



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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

[R18-177]

PREAMBLE

| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---------------------------------------------------------------------|---------------------------------|
| R4-8-101 | Amend |
| R4-8-103 | Amend |
| R4-8-105 | Amend |
| Table 1 | Amend |
| R4-8-106 | Amend |
| R4-8-203 | Amend |
| R4-8-204 | Amend |
| R4-8-206 | Amend |
| R4-8-207 | Amend |
| R4-8-301 | Amend |
| R4-8-303 | Amend |
| R4-8-304 | Amend |
| R4-8-408 | Amend |
| R4-8-601 | Amend |
| R4-8-602 | Amend |
| Article 7 | Amend |
| R4-8-701 | New Section |
| R4-8-702 | Repeal |
| R4-8-704 | Repeal |
| R4-8-706 | Repeal |

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

Authorizing statute: A.R.S. § 32-3903(A)(1)

Implementing statute: A.R.S. §§ 32-3903, 32-3921, 32-3922, 32-3924, 32-3925, 32-3927, 32-3951, and 41-1001.01

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 2564, September 14, 2018 (*in this issue*)

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

Name: David Geriminsky, Executive Director
 Address: Acupuncture Board of Examiners
 1740 W. Adams St., Suite 3005
 Phoenix, AZ 85007
 Telephone: (602) 364-0145
 Fax: (602) 542-3093
 E-mail: director@acupuncture.az.gov
 Web site: acupunctureboard.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 Board is updating its rules to address concerns raised by the Auditor General in a report dated September 14, 2016, and to address the Governor's request that agencies eliminate rules that are antiquated, redundant, or otherwise unnecessary. An exemption from Executive Order 2017-02 was provided for this rulemaking by Emily Rajakovich, Director of Boards and Commissions, in an e-mail dated January 12, 2018.

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

The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

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

Not applicable

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

The Board believes the rulemaking will have minimal economic impact on applicants, licensees, small businesses, and consumers of acupuncture services. The rulemaking updates the Board's rules but does not change them substantially.

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

Name: David Geriminsky, Executive Director
Address: Acupuncture Board of Examiners
1740 W. Adams St., Suite 3005
Phoenix, AZ 85007
Telephone: (602) 364-0145
Fax: (602) 926-8104
E-mail: director@acupuncture.az.gov
Web site: acupunctureboard.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:

The Agency will accept comments during business hours at the address listed in item 4. E-mail comments will be accepted. The agency does not intend to hold public hearings on this rule, unless a public hearing is requested within 30-days of the publication of this rule.

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:

None

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 licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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 are many federal laws applicable to health-care professionals and the provision of health care. However, none of these laws is directly applicable to this rulemaking.

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

No analysis was submitted.

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

None

13. The full text of the rules follows:

**TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 8. ACUPUNCTURE BOARD OF EXAMINERS**

ARTICLE 1. GENERAL PROVISIONS

| | |
|-----------|---------------------------------------------------------------------------------------------------------|
| Section | |
| R4-8-101. | Definitions |
| R4-8-103. | Change of Mailing Address, E-mail Address, or Telephone Number Providing Notice to the Board |
| R4-8-105. | Time frames Time Frames for Licensure, Certification, and Approval |
| Table 1. | Time frames Time Frames (in days) |
| R4-8-106. | Fees |



ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE

- Section
- R4-8-203. Application for Acupuncture License
- R4-8-204. Renewal of Acupuncture License
- R4-8-206. Continuing Education Requirement
- R4-8-207. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

ARTICLE 3. AURICULAR ACUPUNCTURE CERTIFICATION

- Section
- R4-8-301. Application for Auricular Acupuncture Certificate
- R4-8-303. Renewal of an Auricular Acupuncture Certificate
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ARTICLE 4. TRAINING PROGRAMS AND CONTINUING EDUCATION

- Section
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ARTICLE 6. COMPLAINTS; HEARING PROCEDURES; DISCIPLINE

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- R4-8-601. Making a Complaint
- R4-8-602. Complaint Procedures

ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

- Section
- R4-8-701. ~~Expired Regulatory Bill of Rights~~
- R4-8-702. ~~Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact~~ Repealed
- R4-8-704. ~~Oral Proceedings~~ Repealed
- R4-8-706. ~~Written Criticism of Rule~~ Repealed

ARTICLE 1. GENERAL PROVISIONS

R4-8-101. Definitions

The definitions in A.R.S. § 32-3901 apply to this Chapter. Additionally, in this Chapter:

- “ACAOM” means the Accreditation Commission for Acupuncture and Oriental Medicine.
- “Acupuncture program” means a Board-approved training designed to prepare a student for the NCCAOM examination and licensure.
- “Acupuncture student” means an individual enrolled in an acupuncture or auricular acupuncture training program.
- “Acupuncturist” means an individual licensed or certified by the Board to practice acupuncture in this state.
- “Administrative completeness review” means the Board’s process for determining whether an applicant provided a complete application packet.
- “Applicant” means an individual who applies to the Board for an initial or renewal license or certificate.
- “Application packet” means the fees, forms, documents, and additional information the Board requires to be submitted by an applicant or on an applicant’s behalf.
- “Approved continuing education” means a planned educational experience the Board determines meets the criteria in R4-8-408.
- “Auricular acupuncture” means a therapy in which the five-needle protocol is used to treat alcoholism, substance abuse, or chemical dependency.
- “Clean needle technique” means a manner of needle sterilization and use that avoids the spread of disease and infection, protects the public and the patient, and complies with state and federal law.
- “Clinical hours” means actual clock hours that a student spends providing patient care under the supervision of an individual licensed under R4-8-203 or R4-8-208.
- “Course” means a systematic learning experience that assists a participant to acquire knowledge, skills, and information relevant to the practice of acupuncture.
- “Day” means calendar day.
- “Five-needle protocol” means a therapy, developed by NADA to treat alcoholism, substance abuse, or chemical dependency, which involves inserting five needles into specific points on the outer ear.
- “Hour” means at least 50 minutes of course participation.
- “Letter of concern” means an alternative sanction that informs a licensee or certificate holder that, while the evidence does not warrant disciplinary action, the Board believes the licensee or certificate holder should change certain practices and failure to change the practices may result in disciplinary action. A letter of concern is a public document that may be used in future disciplinary proceedings.
- “License year” means the time between the date on which a license is issued and the date on which the license expires.



“NADA” means the National Acupuncture Detoxification Association.

“NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.

“Respondent” means an individual accused of violating A.R.S. Title 32, Chapter 39 or this Chapter.

“Successful completion of a clean needle technique course” means a course participant:

Attended the course, and

Received a passing score on an examination or other confirmation from the course provider that evidences the participant mastered the course content.

“Supervisor” means an acupuncturist licensed by the Board who is responsible for the oversight and direction of an acupuncture student or a certificate holder.

R4-8-103. ~~Change of Mailing Address, E-mail Address, or Telephone Numbers~~ Providing Notice to the Board

- A.** The Board shall communicate with a licensee, certificate holder, or a person holding an approval from the Board using the contact information provided to the Board. To ensure timely communication from the Board, a licensee, certificate holder, or person holding an approval from the Board shall notify the Board, in writing, within 30 days of any change of mailing address (giving both the old and the new address), e-mail address, or residential, business, or mobile telephone number.
- B.** To enable the Board to fulfill the requirement at A.R.S. § 32-3951(F), a licensee shall notify the Board, in writing, within 10 days of any change in employer. The licensee shall include in the notice the name of the new employer and the name and contact information for the licensee’s supervisor.
- C.** A licensee shall comply with the reporting requirements at A.R.S. § 32-3208.

R4-8-105. ~~Time frames~~ Time Frames for Licensure, Certification, and Approval

- A.** For the purpose of A.R.S. § 41-1073, the Board establishes the ~~time frames~~ time frames listed in Table 1. An applicant or a person requesting an approval from the Board and the Executive Director of the Board may agree in writing to extend the substantive review and overall ~~time frames~~ time frames by no more than 25% of the overall ~~time frame~~ time frame.
- B.** The administrative completeness review ~~time frame~~ time frame begins when the Board receives an application packet or a request for approval. During the administrative completeness review ~~time frame~~ time frame, the Board shall notify the applicant or person requesting approval that the application packet or request for approval is either complete or incomplete. If the application packet or request for approval is incomplete, the Board shall specify in the notice what information is missing.
- C.** An applicant or person requesting approval whose application packet or request for approval is incomplete, shall submit the missing information to the Board within the time to complete listed in Table 1. Both the administrative completeness review and overall ~~time frames~~ time frames are suspended from the date of the Board’s notice under subsection (B) until the Board receives all of the missing information.
- D.** Upon receipt of all missing information, the Board shall notify the applicant or person requesting approval that the application packet or request for approval is complete. The Board shall not send a separate notice of completeness if the Board grants or denies a license, certificate, or approval within the administrative completeness ~~time frame~~ time frame listed in Table 1.
- E.** The substantive review ~~time frame~~ time frame listed in Table 1 begins on the date of the Board’s notice of administrative completeness.
- F.** If the Board determines during the substantive review that additional information is needed, the Board shall send the applicant or person requesting approval a comprehensive written request for additional information.
- G.** An applicant or person requesting approval who receives a request under subsection (F), shall submit the additional information to the Board within the time for response listed in Table 1. Both the substantive review and overall ~~time frames~~ time frames are suspended from the date of the Board’s request until the Board receives the additional information.
- H.** An applicant or person requesting approval may receive a 30-day extension of the time provided under subsection (C) or (G) by providing written notice to the Board before the time expires. If an applicant or person requesting approval fails to submit to the Board the missing or additional information within the time provided under Table 1 or the time as extended, the Board shall close the applicant’s or person’s file. To receive further consideration, an applicant or person requesting approval whose file is closed shall re-apply.
- I.** Within the overall ~~time frame~~ time frame listed in Table 1, the Board shall:
 1. Grant a license, certificate, or approval if the Board determines ~~that~~ the applicant or person requesting approval meets all criteria required by statute and this Chapter; or
 2. Deny a license, certificate, or approval if the Board determines ~~that~~ the applicant or person requesting approval does not meet all criteria required by statute and this Chapter.
- J.** If the Board denies a license, certificate, or approval, the Board shall send the applicant or person requesting approval a written notice explaining:
 1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant’s or person’s right to appeal the denial by filing an appeal under A.R.S. Title 41, Chapter 6, Article 10;
 3. The time for appealing the denial; and
 4. The applicant’s or person’s right to request an informal settlement conference.
- K.** If a ~~time frame’s~~ time frame’s last day falls on a Saturday, Sunday, or official state holiday, the next business day is the ~~time frame’s~~ time frame’s last day.



