules titled "Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection" and "Occupational Exposure to Respirable Crystalline Silica."

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

No analysis was submitted.

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

The Commission is amending R20-5-601 ("The Federal Occupational Safety and Health Standards for Construction, 29 CFR



1926”) and R20-5-602 (“The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910”) to incorporate by reference recent OSHA rule updates to 29 CFR 1926 (“Safety and Health Regulations for Construction”) and 29 CFR 1910 (“Occupational Safety and Health Standards”), as published on March 25, 2016, in OSHA’s Final Rules titled “Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection” and “Occupational Exposure to Respirable Crystalline Silica.”

A copy OSHA’s Final Rule titled “Updating OSHA Standards Based on National Consensus Standards; Eye and Face Protection” is available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or is electronically available at <https://www.federalregister.gov/documents/2016/03/25/2016-06359/updates-oshas-standards-based-on-national-consensus-standards-eye-and-face-protection>.

A copy OSHA’s Final Rule titled “Occupational Exposure to Respirable Crystalline Silica” is available for inspection or reproduction at the Arizona Division of Occupational Safety and Health, 800 West Washington Street, Room 203, Phoenix, AZ 85007, or is electronically available at <https://www.federalregister.gov/documents/2016/03/25/2016-04800/occupational-exposure-to-respirable-crystalline-silica>.

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE
CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

Each employer shall comply with the standards in the Federal Occupational Safety and Health Standards for Construction, as published in 29 CFR 1926, with amendments as of ~~August 3, 2015~~, June 23, 2016, incorporated by reference. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after ~~August 3, 2015~~ June 23, 2016.

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

Each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of ~~July 10, 2014~~, June 23, 2016, incorporated by reference. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona; provided that this Section shall not apply to those conditions and practices which are the subject of R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after ~~July 10, 2014~~ June 23, 2016.



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
DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES**

[R18-156]

- 1. Title and its heading:** 9, Health Services
- Chapter and its heading:** 25, Department of Health Services - Emergency Medical Services
- Articles and their headings:** 3, Training Programs
8, Air Ambulance Registration
10, Ground Ambulance Vehicle Registration
- Section numbers:** R9-25-301, R9-25-303, R9-25-305, Table 8.1, R9-25-1003

2. The subject matter of the proposed expedited rules:
 Arizona Revised Statutes (A.R.S.) § 36-2205(A) requires the Department to establish protocols governing "medical treatments, procedures, medications and techniques which may be administered or performed by each class of emergency medical care technician." These protocols have been adopted in 9 A.A.C. 25, Article 5. The Emergency Medical Services Council and the Medical Direction Commission, established by A.R.S. §§ 36-2203 and 36-2203.01, respectively, help develop and review these protocols as required in A.R.S. § 36-2204. In 9 A.A.C. 25, Article 5, the Department has adopted three Tables that identify: the minimum supply of allowed agents and what classes of EMCTs may administer each (Table 5.2); agents allowed to be administered by an EMCT during a hazardous material incident (Table 5.3); and agents that an EMCT may administer and monitor intake of during the transport of a patient from one health care facility to another (Table 5.4). Recently, drug manufacturers have limited the availability of many medications, leading to shortages and making it difficult for ambulance services and emergency medical services providers to obtain medications they are required by rule to have available. Having to conduct a rulemaking to revise lists of agents in rule does not allow the Department to respond in a timely manner to stakeholder concerns about medication shortages. After obtaining an exception from the rulemaking moratorium established by Executive Order 2018-02, the Department is addressing this on-going medication shortage issue by removing Tables 5.2, 5.3, and 5.4 from the rules through exempt rulemaking and establishing similar Tables on the Department's website. In other Articles in 9 A.A.C. 25, the Department will make corresponding cross-reference changes, remove obsolete requirements, and use the same web address for other documents cited in the rules in 9 A.A.C. 25 through expedited rulemaking. The Department believes that making these changes will eliminate confusion, improve the rule effectiveness of the rules, and reduce regulatory burden. 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.