Table 1. Time frames Time Frames (in days)

| Type of license, certificate, or approval | Authority | Administrative Completeness Time frame Time Frame | Time to Complete | Substantive Review Time frame Time Frame | Time to Respond | Overall Time-frame Time Frame |
|---------------------------------------------|----------------------------------------|---------------------------------------------------|------------------|------------------------------------------|-----------------|-------------------------------|
| Acupuncture License | A.R.S. § 32-3924; R4-8-203 | 20 | 30 | 40 | 30 | 60 |
| Visiting Professor Certificate | A.R.S. § 32-3926; R4-8-208 | 20 | 30 | 40 | 30 | 60 |
| Auricular Acupuncture Certificate | A.R.S. § 32-3922; R4-8-301 | 20 | 30 | 40 | 30 | 60 |
| Auricular Acupuncture Training Program | A.R.S. § 32-3922; R4-8-401 | 20 | 30 | 40 | 30 | 60 |
| Acupuncture Program | A.R.S. § 32-3924(2); R4-8-403 | 20 | 30 | 40 | 30 | 60 |
| Clinical Training Program | A.R.S. § 32-3924(2); R4-8-403 | 20 | 30 | 40 | 30 | 60 |
| Clean Needle Technique Course | A.R.S. § 32-3924; R4-8-402 | 20 | 30 | 40 | 30 | 60 |
| Continuing Education Approval | A.R.S. § 32-3925; R4-8-409 | 20 | 30 | 40 | 30 | 60 |
| Renewal of License or Certificate | A.R.S. § 32-3925; R4-8-204 or R4-8-303 | 20 | 30 | 40 | 30 | 60 |
| Extension of Visiting Professor Certificate | A.R.S. § 32-3926(C); R4-8-208 | 20 | 30 | 40 | 30 | 60 |
| Reinstatement of License | A.R.S. § 32-3925(D); R4-8-205 | 20 | 30 | 40 | 30 | 60 |

R4-8 106. Fees

- A. Under the authority provided at A.R.S. §§ 32-3927 and 41-1008(C), the Board establishes and shall collect the following fees:
 1. Application for an acupuncture license: \$150;
 2. Issuance of an initial acupuncture license: \$275;
 3. Renewal of an acupuncture license: \$275;
 4. Additional fee for late renewal of an acupuncture license: \$100;
 5. Application for an auricular acupuncture certificate: \$75;
 6. Issuance of an initial auricular acupuncture certificate: \$75;
 7. Renewal of an auricular acupuncture certificate: \$75;
 8. Visiting professor certificate: \$600;
 9. Extension of a visiting professor certificate: \$600; and
 10. Fingerprint processing for a state and federal criminal records check: \$30; and
 - ~~10-11.~~ Duplicate license or certificate: \$50.
- B. Except as provided in subsections (B)(1) through (B)(3) or as required under A.R.S. § 41-1077, all fees are nonrefundable. The Board shall refund the fee paid under subsection (A)(2) or (A)(6) if:
 1. The Board denies a license or certificate to an applicant,
 2. The Board closes the file of an applicant under R4-8-105, or
 3. An applicant withdraws an application.

ARTICLE 2. ACUPUNCTURE LICENSING; VISITING PROFESSOR CERTIFICATE

R4-8-203. Application for Acupuncture License

- A. To be licensed to practice acupuncture, an applicant shall submit an application packet to the Board that includes:
 1. An application, on a form provided by the Board, that provides the following information about the applicant:
 - a. Name;
 - b. Other names by which the applicant has been known;
 - c. Date of birth;
 - d. Social Security number;
 - e. Name of the applicant’s employer and name and contact information for the applicant’s supervisor, or if applicable, an indication the applicant is self-employed;
 - e.f. Home, business, and e-mail addresses;
 - f.g. Home, business, and mobile telephone numbers;



- ~~g-h.~~ A statement of whether the applicant has ever been permitted by law to practice a health-care profession, including acupuncture, in this or another state, territory, or district of the United States, or another country or subdivision of another country, and if so:
 - i. A list of the jurisdictions in which the applicant has been permitted by law to practice a health-care profession;
 - ii. The number of each license;
 - iii. The date each license was issued;
 - iv. The date each license expired or expires;
 - v. Limitations, if any, for each license;
 - vi. Whether each license was granted by endorsement, examination, or another means;
 - ~~h-i.~~ A statement of whether the applicant is certified by the NCCAOM, and if so, whether the certification is active and current, and the dates of issuance and expiration;
 - ~~i-j.~~ If not certified by the NCCAOM, a statement of whether the applicant:
 - i. Has passed all the following NCCAOM modules: Point Location; Foundations of Oriental Medicine; Biomedicine; and Acupuncture; or
 - ii. Has passed the State of California Acupuncture Licensing Examination;
 - ~~j-k.~~ A statement of whether the applicant has completed an acupuncture program accredited within the United States or another country or subdivision of another country, and if so, the date of program completion;
 - ~~k-l.~~ A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, deny the applicant a license or certificate to practice acupuncture, and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
 - ~~l-m.~~ A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, revoke, suspend, limit, restrict, or take any other action regarding the applicant's license or certificate to practice acupuncture, and if so, the name of the jurisdiction taking the action, the action taken, date of the action, and an explanation of the circumstances;
 - ~~m-n.~~ A statement of whether the applicant has ever been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
 - ~~n-o.~~ A statement of whether the applicant has ever had a claim for malpractice or a lawsuit filed against the applicant alleging professional malpractice or negligence in the practice of acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
 - ~~o-p.~~ A statement of whether the applicant has any condition that may impair the applicant's ability to practice acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
 - ~~p-q.~~ A statement of whether the applicant has ever resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
 - ~~q-r.~~ A statement of whether the applicant has ever had a health-care facility terminate, restrict, or take any other action regarding the applicant's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances;
2. An official record or document that relates to the applicant's explanation of an item under subsections ~~(A)(1)(k)~~ (A)(1)(l) through ~~(A)(1)(q)~~ (A)(1)(r);
 3. Documentation of one of the following:
 - a. Certification from the NCCAOM or its successor;
 - b. Certification by another certifying body recognized by the Board;
 - c. Certification as a result of passing a licensing or certifying examination in acupuncture; or
 - d. Authorization by law to practice acupuncture in another state, district, or territory of the United States, or another country or subdivision of another country with licensing standards substantially similar to those in this Chapter that has not been revoked;
 4. Documentation of successfully completing a Board-approved clean needle technique course. A copy of the certificate of completion showing the name of the course and the date on and location at which the course was completed is acceptable documentation;
 5. A 2" X 2" photograph, taken within the last year, that shows the front of the applicant's face;
 6. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board. As required under A.R.S. § 41-1080(A), the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law; and~~
 7. A complete set of fingerprints that meet the criteria of the Federal Bureau of Investigation and are taken by a law enforcement agency or other qualified entity; and
 8. ~~The amount charged by the Department of Public Safety to process fingerprints for a state and federal criminal records check; and~~
 - 9-8. ~~The application and initial licensing fees prescribed by the Board under R4-8-106(A)(1) and (A)(2) and the fingerprint processing fee prescribed under R4-8-106(A)(10).~~
- B.** In addition to the materials required under subsection (A), an applicant shall provide evidence ~~that~~ the applicant completed at least 1,850 hours of training in acupuncture, including at least 800 clinical hours, by having submitted directly to the Board an official transcript from each school at which the applicant attended a Board-approved acupuncture program showing:
1. The name and address of the school,
 2. The dates on which the applicant attended the school,



3. The courses and clinical training completed by the applicant,
 4. The number of hours in each course or clinical training,
 5. The grade or score obtained by the applicant in each course or clinical training, and
 6. Whether the applicant received a diploma or degree from the school.
- C. In addition to complying with subsections (A) and (B), an applicant shall sign, ~~and date, and have notarized~~ an affidavit ~~that indicates~~ indicating all information provided in the application packet, including any accompanying documents submitted by or on behalf of the applicant, are true, complete, and correct.

R4-8-204. Renewal of an Acupuncture License

- A. An acupuncture license expires 12 months after the date issued.
- B. The Board shall provide a licensee with ~~60 days~~ 60-days notice of the need to renew. It is the responsibility of the licensee to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.
- C. If a licensee fails to submit a renewal application packet as described in subsection (D) on or before the expiration date, the licensee shall cease the practice of acupuncture.
- D. To renew an acupuncture license, a licensee shall submit to the Board:
 1. A renewal application that provides the following information about the licensee:
 - a. Name;
 - b. License number;
 - c. ~~Business name;~~ Name of the licensee's employer and name and contact information for the licensee's supervisor, or if applicable, an indication the licensee is self-employed and their business name;
 - d. Home, business, and e-mail addresses;
 - e. ~~Home,~~ Business, and home or Business and mobile telephone numbers;
 - f. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country denied the licensee a license or certificate to practice acupuncture and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
 - g. A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country revoked, suspended, limited, restricted, or took other action regarding the license of the licensee and if so, the name of the jurisdiction taking action against the license, the action taken, date of the action, and an explanation of the circumstances;
 - h. A statement of whether during the last 12 months the licensee has been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
 - i. A statement of whether during the last 12 months a claim for malpractice or a lawsuit was filed against the licensee alleging professional malpractice or negligence in the practice of acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
 - j. A statement of whether during the last 12 months the licensee has any condition that may impair the licensee's ability to practice acupuncture safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
 - k. A statement of whether during the last 12 months the licensee resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
 - l. A statement of whether during the last 12 months the licensee had a health-care facility terminate, restrict, or take any other action regarding the licensee's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances;
 2. An affirmation that the licensee completed the continuing education required under R4-8-206;
 3. An affirmation that the licensee is in compliance with the requirements at A.R.S. § 32-3211;
 4. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board~~ If the documentation previously submitted under R4-8-203(A)(6) was a limited form of work authorization issued by the federal government, evidence the work authorization has not expired;
 5. The renewal fee required under R4-8-106(A)(3); and
 6. The licensee's dated signature affirming ~~that~~ the information provided is accurate, true, and complete.

R4-8-206. Continuing Education Requirement

- A. A licensee shall complete at least 15 hours of approved Board-approved continuing education ~~per~~ during each license year.
- B. The Board shall award hours in an approved continuing education as follows:
 1. Seminar or workshop: One hour of continuing education for each contact hour;
 2. Course at an accredited educational institution: 15 hours of continuing education for each semester hour;
 3. Self-study, online, or correspondence course: Hours of continuing education determined by the course provider;
 4. Teaching an approved continuing education: One hour of continuing education for each hour taught;
 5. Having an article on the practice of acupuncture or traditional East-Asian medicine published in a peer-reviewed professional journal or in a text book: 15 hours of continuing education;
 6. Attending a Board meeting: ~~One~~ A maximum of four cumulative hour hours for attending ~~one~~ meetings during a year;
 7. Obtaining certification in cardio-pulmonary resuscitation: One hour of continuing education for each hour of training required to maintain certification; and
 - 7.8. Having a text book published relating to the practice of acupuncture or traditional East-Asian medicine: 15 hours of continuing education.
- C. The Board shall limit the number of hours of approved continuing education awarded as follows:



- 1. No more than 30 percent of the required hours may be obtained from teaching an approved continuing education. Hours may be obtained from teaching a particular approved continuing education only once during each license year. No hours may be obtained from participating as a member of a panel at an approved continuing education; and
- 2. Hours that exceed the maximum required during a license year may not be carried over to a subsequent license year.
- 3. No more than 8 of the required hours may be obtained from the American Heart Association.
- D. A licensee shall obtain a certificate or other evidence of attendance from the provider of each approved continuing education attended that includes the following:
 - 1. Name of the licensee;
 - 2. ~~License number of the licensee;~~
 - 3. ~~Name of the approved continuing education;~~
 - 4. ~~Name of the continuing education provider;~~
 - 5. ~~Name of the entity that approved the continuing education;~~
 - 6. ~~Date, time, and location of the approved continuing education; and~~
 - 7. ~~Number of hours of approved continuing education.~~
- E. To enable a licensee to comply with audit requirements in R4-8-207, A the licensee shall maintain the evidence of attendance described in subsection (D) for two years through the license year following the license year in which the evidence was obtained. And The licensee shall make the evidence available to the Board under R4-8-207 and as otherwise required under this Chapter.

R4-8-207. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

- A. ~~When notice of the need to renew a license is provided, the~~ The Board shall also regularly provide notice of an audit of continuing education records to a random sample of licensees.
- B. The Board shall focus an audit on continuing education obtained during the license year before the current license year.
- C. ~~A licensee subject to a continuing education an audit shall submit the documentation evidence of attendance required under R4-8-206(D) at the same time that the licensee submits the renewal application packet required under R4-8-204(D) within 30 days after receiving the notice provided under subsection (A).~~
- D. ~~If a licensee fails to submit the required documentation with the renewal application packet before the date of expiration, the license expires evidence of attendance within the 30 days specified under subsection (C) or if the evidence submitted indicates noncompliance with the continuing education requirement, the Board may initiate disciplinary action.~~

ARTICLE 3. AURICULAR ACUPUNCTURE CERTIFICATION

R4-8-301. Application for Auricular Acupuncture Certificate

To be certified as an auricular acupuncturist to provide auricular acupuncture services in a Board-approved alcoholism, substance abuse, or chemical dependency program, an applicant shall submit an application packet to the Board that includes:

- 1. An application, on a form provided by the Board, that provides the following information about the applicant:
 - a. Name;
 - b. Other names by which the applicant has been known;
 - c. Date of birth;
 - d. Social Security number;
 - e. Home, ~~business,~~ and e-mail addresses;
 - f. Home, ~~business,~~ and mobile telephone numbers;
 - g. A statement of whether the applicant has ever been permitted by law to practice a health-care profession, including auricular acupuncture, in this or another state, territory, or district of the United States, or another country or subdivision of another country, and if so:
 - i. A list of the jurisdictions in which the applicant has been permitted by law to practice auricular acupuncture a health-care profession, including auricular acupuncture;
 - ii. The number of each license or certificate;
 - iii. The date each license or certificate was issued;
 - iv. The date each license or certificate expired or expires;
 - v. Limitations, if any, for each license or certificate;
 - vi. Current status of each license or certificate; and
 - vii. Whether each license or certificate was granted by endorsement, examination, or another means;
 - h. A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, deny the applicant a license or certificate to practice a health-care profession, including auricular acupuncture, and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
 - i. A statement of whether the applicant has ever had a licensing authority of another state, district, or territory of the United States, or another country or subdivision of another country, revoke, suspend, limit, restrict, or take any other action regarding the applicant's license or certificate to practice a health-care profession, including auricular acupuncture, and if so, the name of the jurisdiction taking the action, the action taken, date of the action, and an explanation of the circumstances;
 - j. A statement of whether the applicant has ever been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
 - k. A statement of whether the applicant has ever had a claim for malpractice or a lawsuit filed against the applicant alleging professional malpractice or negligence in the practice of auricular acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;



- l. A statement of whether the applicant has any condition that may impair the applicant's ability to practice auricular acupuncture, safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
 - m. A statement of whether the applicant has ever resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances; and
 - n. A statement of whether the applicant has ever had a health-care facility terminate, restrict, or take any other action regarding the applicant's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances;
2. An official record or document that relates to the applicant's explanation of an item under subsections (1)(h) through (1)(n);
 3. The application and initial certification fees prescribed by the Board under R4-8-106(A)(5) and (A)(6) and on and after January 1, 2019, the fingerprint processing fee prescribed under R4-8-106(A)(10);
 4. Documentation of successfully completing a Board-approved:
 - a. Training program in auricular acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency. A copy of the certificate of completion showing the name, date, and location of the course is acceptable documentation; and
 - b. Clean needle technique course. A copy of the certificate of completion showing the name, date, and location of the course is acceptable documentation;
 5. The name, license number, and telephone number of the ~~Arizona licensed~~ Arizona-licensed acupuncturist who will supervise the applicant if the applicant is certified;
 6. A ~~2" X 2"~~ photograph, taken within the last year, that shows the front of the applicant's face ~~and that the applicant signs on the back or the white frame around the photograph;~~
 7. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board As required under A.R.S. § 41-1080(A), the specified documentation of citizenship or alien status indicating the applicant's presence in the U.S. is authorized under federal law; and~~
 8. The applicant's dated ~~and notarized~~ signature affirming ~~that~~ the information provided in the application, including any accompanying documents submitted by or on behalf of the applicant, are true and complete.
 9. On and after January 1, 2019, a complete set of fingerprints that meet the criteria of the Federal Bureau of Investigation and are taken by a law enforcement agency or other qualified entity;

R4-8-303. Renewal of an Auricular Acupuncture Certificate

- A. An auricular acupuncture certificate expires 12 months after the date issued.
- B. The Board shall provide a certificate holder with ~~60 days~~ 60 days' notice of the need to renew. It is the responsibility of the certificate holder to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.
- C. If a certificate holder fails to submit a renewal application packet as described in subsection (D) on or before the expiration date, the certificate holder shall cease the practice of auricular acupuncture.
- D. To renew an auricular acupuncture certificate, a certificate holder shall submit to the Board:
 1. A renewal application that provides the following information ~~listed~~ about the certificate holder:
 - a. Name;
 - b. Certificate number;
 - e. ~~Renewal date;~~
 - ~~d.c.~~ The name, address, and telephone number of the alcoholism, substance abuse, or chemical dependency facility at which the certificate holder works;
 - ~~e.d.~~ Residential and e-mail addresses;
 - ~~f.e.~~ Residential and mobile telephone numbers;
 - ~~g.f.~~ A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country denied the certificate holder a license or certificate to practice auricular acupuncture, and if so, the name of the jurisdiction denying a license or certificate, date of the denial, and an explanation of the circumstances;
 - ~~h.g.~~ A statement of whether during the last 12 months a licensing authority of another state, district, or territory of the United States or another country or subdivision of another country revoked, suspended, limited, restricted, or took other action regarding the license or certificate of the certificate holder and if so, the name of the jurisdiction taking action, the action taken, date of the action, and an explanation of the circumstances;
 - ~~i.h.~~ A statement of whether during the last 12 months the certificate holder has been convicted of a crime, including driving under the influence of drugs or alcohol, other than a minor traffic offense, and if so, the name of the jurisdiction in which convicted, the nature of the crime, date of the conviction, and current status;
 - ~~j.i.~~ A statement of whether during the last 12 months a claim for malpractice or a lawsuit was filed against the certificate holder alleging professional malpractice or negligence in the practice of auricular acupuncture, and if so, the claim or case number, date of the claim or lawsuit, the matters alleged, and whether the claim or lawsuit is still pending or the manner in which it was resolved;
 - ~~k.j.~~ A statement of whether during the last 12 months the certificate holder has any condition that may impair the certificate holder's ability to practice auricular acupuncture, safely and skillfully, and if so, the nature of the condition and any accommodations necessary;
 - ~~l.k.~~ A statement of whether during the last 12 months the certificate holder resigned, voluntarily or involuntarily, from a health-care facility while under investigation, and if so, the name of the health-care facility, the date of the resignation, and an explanation of the circumstances;
 - ~~m.l.~~ A statement of whether during the last 12 months the certificate holder had a health-care facility terminate, restrict, or take any other action regarding the certificate holder's employment, professional training, or privileges, and if so, the name of the health-care facility, the date of the action, and an explanation of the circumstances; and



- ~~n.m.~~ The name, license number, and telephone number of the licensed acupuncturist who supervises the certificate holder;
 - 2. ~~A completed Arizona Statement of Citizenship and Alien Status for State Public Benefits, which is a form available from the Board. If the documentation previously submitted under R4-8-302(6) was a limited form of work authorization issued by the federal government, evidence the work authorization has not expired;~~
 - 3. The renewal fee required under R4-8-106(A)(7); and
 - 4. The certificate holder's dated signature affirming ~~that~~ the information provided is accurate, true, and complete.
- E. The Board does not have authority to reinstate an expired auricular acupuncture certificate. An individual whose auricular acupuncture certificate expires because of failure to renew timely under subsection (D) may apply for certification by complying with R4-8-301.

R4-8-304. Notice of Change in Employment or Supervisor

- A. A certificate holder shall provide written notice to the Board within 10 days after one of the following occurs:
 - 1. The certificate holder changes employment from one approved alcoholism, substance abuse, and chemical dependency program to another;
 - 2. The certificate holder ceases to practice as an auricular acupuncturist; or
 - 3. The licensed acupuncturist supervising the certificate holder changes.
- B. A certificate holder required to provide notice under subsection (A), shall include the following information in the notice:
 - 1. Name and certificate number of the certificate holder;
 - 2. Name and address of the approved alcoholism, substance abuse, and chemical dependency program at which the certificate holder is employed; and
 - 3. Name, license number, and telephone number of the licensed acupuncturist supervising the certificate holder; or
 - 4. A statement that the certificate holder is not practicing as an auricular acupuncturist.

ARTICLE 4. TRAINING PROGRAMS AND CONTINUING EDUCATION

R4-8-408. Approval of Continuing Education

- A. The Board shall approve a continuing education only if the continuing education:
 - 1. Is related to the knowledge or technical skills used to practice acupuncture safely and competently; or
 - 2. Is related to direct or indirect acupuncture patient care, including practice management, medical ethics, or Chinese language; and
 - 3. Includes a method by which the continuing education participants evaluate:
 - a. The extent to which the continuing education met its stated objectives,
 - b. The adequacy of the instructor's knowledge of the subject taught,
 - c. The use of appropriate teaching methods, and
 - d. The applicability or usefulness of the information provided; and
 - 4. Provides continuing education participants with a certificate of attendance that meets the requirements at R4-8-206(D).
- B. The Board shall approve a continuing education, without application under R4-8-409, if the continuing education is:
 - 1. Approved by a licensing board of acupuncture in another state,
 - 2. Provided by the Continuing Education Council of NCCAOM, or
 - 3. Provided by a board-approved acupuncture or clinical training program, or
 - 4. Provided by the American Heart Association.

ARTICLE 6. COMPLAINTS; HEARING PROCEDURES; DISCIPLINE

R4-8-601. Making a Complaint

- A. Anyone, including the Board, may file a complaint that alleges a violation of A.R.S. Title 32, Chapter 39 or this Chapter.
- B. A complaint may be filed against:
 - 1. An individual licensed under A.R.S. § 32-3921 and R4-8-203;
 - 2. An individual certified under A.R.S. § 32-3922 and R4-8-301;
 - 3. An individual certified under A.R.S. § 32-3926 and R4-8-208; or
 - 4. An individual who is not exempt under A.R.S. § 32-3921(B) and believed to be practicing acupuncture without a license or certificate issued under A.R.S. Title 32, Chapter 39 and this Chapter.
- C. To file a complaint, an individual shall provide ~~the following information, either orally or in writing,~~ to the Board:
 - 1. ~~Date;~~ A completed complaint form, which is available on the Board's web site; or
 - 2. ~~Name, address, and telephone number of the individual complained against;~~ Other writing that includes the individual's name and contact information, name of the individual complained against, and a description of the allegations.
 - 3. ~~Name, address, and telephone number of the complainant;~~
 - 4. ~~If the complaint is filed on behalf of a third party, the name and address of the third party;~~
 - 5. ~~The date on which the complaint was last discussed with the individual complained against or a representative of an involved business:~~
 - a. ~~A statement of whether the last discussion of the complaint was by telephone or in person, and~~
 - b. ~~The name of the individual with whom the complaint was last discussed; and~~
 - 6. ~~A detailed description, including dates, of the events alleged to constitute a violation of A.R.S. Title 32, Chapter 39 or this Chapter.~~
- D. ~~A complainant shall file a complaint within 90 days of the events alleged to constitute a violation of A.R.S. Title 32, Chapter 39 or this Chapter.~~
- E. ~~A complainant may withdraw a complaint at any time by providing notice to the Board.~~