3. A citation to all published notices relating to the proceeding:
None

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

Name: Terry Mullins, Bureau Chief
 Address: Arizona Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 150 N. 18th Ave., Suite 540
 Phoenix, AZ 85007-3248
 Telephone: (602) 364-3150
 Fax: (602) 364-3568
 E-mail: Terry.Mullins@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. The time during which the agency will accept written comments and the time and place where oral comments may be made:

To be announced in the Notice of Proposed Expedited Rulemaking

6. A timetable for agency decisions or other action on the proceeding, if known:

To be announced in the Notice of Proposed Expedited Rulemaking



NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

**NOTICE OF PUBLIC INFORMATION
DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES**

[M18-65]

- 1. Title and its heading:** 9, Health Services
- Chapter and its heading:** 25, Department of Health Services - Emergency Medical Services
- Article and its heading:** 5, Medical Direction Protocols for Emergency Medical Care Technicians

2. The public information relating to the listed Article:
 Arizona Revised Statutes (A.R.S.) § 36-2205(A) requires the Department to establish protocols governing “medical treatments, procedures, medications and techniques which may be administered or performed by each class of emergency medical care technician.” These protocols have been adopted in 9 A.A.C. 25, Article 5. The Emergency Medical Services Council and the Medical Direction Commission, established by A.R.S. §§ 36-2203 and 36-2203.01, respectively, help develop and review these protocols as required in A.R.S. § 36-2204. In 9 A.A.C. 25, Article 5, the Department has adopted three Tables that identify: the minimum supply of allowed agents and what classes of EMCTs may administer each (Table 5.2); agents allowed to be administered by an EMCT during a hazardous material incident (Table 5.3); and agents that an EMCT may administer and monitor intake of during the transport of a patient from one health care facility to another (Table 5.4). Recently, drug manufacturers have limited the availability of many medications, leading to shortages and making it difficult for ambulance services and emergency medical services providers to obtain medications they are required by rule to have available. Having to conduct a rulemaking to revise lists of agents in rule does not allow the Department to respond in a timely manner to stakeholder concerns about medication shortages. After obtaining an exception from the rulemaking moratorium established by Executive Order 2018-02, the Department is addressing this on-going medication shortage issue by removing Tables 5.2, 5.3, and 5.4 from the rules and making corresponding cross-reference changes and removal of obsolete requirements. To protect the health and safety of patients, the Director will approve similar Tables on the Department’s website, which can be updated in a more timely manner to reflect medication shortages, following recommendations by the Medical Direction Commission. The same web address will be used for other documents cited in the rules in 9 A.A.C. 25. This Notice of Public Information provides notice that the Department has posted the draft rules at <http://www.azdhs.gov/director/administrative-counsel-rules/rules/index.php#rulemakings-active-ems-drug-shortages> and is soliciting comments from interested persons.

3. The name, address, and telephone number of agency personnel to whom questions and comments on the rules may be addressed:

Name: Terry Mullins, Bureau Chief
 Address: Arizona Department of Health Services
 Bureau of Emergency Medical Services and Trauma System
 150 N. 18th Ave., Suite 540
 Phoenix, AZ 85007-3248
 Telephone: (602) 364-3150
 Fax: (602) 364-3568
 E-mail: Terry.Mullins@azdhs.gov
 or
 Name: Robert Lane, Manager
 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

4. The website where persons may obtain information about the rulemaking:
<http://www.azdhs.gov/director/administrative-counsel-rules/rules/index.php#rulemakings-active-ems-drug-shortages>



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)(9)).

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 STATE BOARD OF ACCOUNTANCY

[M18-66]

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

Title: Requirements Related to Requesting and Maintaining Retired Status
Policy Statement #: 2018-002

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

Issue/Effective Date: July 30, 2018

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

The substantive policy statement clarifies the Board's interpretation of requirements for a certified public accountant to request and maintain retired status.

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. § 32-730.04

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

This is a new substantive policy statement.

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

Name: Monica L. Petersen, Executive Director
Address: Board of Accountancy
100 N. 15th Ave., Suite 165
Phoenix, AZ 85007
Telephone: (602) 364-0870
Fax: (602) 364-0903
E-mail: mpetersen@azaccountancy.gov
Website: www.azaccountancy.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 the substantive policy statement are available, at no charge, from 8:00 a.m. until 5:00 p.m., Monday through Friday, at the Board of Accountancy located at 100 N. 15th Ave., Suite 165, Phoenix AZ 85007, or on the Board's website: <https://www.azaccountancy.gov/>.



NOTICES OF AGENCY OMBUDSMAN

The Administrative Procedure Act requires the publication of Notices of Agency Ombudsman. Agencies shall publish annually in the Register the name or names of those employees who are designated by the agency to assist members of the public or regulated community in seeking information or assistance from the agency. (A.R.S. § 41-1006)

NOTICE OF AGENCY OMBUDSMAN
DEPARTMENT OF PUBLIC SAFETY

[M18-64]

- 1. The agency name: Department of Public Safety
2. The ombudsman's:
a. Name: Major James McGuffin Jr.
b. Title: Executive Officer, Ombudsman
c. Agency Division: Office of the Director
3. The ombudsman's office address to include the city, state and zip code:
Physical address: 2102 W. Encanto Blvd. Phoenix, AZ 85009
Mailing address: POB 6638 Mail Drop 1000 Phoenix, AZ 85005-6638
4. The ombudsman's area code and telephone number, fax number and e-mail address, if available:
Telephone: (602) 223-5046
Fax: (602) 223-2917
E-mail: jmcguffin@azdps.gov



GOVERNOR EXECUTIVE ORDER

Executive Order 2018-02 is being reproduced in each issue of the Administrative Register as a notice to the public regarding state agencies' rulemaking activities.

This order will appear in the Register until its expiration on December 31, 2018, and has been reproduced in its entirety as submitted.

EXECUTIVE ORDER 2018-02

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

[M18-46]

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

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

WHEREAS, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order, and renewed the moratorium in 2016 and 2017; and

WHEREAS, in 2017 the State of Arizona eliminated or repealed 676 needless regulations; and

WHEREAS, estimates show these eliminations saved job creators more than \$48 million in operating costs; and

WHEREAS, 161,000 private sector jobs have been added to Arizona since January 2015; and

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

WHEREAS, each State agency shall continue 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; and

WHEREAS, each State agency should evaluate its administrative rules using any available and reliable data and performance metrics; and

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

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:

- 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 federal court 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. A State agency subject to this Order, shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
4. A State agency subject to this Order, shall coordinate with the Office of Economic Opportunity to prepare a statement of estimated regulatory costs analyzing the economic impact of agency rules, including an analysis of the effort of such rules on the creation and retention of jobs within the State of Arizona.
5. A State agency subject to this Order, shall review the agency's rules related to license reciprocity and identify opportunities to decrease burdens for qualified professionals who relocate to Arizona, whether administrative or legislative, and report these opportunities to the office of the Governor no later than July 1, 2018.



- 6. A State agency subject to this Order, shall review the agency’s rules to identify opportunities for veterans by recognizing the skills, credentials, and training received during military service in place of some or all of the training requirements for a specific license, and include additional opportunities in the report to the office of the Governor no later than July 1, 2018.
- 7. 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.
- 8. 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.
- 9. This Executive Order expires on December 31, 2018.

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 Twelfth day of February in the Year Two Thousand and Eighteen and of the Independence of the United States of America the Two Hundred and Thirty-Sixth.

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**

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PER = Proposed Expedited repealed Section
PE# = Proposed Expedited renumbered Section