R4-8-602. Complaint Procedures



- A.** The Board shall review a complaint to determine whether it meets the requirements under R4-8-601. If a complaint does not meet the requirements under R4-8-601, the Board shall provide written notice to the complainant that the complaint is dismissed without further action.
- B.A.** If within 90 days after receiving a complaint under R4-8-601, the Board determines that a complaint meets the requirements under R4-8-601, the Board shall assess whether the complaint alleges a violation of A.R.S. Title 32, Chapter 39 or this Chapter and:
1. Dismiss the complaint if the Board determines that the allegation, if true, does not amount to a violation of A.R.S. Title 32, Chapter 39 or this Chapter and provide written notice of the dismissal to the complainant; or Serve a copy of the complaint on the respondent and provide the respondent with 20 days in which to submit to the Board:
 - a. A response in which the respondent admits, denies, or explains each allegation in the complaint; and
 - b. Records and other evidence relevant to the complaint allegations; and
 2. Serve a copy of the complaint on the respondent if the Board determines that the allegation, if true, amounts to a violation of A.R.S. Title 32, Chapter 39 or this Chapter and provide the respondent with 20 days to submit: Conduct an investigation of the complaint allegations and prepare a report summarizing the complaint and results of the investigation. The Board shall provide a copy of the report to the respondent.
 - a. A response in which the individual admits, denies, or further explains each allegation in the complaint; and
 - b. Records relevant to the complaint.
- C.B.** If a respondent responds to a complaint, the Board shall send a copy of the response to the complainant and provide five days for the complainant to submit a rebuttal. The Board may ask the respondent to participate in an informal interview regarding the complaint. If the respondent accepts the invitation to an informal interview, the Board shall notify both the complainant and respondent regarding the time and location of the informal interview.
- D.C.** When the times provided under subsections (B)(2) and (C) expire, the Board shall conduct an investigation and prepare a report that summarizes the complaint and results of the investigation. The Board shall: After completing the informal interview, the Board shall:
1. Provide a copy of the investigative report to the complainant and respondent; and Dismiss the complaint if the Board finds the complaint lacks merit;
 2. Provide written notice to the complainant and respondent of the date, time, and location of the Board meeting at which the complaint will be considered. Take one of the actions listed in A.R.S. § 32-3951(E) if the Board finds the complaint has merit but is not of sufficient seriousness to warrant license suspension or revocation; or
 3. Refer the complaint for formal hearing under R4-8-603 if the Board finds the complaint is of sufficient seriousness that license suspension or revocation may be warranted.
- E.D.** Both the complainant and respondent may be represented by an attorney at the Board meeting at which the complaint is considered. If the respondent refuses or fails to respond to the invitation to an informal interview or if the respondent accepts the invitation but fails to attend the informal interview, the Board shall refer the complaint for formal hearing under R4-8-603.
- F.** At the Board meeting at which a complaint is considered, the Board shall:
1. Provide the complainant and respondent with an opportunity to address the Board, present evidence, and cross-examine witnesses; and
 2. Negotiate an equitable and just resolution of the matters asserted in the complaint; or
 3. Forward the complaint to a formal hearing.

ARTICLE 7. PUBLIC PARTICIPATION PROCEDURES

R4-8-701. ~~Expired~~Regulatory Bill of Rights

The Board makes available to all persons the regulatory rights listed in A.R.S. § 41-1001.01.

R4-8-702. ~~Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact~~Repealed

- A.** A person may petition the Board under A.R.S. § 41-1033 for a:
1. Rulemaking action relating to a Board rule, including making a new rule or amending or repealing an existing rule; or
 2. Review of an existing Board practice or substantive policy statement alleged to constitute a rule.
- B.** A person may petition the Board under A.R.S. § 41-1056.01 objecting to all or part of a Board rule because the actual economic, small business, or consumer impact of the rule:
1. Exceeds the estimated economic, small business, or consumer impact of the rule; or
 2. Was not estimated and imposes a significant burden on persons subject to the rule.
- C.** To act under A.R.S. § 41-1033 or 41-1056.01 and this Section, a person shall submit to the Board a written petition including the following information:
1. The name, home or business and e-mail addresses, and telephone and fax numbers of the petitioner;
 2. Name of any person represented by the petitioner;
 3. If requesting a rulemaking action:
 - a. Statement of the rulemaking action sought, including the A.A.C. citation to all existing rules, and the specific language of a new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
 4. If requesting a review of an existing Board practice or substantive policy statement:
 - a. Subject matter of the existing practice or substantive policy statement; and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
 5. If objecting to a rule because of its economic, small business, and consumer impact statement:
 - a. The A.A.C. citation of the rule to which objection is made; and
 - b. A description of how the actual economic, small business, or consumer impact of the rule differs from that estimated; or



- e. A description of the actual economic, small business, or consumer impact of the rule and an assessment of the burden on persons subject to the rule; and
- 6. Dated signature of the petitioner.

D. A person may submit supporting information with a petition.

R4-8-704. ~~Oral Proceedings~~ Repealed

- A.** A person requesting an oral proceeding, as prescribed in A.R.S. § 41-1023(C), shall:
 - 1. File the 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 notice of the proposed rule is published.
- B.** The Board shall make a record of an oral proceeding. The Board shall make any material submitted during an oral proceeding part of the official rulemaking 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. A person wishing to speak shall provide the following information on a form that is available from the Board:
 - a. Name;
 - b. Representative capacity, if applicable;
 - e. Whether the person supports or opposes the proposed rule; and
 - d. Approximate length of time the person wishes to speak;
 - 3. Opening of the record. The presiding officer shall open the proceeding by identifying the rule to be considered and the location, date, time, and purpose of the proceeding, and by presenting the agenda;
 - 4. A statement by Board representative. A Board representative shall explain the background and general content of the proposed rule;
 - 5. A public oral comment period. Any person may speak at an oral proceeding. A person who speaks shall address the proposed rule. A person who speaks may ask questions regarding the proposed rule and present oral argument, data, and views on the proposed rule. The presiding officer may limit the time allotted to each speaker and preclude undue repetition; and
 - 6. Closing remarks. The presiding officer shall announce the location and last day for submitting written comments about the proposed rule.

R4-8-706. ~~Written Criticism of Rule~~ Repealed

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

NOTICE OF PROPOSED RULEMAKING
TITLE 11. MINES
CHAPTER 3. STATE MINE INSPECTOR
AGGREGATE MINED LAND RECLAMATION

[R18-178]

PREAMBLE

| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---------------------------------------------------------------------|---------------------------------|
| Article 1 | New Article |
| R11-3-101 | New Section |
| R11-3-102 | New Section |
| R11-3-103 | New Section |
| Article 2 | New Article |
| R11-3-201 | New Section |
| R11-3-202 | New Section |
| R11-3-203 | New Section |
| R11-3-204 | New Section |
| R11-3-205 | New Section |
| R11-3-206 | New Section |
| R11-3-207 | New Section |
| R11-3-208 | New Section |
| R11-3-209 | New Section |
| R11-3-210 | New Section |
| R11-3-211 | New Section |
| R11-3-212 | New Section |
| Article 3 | New Article |
| R11-3-301 | New Section |



| | |
|-----------|-------------|
| R11-3-302 | New Section |
| Article 4 | New Article |
| R11-3-401 | New Section |
| R11-3-402 | New Section |
| Article 5 | New Article |
| R11-3-501 | New Section |
| R11-3-502 | New Section |
| R11-3-503 | New Section |
| R11-3-504 | New Section |
| R11-3-505 | New Section |
| Article 6 | New Article |
| R11-3-601 | New Section |
| R11-3-602 | New Section |
| R11-3-603 | New Section |
| Article 7 | New Article |
| R11-3-701 | New Section |
| R11-3-702 | New Section |
| R11-3-703 | New Section |
| R11-3-704 | New Section |
| R11-3-705 | New Section |
| Article 8 | New Article |
| R11-3-801 | New Section |
| R11-3-802 | New Section |
| R11-3-803 | New Section |
| R11-3-804 | New Section |
| R11-3-805 | New Section |
| R11-3-806 | New Section |
| R11-3-807 | New Section |
| R11-3-808 | New Section |
| R11-3-809 | New Section |
| R11-3-810 | New Section |
| R11-3-811 | New Section |
| R11-3-812 | New Section |
| R11-3-813 | New Section |
| R11-3-814 | New Section |
| R11-3-815 | New Section |
| R11-3-816 | New Section |
| R11-3-817 | New Section |
| R11-3-818 | New Section |
| R11-3-819 | New Section |
| R11-3-820 | New Section |
| R11-3-821 | New Section |

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

Authorizing statute: A.R.S. § 27-1204(A)

Implementing statute: A.R.S. §§ 27-1204, 27-1227, 27-1228, 27-1229, 27-1230, 27-1233, 27-1236, 27-1237, 27-1277, and 27-1292

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. 2565, September 14, 2018 (*in this issue*)

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

Name: Laurie Swartzbaugh
 Address: State Mine Inspector
 1700 W. Washington St., Suite 403
 Phoenix, AZ 85007
 Telephone: (602) 542-5971
 Fax: (602) 542-5335
 E-mail: lswartzbaugh@asmi.az.gov
 Web site: https://asmi.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 legislature enacted the Aggregate Mine Land Reclamation Act (A.R.S. Title 27, Chapter 6) in 2005. The Act requires aggregate exploration operations and aggregate mining units to submit reclamation plans and financial assurance mechanisms to the Office of the State Mine Inspector. The Act requires the Inspector to make rules consistent with the Act for reclamation of surface disturbances at aggregate exploration operations and mining units, financial assurances, and notice and public meetings. This rulemaking makes the required rules.

A Notice of Proposed Rulemaking for the required rules was published at 12 A.A.R. 742, March 10, 2006. The rulemaking process was not completed. However, in the interim, members of the industry have been complying with the proposed rules.

This rulemaking is exempt from Executive Order 2018-02 under paragraph (7)(a) of the Order.

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

The Inspector does not intend to review or rely on a study in the Inspector's evaluation of or justification for a rule in this rulemaking.

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

Not applicable

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

The cost of reclaiming a surface disturbance of more than five acres can be significant. However, it is statute rather than these rules that require the owner or operator of an exploration operation or aggregate mining unit to develop and obtain the Inspector's approval of a reclamation plan and to provide a financial assurance mechanism before creating a surface disturbance of more than five acres (See A.R.S. §§ 27-1221 and 27-1222).

There are some costs associated with developing and obtaining the Inspector's approval of a reclamation plan and financial assurance mechanism. There are also costs associated with the standards a reclamation plan must meet. As specifically authorized by statute (See A.R.S. § 27-1233), there are fees to be paid for review and approval of a reclamation plan or a substantial change to a reclamation plan.

The rules allow use of bond pooling as a financial assurance mechanism. This mechanism was included to reduce the cost of providing financial assurance for small owners and operators.

The legislature required reclamation of aggregate mined lands to protect the environment and to protect public health and safety. The costs associated with reclaiming aggregate mined lands are a cost of doing business offset by the public benefits.

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

Name: Laurie Swartzbaugh
Address: State Mine Inspector
1700 W. Washington S., Suite 403
Phoenix, AZ 85007
Telephone: (602) 542-5971
Fax: (602) 542-5335
E-mail: lswartzbaugh@asmi.az.gov
Web site: https://asmi.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:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Friday, November 9, 2018
Time: 9:00 a.m.
Location: State Mine Inspector
1700 W. Washington St., 3rd floor
Phoenix, AZ 85007

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

None

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 approvals required under the Act are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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

The rules are not more stringent than federal law because there are no federal laws regulating reclamation of aggregate mining units or facilities on non-federal lands. There are however, numerous federal environmental laws impacting aggregate mining activities (See 40 CFR) and laws regulating mine safety and health issues (See 30 CFR, Chapter 1, Subchap-



ter A). None of these laws is specifically applicable to this rulemaking.