SUPPLEMENTAL EXPEDITED

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

FINAL EXPEDITED

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

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RULE EXPIRATIONS

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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
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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
March 23, 2018	April 13, 2018	May 14, 2018
March 30, 2018	April 20, 2018	May 21, 2018
April 6, 2018	April 27, 2018	May 29, 2018
April 13, 2018	May 4, 2018	June 4, 2018
April 20, 2018	May 11, 2018	June 11, 2018
April 27, 2018	May 18, 2018	June 18, 2018
May 4, 2018	May 25, 2018	June 25, 2018
May 11, 2018	June 1, 2018	July 2, 2018
May 18, 2018	June 8, 2018	July 9, 2018
May 25, 2018	June 15, 2018	July 16, 2018
June 1, 2018	June 22, 2018	July 23, 2018
June 8, 2018	June 29, 2018	July 30, 2018
June 15, 2018	July 6, 2018	August 6, 2018
June 22, 2018	July 13, 2018	August 13, 2018
June 29, 2018	July 20, 2018	August 20, 2018
July 6, 2018	July 27, 2018	August 27, 2018
July 13, 2018	August 3, 2018	September 4, 2018
July 20, 2018	August 10, 2018	September 10, 2018
July 27, 2018	August 17, 2018	September 17, 2018
August 3, 2018	August 24, 2018	September 24, 2018
August 10, 2018	August 31, 2018	October 1, 2018
August 17, 2018	September 7, 2018	October 9, 2018
August 24, 2018	September 14, 2018	October 15, 2018
August 31, 2018	September 21, 2018	October 22, 2018
September 7, 2018	September 28, 2018	October 29, 2018
September 14, 2018	October 5, 2018	November 5, 2018
September 21, 2018	October 12, 2018	November 13, 2018
September 28, 2018	October 19, 2018	November 19, 2018
October 5, 2018	October 26, 2018	November 26, 2018
October 12, 2018	November 2, 2018	December 3, 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 <http://grrc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2018

[M18-01]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> November 21, 2017	<i>Tuesday</i> December 19, 2017	<i>Wednesday</i> January 3, 2018	<i>Tuesday</i> January 9, 2018
<i>Tuesday</i> December 19, 2017	<i>Tuesday</i> January 23, 2018	<i>Tuesday</i> January 30, 2018	<i>Tuesday</i> February 6, 2018
<i>Tuesday</i> January 23, 2018	<i>Tuesday</i> February 20, 2018	<i>Tuesday</i> February 27, 2018	<i>Tuesday</i> March 6, 2018
<i>Tuesday</i> February 20, 2018	<i>Tuesday</i> March 20, 2018	<i>Tuesday</i> March 27, 2018	<i>Tuesday</i> April 3, 2018
<i>Tuesday</i> March 20, 2018	<i>Tuesday</i> April 17, 2018	<i>Tuesday</i> April 24, 2018	<i>Tuesday</i> May 1, 2018
<i>Tuesday</i> April 17, 2018	<i>Tuesday</i> May 22, 2018	<i>Wednesday</i> May 30, 2018	<i>Tuesday</i> June 5, 2018
<i>Tuesday</i> May 22, 2018	<i>Tuesday</i> June 19, 2018	<i>Tuesday</i> June 26, 2018	<i>Tuesday</i> July 10, 2018
<i>Tuesday</i> June 19, 2018	<i>Tuesday</i> July 24, 2018	<i>Tuesday</i> July 31, 2018	<i>Tuesday</i> August 7, 2018
<i>Tuesday</i> July 24, 2018	<i>Tuesday</i> August 21, 2018	<i>Tuesday</i> August 28, 2018	<i>Wednesday</i> September 5, 2018
<i>Tuesday</i> August 21, 2018	<i>Tuesday</i> September 18, 2018	<i>Tuesday</i> September 25, 2018	<i>Tuesday</i> October 2, 2018
<i>Tuesday</i> September 18, 2018	<i>Tuesday</i> October 23, 2018	<i>Tuesday</i> October 30, 2018	<i>Tuesday</i> November 6, 2018
<i>Tuesday</i> October 23, 2018	<i>Tuesday</i> November 20, 2018	<i>Tuesday</i> November 27, 2018	<i>Tuesday</i> December 4, 2018
<i>Tuesday</i> November 20, 2018	<i>Tuesday</i> December 18, 2018	<i>Thursday</i> January 3, 2019	<i>Tuesday</i> January 8, 2019
<i>Tuesday</i> December 18, 2018	<i>Tuesday</i> January 22, 2019	<i>Tuesday</i> January 29, 2019	<i>Tuesday</i> February 5, 2019

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