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

No analysis was submitted

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

None

13. The full text of the rules follows:

**TITLE 11. MINES
CHAPTER 3. STATE MINE INSPECTOR
AGGREGATE MINED LAND RECLAMATION**

ARTICLE 1. DEFINITIONS

Section

| | |
|-------------------|------------------------------|
| <u>R11-3-101.</u> | <u>Definitions</u> |
| <u>R11-3-102.</u> | <u>Licensing Time Frames</u> |
| <u>R11-3-103.</u> | <u>Appeals</u> |

ARTICLE 2. GENERAL REGULATORY PROVISIONS

Section

| | |
|-------------------|-------------------------------------------------------------------------------------------------|
| <u>R11-3-201.</u> | <u>Document Submittals</u> |
| <u>R11-3-202.</u> | <u>Preservation of Documents</u> |
| <u>R11-3-203.</u> | <u>Extension of Time for Submittal of Reclamation Plan</u> |
| <u>R11-3-204.</u> | <u>Supersedure by Federal Plan</u> |
| <u>R11-3-205.</u> | <u>Extension of Time to Initiate Reclamation</u> |
| <u>R11-3-206.</u> | <u>Variance</u> |
| <u>R11-3-207.</u> | <u>Notice of Proposed Substantial Change to Approved Reclamation Plan</u> |
| <u>R11-3-208.</u> | <u>Temporary Suspension, Permanent Termination, or Abandonment of Aggregate Mining Activity</u> |
| <u>R11-3-209.</u> | <u>Cessation of Aggregate Mining Activity</u> |
| <u>R11-3-210.</u> | <u>Fees</u> |
| <u>R11-3-211.</u> | <u>Public Notices and Meetings</u> |
| <u>R11-3-212.</u> | <u>Public Disclosure</u> |

ARTICLE 3. EXPLORATION OPERATION RECLAMATION PLAN

Section

| | |
|-------------------|-----------------------------------------------------------------|
| <u>R11-3-301.</u> | <u>Exploration Operation Reclamation Plan Content</u> |
| <u>R11-3-302.</u> | <u>Annual Renewal of Exploration Operation Reclamation Plan</u> |

ARTICLE 4. EXPLORATION OPERATION RECLAMATION STANDARDS

Section

| | |
|-------------------|--------------------------|
| <u>R11-3-401.</u> | <u>Restricted Access</u> |
| <u>R11-3-402.</u> | <u>Trash Removal</u> |

ARTICLE 5. AGGREGATE MINING UNIT RECLAMATION PLAN

Section

| | |
|-------------------|-------------------------------------------------------|
| <u>R11-3-501.</u> | <u>Aggregate Mining Unit Reclamation Plan Content</u> |
| <u>R11-3-502.</u> | <u>Estimating the Cost of Reclamation</u> |
| <u>R11-3-503.</u> | <u>Multiple Post-aggregate Mining Land Uses</u> |
| <u>R11-3-504.</u> | <u>Annual Status Report</u> |
| <u>R11-3-505.</u> | <u>Life of an Approved Reclamation Plan</u> |

ARTICLE 6. AGGREGATE MINING UNIT RECLAMATION STANDARDS

Section

| | |
|-------------------|---------------------------------------------------|
| <u>R11-3-601.</u> | <u>Public Safety Standards</u> |
| <u>R11-3-602.</u> | <u>Erosion Control and Topographic Contouring</u> |
| <u>R11-3-603.</u> | <u>Roads</u> |

ARTICLE 7. REVEGETATION AND SOIL STANDARDS

Section

| | |
|-------------------|--------------------------------|
| <u>R11-3-701.</u> | <u>Revegetation Provisions</u> |
| <u>R11-3-702.</u> | <u>Revegetation Standards</u> |
| <u>R11-3-703.</u> | <u>Conservation of Soil</u> |
| <u>R11-3-704.</u> | <u>Redistribution of Soil</u> |
| <u>R11-3-705.</u> | <u>Off-site Soil</u> |



ARTICLE 8. FINANCIAL ASSURANCE

Section

R11-3-801. Definitions

R11-3-802. Amount of Financial Assurance

R11-3-803. Blanket Financial Assurance

R11-3-804. Surety Bond

R11-3-805. Certificate of Deposit

R11-3-806. Trust

R11-3-807. Letter of Credit

R11-3-808. Insurance Policy

R11-3-809. Certificate of Self-insurance

R11-3-810. Cash Deposit

R11-3-811. Annuity

R11-3-812. Bonding Pool

R11-3-813. Limited Individual Financial Assurance

R11-3-814. Final Action on Financial Assurance Mechanisms

R11-3-815. Incremental Financial Assurance

R11-3-816. Application for Release of Financial Assurance

R11-3-817. Forfeiture Criteria: Forfeiture of Financial Assurance

R11-3-818. Notice of Forfeiture Action; Avoidance of Forfeiture

R11-3-819. Notice of Exercise of Forfeiture

R11-3-820. Municipal, County, or State Government

R11-3-821. Non-mining Excavation Surface Disturbances

ARTICLE 1. DEFINITIONS

R11-3-101. Definitions

The definitions at A.R.S. §§ 27-441 and 27-1201 apply to this Chapter. Additionally, unless the context requires otherwise, in this Chapter:

- “Act” means the Arizona Mined Land Reclamation Act, enacted in 2005, A.R.S. § 27-1201 et seq., as amended.
- “Approved reclamation plan” means a plan for reclaiming surface disturbances submitted by the responsible party and approved by the Inspector.
- “Borrow pit” means an unregulated excavation surface disturbance from which overburden is extracted for use as fill material in the form in which it is extracted.
- “Completion,” means permanent discontinuance of mining activity of an exploration operation or aggregate mining unit without the intent to resume mining activity.
- “Growth media” means substances or materials that promote or support vegetation.
- “Inert material,” as defined at A.R.S. §§ 49-201 and 49-701, means broken concrete, asphaltic pavement, manufactured asbestos-containing products, brick, rock, gravel, sand, and soil. Inert material includes materials that when subjected to a water leach test that is designed to approximate natural infiltrating waters will not leach substances in concentrations that exceed numeric aquifer water quality standards established under A.R.S. § 49-223, including overburden and wall rock that is not acid generating, taking into consideration acid neutralization potential, and that has not and will not be subject to mine leaching operations.
- “Inspection” means a visual review of an exploration operation or aggregate mining unit to assure compliance with the Act, this Chapter, and conditions of an approved reclamation plan.
- “Institutional controls” means mechanisms that guide, manage, or exercise restraint or direction, including deed restrictions, to protect public safety, fencing districts, and physical control of access.
- “Mining activity” means any action directly involved in mineral exploration, development, or production at or on an exploration operation or aggregate mining unit.
- “Non-mining excavation surface disturbance” means a surface disturbance or excavation that is not an integral or active part of an aggregate mining activity at an aggregate mining facility and does not require reclamation under the Act or this Chapter. Non-mining excavation surface disturbance includes construction excavations, borrow pits, and other site-development excavations that are not used for aggregate development, occur on a one-time or intermittent basis, and involve no processing except use of a screen to remove large rocks, wood, and trash.
- “Operator” means a person or the person’s designated agent, who is legally responsible for directing mining activity at an exploration operation or aggregate mining unit.
- “Overburden” means material covering an area that lends itself to economical exploitation.
- “Owner” means a person that owns land with surface disturbances subject to the Act and this Chapter.
- “Person” means an individual, corporation, governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- “Responsible party” means the owner or operator designated in an aggregate site reclamation plan as the person responsible under the Act and this Chapter.
- “Riprap” means loose stone or other material used to armor shorelines, streambeds, bridge abutments, pilings, and other structures against erosion.



“Showing of good cause” means a demonstration by the responsible party of:

- A reason beyond the responsible party’s control that prevents or limits the ability to act within required time limits; or
- Good faith efforts toward the coordination and submission of a aggregate site reclamation plan.

“Substantial change” means one or more of the following alterations to an approved reclamation plan:

- Change in the post-aggregate mining use of the land from that stated in the approved reclamation plan;
- New surface disturbance that cannot be reclaimed in a manner substantially similar to that stated in the approved reclamation plan;
- Change to the final topography of a surface disturbance that substantially affects the reclamation measures stated in the approved reclamation plan;
- Change to reclamation measures stated in the approved reclamation plan that has the effect of lessening restrictions to public access to pits or other surface features that may cause a hazard to persons legally on the premises;
- Change to reclamation measures stated in the approved reclamation plan that materially affects post-aggregate mining land use;
- Change to reclamation measures stated in the approved reclamation plan that materially affects the reclamation of access roads, drill pads, drill holes, trenches, and other exploration workings;
- New surface disturbance or expansion beyond the boundaries stated in the approved reclamation plan; or
- Significant decreases in the cost estimate stated in the reclamation plan to perform reclamation measures for the purpose of determining financial assurance requirements under Article 5 of the Act.

R11-3-102. Licensing Time Frames

As required under A.R.S. § 27-1236, the Inspector shall make all approvals or denials in accordance with applicable licensing time frames and procedures.

R11-3-103. Appeals

As authorized under A.R.S. § 27-1235 and provided under A.R.S. Title 41, Chapter 6, Article 10, a person may appeal an action of the Inspector taken under the Act and this Chapter.

ARTICLE 2. GENERAL REGULATORY PROVISIONS

R11-3-201. Document Submittals

- A. A responsible party shall submit to the Inspector any document required under the Act or this Chapter by certified mail with a receipt or hand delivery.
- B. If the document submitted under subsection (A) is a reclamation plan, the responsible party shall ensure an original plus three copies, including any attachments to the plan or amendments, are submitted to the Inspector.
- C. For all documents submitted under subsection (A), the responsible party shall:
 - 1. Sign and date the documents or ensure the documents are signed and dated by an individual with legal authority from the owner or operator; and
 - 2. Include the names and addresses of the owner and operator.

R11-3-202. Preservation of Documents

- A. A responsible party shall retain:
 - 1. A copy of the current approved reclamation plan.
 - 2. All reclamation plans for areas for which reclamation is complete, and
 - 3. The most recent annual status report required under R11-3-504.
- B. The responsible party shall retain the documents listed in subsection (A) until all reclamation measures are complete.
- C. The responsible party shall make the documents listed in subsection (A) available, on site, for examination by the Inspector.

R11-3-203. Extension of Time for Submittal of Reclamation Plan

- A. As provided under A.R.S. § 27-1222, the responsible party may petition the Inspector for extensions of time in which to submit a reclamation plan for an existing exploration operation or an existing aggregate mining unit.
- B. The Inspector shall not grant an extension of more than 90 days.
- C. For each extension petition after the first, the responsible party shall ensure the revised petition identifies any changes in relevant factors that warrant an additional extension.

R11-3-204. Supersedure by Federal Plan

- A. As authorized under A.R.S. § 27-1232, the responsible party of an exploration operation or aggregate mining unit located in whole or part on federally administered land may submit notice to the Inspector of the existence of an approved federal reclamation plan and financial assurance mechanism. The responsible party shall attach to the notice a copy of the approved federal reclamation plan and financial assurance mechanism.
- B. Within 30 days after receiving the notice referenced in subsection (A), the Inspector shall determine whether the approved federal reclamation plan and financial assurance mechanism are consistent with and supersede the requirements of the Act and this Chapter. If the Inspector determines the approved federal reclamation plan and financial assurance mechanism:
 - 1. Are consistent with the requirements of the Act and this Chapter, the Inspector shall provide written notice of the determination to the responsible party.



- 2. Are not consistent with the requirements of the Act and this Chapter, the Inspector shall provide written notice of the determination to the responsible party and explain the basis for the determination.

R11-3-205. Extension of Time to Initiate Reclamation

- A. If the owner or operator of an exploration operation or aggregate mining unit believes the conditions specified in A.R.S. § 27-1226(B) are met, the responsible party for the exploration operation or aggregate mining unit may submit a request for an extension of time to begin reclamation. The responsible party shall submit the request of an extension of time at least 45 days before the times specified in A.R.S. § 27-1226(A).
- B. Within 30 days after receiving a request under subsection (A), the Inspector shall approve or disapprove the request and send written notice of the decision to the responsible party. If the Inspector fails to act on the request within 30 days after receiving the request, the request shall be deemed approved.
- C. If the Inspector disapproves a request submitted under subsection (A), the Inspector shall include an explanation of reasons for the disapproval in the written notice sent under subsection (B).

R11-3-206. Variance

- A. In addition to information required under the Act or this Chapter, a request for variance submitted under A.R.S. § 27-1237 shall include:
 - 1. Identification by owner or operator and mine name, if any, of the exploration operation or mining unit for which the variance is sought;
 - 2. Descriptive location of the property on which the exploration operation or mining unit is located;
 - 3. Identification of the statutory or regulatory provision or requirement or condition of the approved reclamation plan from which the variance is sought;
 - 4. Justification for the variance; and
 - 5. Alternative methods or measures to be used.
- B. Within 30 days after receiving a request for variance under A.R.S. § 27-1237, the Inspector shall issue a conditional order authorizing the variance or denying the request. If the Inspector denies the request for variance, the order shall include an explanation of reasons for the denial.

R11-3-207. Notice of Proposed Substantial Change to Approved Reclamation Plan

- A. As required under A.R.S. § 27-1227(B), a responsible party that intends to make a change to an approved reclamation plan shall file notice of the proposed change with the Inspector and indicate the purpose and scope of the proposed change and whether the proposed change is believed to be substantial.
- B. If the Inspector determines within 15 days after receipt of the notice that the proposed change is substantial, the responsible party shall submit an amendment for approval.
- C. After submittal of the amendment and the fee specified under R11-3-210, the Inspector shall provide written notice to the responsible party approving or disapproving the proposed substantial change within 90 days. If the Inspector disapproves the proposed substantial change, the written notice shall include an explanation of reasons for the disapproval.
- D. Before implementing an approved substantial change, the responsible party shall submit any required modifications to the financial assurance to account for the substantial change.

R11-3-208. Temporary Suspension, Permanent Termination, or Abandonment of Aggregate Mining Activity.

If no mining activity takes place at an aggregate mining facility for 180 consecutive days, the responsible party of the aggregate mining facility shall provide to the Inspector the notice required under A.R.S. § 27-303. The responsible party shall provide the notice using a form acceptable to the Inspector.

R11-3-209. Cessation of Aggregate Mining Activity

- A. The Inspector shall consider the cessation of aggregate mining activity to have occurred if:
 - 1. No aggregate mining activity has occurred during the last 12 months and no mining entity has notified the Inspector of an agreement under A.R.S. § 27-1228 to transfer an approved reclamation plan;
 - 2. The person conducting the aggregate mining activity has gone out of business and the Inspector has received no notice from a succeeding legal entity;
 - 3. An extension of time to initiate reclamation provided under R11-3-205 has expired and no other extension has been requested; or
 - 4. The annual status report required under R11-3-504 is at least 180 days overdue.
- B. If the Inspector determines under subsection (A) that mining activity has ceased at an aggregate mining facility, the Inspector shall provide written notice of the determination to the last known address of the responsible party by the U.S. Postal Service with receipt or hand delivery. The notice shall inform the responsible party of the determination of cessation of mining activity and provide 45 days in which to respond to the determination. If the responsible party does not respond within the 45 days provided, the determination of cessation is final.
- C. The date on which the determination of cessation is final is the date the responsible party shall use to calculate, under A.R.S. § 27-1226, the date for initiation of reclamation.

R11-3-210. Fees

As specifically authorized under A.R.S. § 27-1233, the Inspector establishes and shall collect the following fees:

- 1. Reclamation plan for an exploration operation: \$1,565;
- 2. Substantial change to an approved exploration operation reclamation plan: \$1,565 for up to 20 acres of disturbances, including testing plots or roadway disturbances, plus \$20/acre when the change is greater than 10 percent or 20 acres, whichever is less;
- 3. Reclamation plan for aggregate mining unit or facility: \$3,800 for up to 160 acres of disturbance plus \$20/acre of additional disturbance; and



4. Substantial change to an approved aggregate mining unit or facility reclamation plan: \$1,565 plus \$20/acre when the change is greater than 10 percent or 20 acres, whichever is less.

R11-3-211. Public Notices and Meetings

- A.** The Inspector shall ensure notices required under A.R.S. § 27-1229 include:
1. Mailing address of the Inspector;
 2. Date and time of the deadline for submitting written comments regarding the proposed reclamation plan or substantial change to an approved reclamation plan;
 3. Date, time, and location of a public meeting regarding the proposed reclamation plan or substantial change to an approved reclamation plan;
 4. Brief description of the proposed reclamation plan or substantial change; and
 5. Designation of where the proposed reclamation plan or substantial change may be accessed.
- B.** The Inspector shall ensure notices required under A.R.S. § 27-1230 include:
1. Name and mailing address of the Inspector;
 2. Date and time of the deadline for submitting written comments regarding the proposed reclamation plan or substantial change to an approved reclamation plan.
 3. Brief description of the proposed reclamation plan or substantial change; and
 4. Designation of where the proposed reclamation plan or substantial change may be accessed.
- C.** A person that submits a written comment shall ensure the comment:
1. Includes the name and mailing address of the commenter and describes how the commenter is adversely affected by the plan.
 2. States clearly why the proposed reclamation plan or substantial change to an approved reclamation plan should be approved or disapproved by the Inspector.
 3. Identifies the statutory or regulatory provision that justifies approval or disapproval of the proposed reclamation plan or substantial change to an approved reclamation plan, and
 4. Is signed by the commenter or the commenter's agent or attorney.
- D.** The Inspector shall ensure public meetings conducted under A.R.S. § 27-1229 or 27-1230:
1. Inform the public of the proposed reclamation plan or substantial change to an approved reclamation plan, and
 2. Allow time for persons to make statements and submit written comment regarding the proposed reclamation plan or substantial change to an approved reclamation plan.
- E.** The person presiding at a public meeting conducted under A.R.S. § 27-1229 or 27-1230 shall maintain order and allot equitable time for oral comments by participants.
- F.** The Inspector may schedule persons that have an interest in or are knowledgeable about the proposed reclamation plan or substantial change to an approved reclamation plan to speak at the public meeting conducted under A.R.S. § 27-1229 or 27-1230.
- G.** With regard to public meetings conducted under A.R.S. § 27-1229 or 27-1230, the Inspector shall:
1. Maintain a record of the public meetings and make the record available to the public during normal business hours at the Inspector's office; and
 2. Include the agenda, written comments submitted by the deadline specified in subsection (B)(2), and electronic recording or transcript of the public meeting in the record maintained under subsection (G)(1).

R11-3-212. Public Disclosure

- A.** Any records, reports, or information obtained or prepared by the Inspector under the Act or this Chapter must be available to the public as specifically authorized under A.R.S. § 27-1231.
- B.** Under A.R.S. § 39-121.01, a person may request to review or copy any public record of which the Inspector is custodian.

ARTICLE 3. EXPLORATION OPERATION RECLAMATION PLAN**R11-3-301. Exploration Operation Reclamation Plan Content**

- A.** The responsible party of an exploration operation shall submit to the Inspector a reclamation plan before the exploration operation disturbs more than five contiguous acres. The reclamation plan shall include the following:
1. Information specified under A.R.S. § 27-1251(A);
 2. Information to meet the criteria for approval specified in A.R.S. § 27-1253, as applicable;
 3. A figure or exhibit of the layout of the exploration operation showing the location, nature, and acreage of each disturbance. The sketch does not need to include specific survey coordinates identifying exact topographic features or geographic locations; and
 4. Name and address of the responsible party.
- B.** Within 60 days after receiving a reclamation plan submitted under this Section, the Inspector shall approve the reclamation plan if it meets the requirements in this Section.

R11-3-302. Annual Renewal of Exploration Operation Reclamation Plan

- A.** As required under A.R.S. § 27-1255, the responsible party may modify an exploration reclamation plan to:
1. Address types of surface disturbances that will be conducted during exploration operations but have not been previously addressed in the reclamation plan, or
 2. Submit additional financial assurance, if any.
- B.** The responsible party shall submit a request to modify within 60 days of the anniversary date of approval of the reclamation plan. Within 45 days after receiving a request to renew an approved exploration operation reclamation plan, the Inspector shall provide the responsible party with written notice the request is approved if the request meets the standards specified in subsection (A) and does not propose a modification that constitutes a substantial change. If the Inspector fails to provide written notice of approval within 45 days, the request to renew, including modifications that do not constitute a substantial change, is approved.



- C. Within 60 days after renewal under subsection (B), the responsible party shall submit to the Inspector additional financial assurance mechanisms, if applicable, to address approved plan modifications. The Inspector shall accept or reject the additional financial assurance mechanisms within 30 days after receipt.
- D. If a request to renew an approved exploration operation reclamation plan contains a proposed modification that constitutes a substantial change, the Inspector shall follow the public notice and meeting procedures required under A.R.S. § 27-1229 and specified under R11-3-211.

ARTICLE 4. EXPLORATION OPERATION RECLAMATION STANDARDS

R11-3-401. Restricted Access

As required under A.R.S. § 27-1253, if an open pit or trench will remain at a place frequented by the public, the responsible party for an exploration operation reclamation plan shall ensure measures are taken to restrict access to the open pit or trench. These measures may include fencing and posting visible warning signs.

R11-3-402. Trash Removal

The responsible party shall ensure that trash and other materials and structures incidental to exploration that pose a threat to public safety, create a public nuisance, or are inconsistent with an approved reclamation plan are removed promptly.

ARTICLE 5. AGGREGATE MINING UNIT RECLAMATION PLAN

R11-3-501. Aggregate Mining Unit Reclamation Plan Content

- A. Before beginning any mining activity, the responsible party of an aggregate mining facility shall submit to the Inspector a reclamation plan. The reclamation plan shall include the information specified in A.R.S. § 27-1271, unless excluded under A.R.S. § 27-1275, including elements in Articles 6 and 7, if applicable. The reclamation plan may include the following:
 - 1. Maps of the existing or proposed surface disturbances for all aggregate mining units of the aggregate mining facility indicating the following, as applicable:
 - a. Boundaries of each aggregate mining unit including any offsets and setbacks;
 - b. Boundaries of the aggregate mining facility on which the aggregate mining unit is located;
 - c. Existing and proposed post-aggregate mining sites;
 - d. Post-reclamation physical topography including all surface elevations and approximate under-water surface configurations or elevations;
 - e. Natural features including surface water and the elevation of any pond or lake;
 - f. Surface disturbances including pits, excavations, walls, worksite pads, parking lots, storage areas, water dikes or ditches, temporary or permanent structures, temporary trailers or pads, and equipment;
 - g. Aggregate mine development rock piles, soil or growth media storage piles, overburden stockpiles, and other piles of unconsolidated materials;
 - h. Settling ponds and waste materials or fines materials;
 - i. Roads, building or foundations and pads, other structures, stationary equipment, fences, including security fences and gates, and berms;
 - j. Other features that will be abated or removed including water wells, power lines, utilities, and buildings not required in the post-aggregate mining land use; and
 - k. Final post-aggregate mining land use objectives for each portion of surface disturbance in each aggregate mining unit. Multiple post-aggregate mining land uses may be listed for an aggregate mining unit but each use is required to meet the requirements of the Act and this Chapter;
 - 2. An indication whether the owner or operator is the responsible party and if the operator is the responsible party, a description of the legal relationship between the owner and the operator including the length of the lease and a general description of lease provisions governing reclamation.
- B. The Inspector shall approve or disapprove a submitted reclamation plan for an aggregate mining unit according to the licensing time frames specified in A.R.S. § 27-1272.

R11-3-502. Estimating the Cost of Reclamation

- A. When submitting estimated costs to perform a proposed reclamation, as required under A.R.S. §§ 27-1271(B)(11) and 27-1292, the responsible party shall ensure the estimate equals the amount necessary for a third party to perform each proposed reclamation measure listed in the proposed reclamation plan. The responsible party shall ensure the estimate includes:
 - 1. Itemized calculation of estimated cost to perform all reclamation measures for each category of mining activity;
 - 2. Documentation demonstrating how the estimated cost for each category of mining activity, including subtotals and totals, was calculated; and
 - 3. Identification of the source of information used to estimate each cost.
- B. In estimating the cost of executing the reclamation plan, all activities in the reclamation plan shall be addressed, including, if applicable:
 - 1. Earth moving, regrading, and stabilization of surface disturbances and slopes;
 - 2. Revegetation, preparation of seedbed, and planting or other stabilization methods;
 - 3. Demolition of buildings and other structures not to remain after cessation of mining;
 - 4. Removal of trash, scrap metal, and other materials;
 - 5. Equipment mobilization and demobilization;
 - 6. On-going activities required to maintain the effectiveness of reclamation and stabilization or in place of reclamation. This includes periodic clean-out of sediment basins and maintenance of signs, berms, and fences used to prevent access to areas that pose a threat to public safety;
 - 7. Contractor profit; and



8. Administrative overhead.
- C.** The Inspector shall review the estimated costs submitted under subsection (A) and determine whether the estimate is adequate to complete all required reclamation. The Inspector shall use the estimated costs to determine the amount of required financial assurance.
- D.** If the Inspector determines the estimated costs submitted under subsection (A) are inadequate to complete all required reclamation, the Inspector shall deem the reclamation plan incomplete under A.R.S. §§ 27-1252 or 27-1272.

R11-3-503. Multiple Post-aggregate Mining Land Uses

A reclamation plan may list multiple post-aggregate mining land uses for an aggregate mining unit if the reclamation plan shows the post-aggregate mining land use for each area and each use satisfies the requirements of the Act and this Chapter.

R11-3-504. Annual Status Report

- A.** As required under A.R.S. § 27-1277, the responsible party shall submit an annual status report to the Inspector using a form prescribed by the Inspector.
- B.** The responsible party shall submit the annual status report within 60 days after the anniversary date of the approval of the reclamation plan.
- C.** The responsible party shall submit a separate annual status report for each approved reclamation plan.
- D.** The responsible party shall include in the annual status report the information listed under A.R.S. § 27-1277(B) for the year preceding the anniversary date of the approval of the reclamation plan and address:
1. Whether the aggregate mining operation is currently active, inactive, or in maintenance status;
 2. Changes to the mining site such as phases, borders, and offsets or setbacks;
 3. Changes to security measures such as fences, gates, berms, or dikes;
 4. Changes to costs for reclaiming the area of disturbance;
 5. Financial assurance mechanism currently in effect and whether there has been a change in the financial assurance mechanism during the reporting year; and
 6. A map, aerial photograph, or both identifying changes made during the reporting year. This includes:
 - a. Location of changes to the boundaries of the area of disturbance including areas not identified in the original approved reclamation plan;
 - b. Location of changes to the reclaimed area;
 - c. Any new features such as berms, gates, dikes, or fences; and
 - d. Any movement of process areas, roads, and stockpile areas.
- E.** If there have been no changes since the previous year, neither new maps nor new aerial photographs are necessary and the responsible party shall state there are no changes since the previous annual status report.

R11-3-505. Life of an Approved Reclamation Plan

An approved reclamation plan and any approved substantial changes to the approved reclamation plan remain in effect until the reclamation is complete and all financial assurance is released.

ARTICLE 6. AGGREGATE MINING UNIT RECLAMATION STANDARDS

R11-3-601. Public Safety Standards

- A.** The responsible party shall ensure reclamation activities at a mining unit are designed to reduce hazards to public safety to the extent technically and economically practicable by measures including:
1. Removing scrap metal, wood, trash, and other debris that pose a threat to public safety, create a public nuisance, or are inconsistent with the approved reclamation plan; and
 2. Re-grading slopes as prescribed under R11-3-602 and R11-3-705 for erosion control.
- B.** The responsible party shall ensure structures, equipment, and excavations at the reclamation site are maintained in a manner that is safe and restricts public access.
- C.** If public access to a surface feature that may be a hazard to public safety cannot be reduced adequately through reclamation measures, if structures, equipment, or excavations remain as part of the approved post-aggregate mining land use, or if a mining unit is exempt from reclamation under A.R.S. § 27-1275(A), the responsible party shall take the following steps to protect public safety:
1. Construct berms, fences, barriers, or a combination of these measures to restrict public access to the reclamation site;
 2. Post and maintain visible warning signs in locations at which public access to the reclamation site is available; and
 3. Implement institutional controls to provide safe and stable conditions by all practicable measures.

R11-3-602. Erosion Control and Topographic Contouring

- A.** The responsible party shall ensure an aggregate mining unit is reclaimed to a stable condition for erosion control and seismic activity.
- B.** The responsible party shall ensure grading and other topographic contouring are conducted, as necessary, to establish final land forms that are:
1. Suitable for the post-aggregate mining land use objective in the approved reclamation plan, and
 2. Stable under static and dynamic conditions as certified by a qualified engineer considering the following:
 - a. Site-specific seismic conditions,
 - b. Safety factors consistent with good engineering practices, and
 - c. The hazard to public safety if failure occurs.
- C.** The responsible party shall ensure site-specific grading, revegetation, and other erosion control measures are conducted to minimize erosion.
- D.** The responsible party shall ensure erosion control measures are conducted so permanent piles of aggregate mine overburden and fine materials do not restrict surface drainage, contribute to excessive erosion, or compromise the stability of the reclaimed aggregate mining unit.



- E. The responsible party shall ensure a reclamation plan includes:
 1. A narrative describing the current topography and proposed final topography of the aggregate mining unit;
 2. Measures to be taken, including the final slope configuration, to reclaim overburden dumps, waste-rock stockpiles, sediment ponds, and fines piles; and
 3. Re-grading and reclamation measures to be taken regarding excavations, ponds, open pits, and rock faces unless the Inspector has determined measures under this subsection are impractical under A.R.S. § 27-1275.
- F. If an excavation, pond, open pit, or rock face is not to be reclaimed under A.R.S. § 27-1275, the responsible party shall include in the reclamation plan measures adequate to restrict access to the hazard and maintain public safety. The measures may include installing and maintaining berms, fences, and other barriers, posting warning signs, or taking any combination of measures adequate to protect the public.

R11-3-603. Roads

- A. The responsible party shall ensure reclamation of a road not included in an approved reclamation plan as part of an approved post-aggregate mining land use begins once the road is no longer needed for operations, reclamation, or monitoring.
- B. The responsible party shall ensure the following steps are taken to achieve the post-aggregate mining land use specified in the approved reclamation plan:
 1. Control vehicular traffic on the reclamation area;
 2. Restore surface drainage patterns to pre-mining conditions or establish new surface drainage patterns;
 3. Remove or stabilize bridges and culverts. If a bridge or culvert remains, protect it from erosion with rock, concrete, and riprap; and
 4. Rip, plow, scarify, and revegetate roadbeds as necessary.

ARTICLE 7. REVEGETATION AND SOIL STANDARDS

R11-3-701. Revegetation Provisions

- A. If revegetation is part of a proposed reclamation plan, the responsible party shall ensure the plan is consistent with A.R.S. § 27-1271(B)(9)(c) regarding:
 1. Season of revegetation;
 2. Species and amounts per acre of seeds or flora;
 3. Planting methods; and
 4. Measures to address revegetation, conservation, and care and monitoring of revegetated areas.
- B. If the post-aggregate mining land use objective is grazing, fish or wildlife habitat, or forestry or recreation, the responsible party shall ensure the type, density, and diversity of vegetation proposed in the reclamation plan will encourage the type of wildlife or fish habitat desired and is compatible with the wildlife and fish habitat on adjacent lands.
- C. The responsible party shall ensure the proposed reclamation plan specifically describes the techniques, methods, controls, and measures to be used regarding the following, as applicable:
 1. Mulching,
 2. Irrigating,
 3. Controlling pests,
 4. Controlling for disease, and
 5. Managing growth.

R11-3-702. Revegetation Standards

- A. If surface disturbances at an aggregate mining location to be revegetated have caused the soil to compact, the responsible party shall ensure ripping, disking, or other means are used to reduce the compaction and establish a suitable root zone before planting.
- B. The responsible party shall ensure revegetation is conducted using plant species that will support the approved post-aggregate mining land use.
- C. Revegetation that differs in species, density, or diversity from pre-aggregate mining conditions or conditions on adjacent lands may be used only if:
 1. Post-aggregate mining land use differs from pre-aggregate mining land use or the use on adjacent lands; and
 2. Soil conditions, topography, or other site-specific characteristics of the surface disturbance make revegetating the land to pre-aggregate mining conditions or conditions on adjacent lands technically or economically impracticable.
- D. The responsible party shall ensure revegetation is conducted during the time of year most favorable for plant establishment.
- E. The responsible party may use soil stabilizing practices, irrigation measures, or both to establish vegetation.

R11-3-703. Conservation of Soil

- If soil conservation is required under A.R.S. § 27-1274 at a surface disturbance, the responsible party shall:
1. Mark any stockpile of conserved soil with a legible sign that identifies the stockpile as "SOIL," and
 2. Stabilize a stockpile of conserved soil as necessary to prevent excessive loss from erosion.

R11-3-704. Redistribution of Soil

- Before redistributing a stockpile of soil conserved under R11-3-703, the responsible party shall:
1. Treat the area of disturbance as necessary to reduce potential for slippage of the redistributed soil or to enhance root penetration, and
 2. Take steps to redistribute the soil in a manner that:
 - a. Prevents excess compaction, and
 - b. Achieves a thickness consistent with the approved post-aggregate mining land use.

**R11-3-705. Off-site Soil**

- A.** In accordance with an approved post-aggregate mining reclamation plan, the responsible party shall ensure:
1. Final capping growth media, including growth media brought from off-site:
 - a. Supports vegetation that is not listed in R3-4-245,
 - b. Provides a stable growing surface, and
 - c. Does not create a hazard to public safety; and
 2. All slopes and benches are no steeper than 2H:1V unless otherwise approved by a professional engineer for seismic stability.
- B.** If all the filling for engineered slopes in an approved post-aggregate reclamation plan cannot be performed within a year after cessation of aggregate mining or the last aggregate mining activity, the responsible party shall submit a written request to the Inspector for an extension of time. The Inspector shall retain a financial assurance mechanism until all safe slope building and stability procedures in the approved post-aggregate reclamation plan are completed.

ARTICLE 8. FINANCIAL ASSURANCE**R11-3-801. Definitions**

- A.** Unless otherwise defined in the Act or this Chapter, the terms used in this Article have the meaning understood under generally accepted accounting principles and practices.
- B.** In this Article:
1. “ICPA” means Independent Certified Public Account.
 2. “Parent corporation” means a corporation that directly owns at least 50 percent of the voting stock in another corporation. The other corporation is called a subsidiary of the parent corporation.
 3. “Substantial business relationship” means the extent of a business relationship necessary under applicable state law to make a guarantee contract, issued incident to that relationship, valid and enforceable. A substantial business relationship arises from a pattern of recent or ongoing business transactions so a currently existing business relationship between a guarantor and the owner or operator is shown to the satisfaction of the Inspector.
 4. “Tangible net worth” means a responsible party’s total assets minus the value of all liabilities and intangible assets.
 5. “Intangible assets” means non-physical resources and rights, such as goodwill, patents, intellectual property, and copyrights, which have value to the responsible party because they provide a marketing advantage.

R11-3-802. Amount of Financial Assurance

- A.** Under the terms of A.R.S. § 27-1271(B)(11) and R11-3-502, the Inspector shall determine the amount of financial assurance required of a responsible party.
- B.** Any financial assurance information offered by a responsible party shall meet the requirements of the Act and this Chapter.
- C.** The Inspector shall review financial assurance information offered by a responsible party to determine whether the amount of financial assurance is sufficient to meet the standard at A.R.S. § 27-1292(C). The Inspector may rely on standards commonly used by a commercial lender to evaluate the offered financial assurance.
- D.** Within 30 days after receiving a responsible party’s offered financial assurance information, the Inspector shall provide the responsible party with written notice the financial assurance is approved, disapproved, or additional information is needed. If additional information is needed, the Inspector may require the responsible party to provide the Inspector with a written legal opinion from an attorney admitted to practice law in Arizona that the offered financial assurance is lawful, enforceable under existing law, and can be drawn on in case of default. A responsible party required to provide a written legal opinion shall do so at the responsible party’s expense.
- E.** If an approved financial assurance mechanism is canceled by the issuing institution, the responsible party shall provide the Inspector, within 90 days after the notice of cancellation, with evidence an alternate financial assurance mechanism has been obtained.
- F.** A responsible party may cancel a financial assurance mechanism and replace it with an alternate financial assurance mechanism approved by the Inspector.

R11-3-803. Blanket Financial Assurance

- A.** A responsible party may offer a single financial assurance mechanism to cover the reclamation costs of two or more aggregate exploration operations or mining units or facilities rather than a separate financial assurance mechanism for each aggregate exploration operation or mining unit or facility.
- B.** If a single financial assurance mechanism is offered under subsection (A), the responsible party shall ensure the total amount of financial assurance offered equals the total cost to reclaim all aggregate exploration operations or mining units or facilities covered by the single financial assurance mechanism.
- C.** To cover an additional aggregate exploration operation or mining unit or facility under a single financial assurance mechanism offered under subsection (A), the responsible party shall provide an updated financial assurance mechanism that meets the standard in subsection (B).

R11-3-804. Surety Bond

- A.** A responsible party may offer a surety bond as financial assurance required under the Act and this Chapter. The responsible party shall ensure a surety bond offered as financial assurance:
1. Is an indemnity agreement in a sum certain,
 2. Is payable to the State of Arizona,
 3. Is executed by the responsible party as principal,
 4. Is on a form provided by or acceptable to the Inspector,
 5. Remains in effect until released by the Inspector or canceled by the surety,
 6. Is issued by an insurer authorized to transact surety business in Arizona under A.R.S. Title 20,



- 7. Has a power of attorney attached, and
- 8. Is signed by the principal and the surety's attorney-in-fact.

B. A surety bond offered as financial assurance under subsection (A) may include a provision allowing the surety to cancel the surety bond by providing 60 days' written notice to the Inspector. Within 45 days after receipt of written notice of cancellation of the surety bond, the responsible party shall provide the Inspector with evidence of new financial assurance approved by the Inspector.

R11-3-805. Certificate of Deposit

A responsible party may offer a certificate of deposit as financial assurance required under the Act and this Chapter. The responsible party shall ensure a certificate of deposit offered as financial assurance:

- 1. Is payable or assigned to the State Treasurer;
- 2. Complies with A.R.S. § 35-155 and any rules made under it;
- 3. Is on a form provided by or acceptable to the Inspector;
- 4. Assigns and transfers all rights, title, and interest in the certificate of deposit to the State Treasurer except accruing interest remains the property of the responsible party;
- 5. Provides the State Treasurer the right to redeem, collect, and withdraw the full amount of the certificate of deposit at any time without notice to the responsible party; and
- 6. Provides the assignment remains in effect until the Inspector authorizes its release in writing.

R11-3-806. Trust

A. A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by establishing an irrevocable trust with the State of Arizona as the primary beneficiary.

B. The responsible party shall ensure the trust fund established under subsection (A) has a pay-in period that meets the requirements of the Act and this Chapter.

C. The responsible party shall:

- 1. Submit a duplicate of the trust agreement, with an original signature, to the Inspector to be placed in the operating record of the aggregate exploration operation or mining unit or facility;
- 2. Initially fund the trust in an amount equal to or greater than the estimated cost in the approved reclamation plan to reclaim surface disturbances existing when the trust is established and all other surface disturbances to occur during the first year of the trust;
- 3. Make payments to the trust at least annually no later than 30 days after the anniversary date of the initial funding made under subsection (C)(2); and
- 4. Ensure annual payments made to the trust under subsection (C)(3) are in an amount equal to or greater than the amount required to pay all costs to reclaim surface disturbances made during the annual period.

D. If a responsible party establishes a trust under subsection (A) after having used one or more alternative financial assurance mechanisms, the responsible party shall still comply with the provisions in subsection (C) except the amount of initial funding shall be equal to or greater than the estimated cost not covered by the alternative financial assurance mechanisms.

R11-3-807. Letter of Credit

A. A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by obtaining a confirmed, irrevocable stand-by letter of credit naming with State of Arizona as the primary beneficiary.

B. The responsible party shall ensure the letter of credit is issued by a financial institution that:

- 1. Has authority to issue letters of credit,
- 2. Is federally insured, and
- 3. Has letter-of-credit operations regulated by the federal government and examined by an Arizona state agency.

C. The responsible party shall ensure the letter of credit:

- 1. Is for a period that exceeds one year by at least 90 days;
- 2. Contains terms acceptable to the Inspector;
- 3. Is in an amount equal to or greater than the estimated cost in the approved reclamation plan;
- 4. Indicates clearly the conditions under which the State of Arizona may draw on the letter of credit; and
- 5. Except as provided in subsection (E), indicates the letter of credit may be cancelled only by the issuing financial institution or the Inspector.

D. The financial institution that issued a letter of credit under subsection (B) may cancel the letter of credit by sending notice of cancellation by certified mail to both the responsible party and Inspector at least 120 days in advance of cancellation. Within 90 days after receiving the notice of cancellation, the responsible party shall provide the Inspector with evidence an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter has been obtained.

E. A responsible party may cancel a letter of credit issued under subsection (B) if the responsible party:

- 1. Provides the Inspector with evidence an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter has been substituted; or
- 2. Is released by the Inspector under A.R.S. § 27-1296 and R11-3-816 from the financial assurance requirements in the Act and this Chapter.

R11-3-808. Insurance Policy

A. A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by obtaining an insurance policy that meets the requirements of this Section.

B. The responsible party shall ensure the insurance policy is provided by an insurance company that:

- 1. Is non-captive;
- 2. Is licensed in Arizona or holds an approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers; and



3. Has an "A.M. Best" rating of not less than A-VII.
- C.** The responsible party shall ensure the insurance policy:
 1. Guarantees insurance proceeds will be available to complete all reclamation in the approved reclamation plan if the aggregate exploration operation or mining unit or facility fails to reclaim all surface disturbances;
 2. Guarantees insurance proceeds will be paid up to the amount specified on the face of the insurance policy under the direction of the Inspector to the party specified by the Inspector;
 3. Indicates the insurance company providing the policy shall not cancel, terminate, or fail to renew the policy except for failure to pay the premium;
 4. Provides for automatic renewal of the insurance policy at the existing face value of the insurance policy;
 5. Requires that if the policy holder fails to pay the premium, the insurance company providing the insurance policy will send notice by certified mail to both the policyholder and Inspector at least 60 days before cancelling, terminating, or failing to renew the insurance policy; and
 6. Requires the insurance policy to remain in full force and effect if, before the date specified in subsection (C)(5), the renewal premium is paid in full.
- D.** The insured may, with consent of the Inspector, seek a reduction in the amount of insurance coverage if the Inspector approves a reduced amount of financial assurance. The insurance company providing the policy shall not reduce the amount of insurance without prior consent of the Inspector. The insurance company shall notify the Inspector when the amount of insurance coverage is reduced in accordance with the approved, amended financial assurance requirement.
- E.** The insured may cancel the insurance policy, with notification to the Inspector, if alternate financial assurance that meets the requirements in the Act and this Chapter is substituted.

R11-3-809. Certificate of Self-insurance

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by successfully completing the financial test specified in this Section. Successful completion involves:
 1. Submitting the information required under subsection (B), and
 2. Demonstrating to the Inspector's satisfaction the responsible party meets the requirements under subsection (C).
- B.** The responsible party shall submit to the Inspector the following information and shall submit updated information annually within 120 days after the close of the responsible party's fiscal year:
 1. Proof the responsible party is authorized to do business in Arizona;
 2. A letter signed by the chief financial officer of the responsible party certifying:
 - a. The responsible party is qualified to self-insure as a financial assurance mechanism because the responsible party meets the requirements in subsection (C); and
 - b. The data used to reach the conclusion under subsection (B)(2)(a) are from an independently audited, year-end financial statement for the latest fiscal year of the responsible party; and
 3. A copy of one of the following:
 - a. The financial statements the responsible party is required to submit annually to the U.S. Securities and Exchange Commission; or
 - b. A report from an ICPA certifying the ICPA has compared the data under subsection (B)(2)(b) with the financial statement submitted to the U.S. Securities and Exchange Commission and finds no matters requiring the data to be adjusted.
- C.** To qualify to self-insure as a financial assurance mechanism, the responsible party shall meet one of the three following criteria:
 1. The responsible party has a tangible net worth of at least 10 times the costs estimated in the approved reclamation plan or a tangible net worth of at least \$10 million, whichever is greater;
 2. The responsible party has all of the following:
 - a. Two of the following three ratios:
 - i. A ratio of total liabilities to net worth of less than 2.0;
 - ii. A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities great than 0.1; and
 - iii. A ratio of current assets to current liabilities greater than 1.5;
 - b. Both net working capital and tangible net worth at least six times the costs estimated in the approved reclamation plan;
 - c. Tangible net worth at least \$10 million; and
 - d. Assets located in the U.S. amounting to at least 90 percent of total assets or at least six times the costs estimated in the approved reclamation plan; or
 3. The responsible party has all of the following:
 - a. A current rating for the most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;
 - b. Tangible net worth at least six times the costs estimated in the approved reclamation plan;
 - c. Tangible net worth at least \$10 million; and
 - d. Assets located in the U.S. amounting to at least 90 percent of total assets or at least ten times the costs estimated in the approved reclamation plan.
- D.** If a responsible party that is meeting the financial assurance requirements in the Act and this Chapter by self-insuring is no longer qualified under subsection (C), the responsible party shall provide to the Inspector evidence of an alternative financial assurance mechanism within 60 days after the sooner of:
 1. The end of the responsible party's fiscal year, or
 2. The Inspector provides notice to the responsible party that the responsible party is no longer qualified under subsection (C).
- E.** If the Inspector has good cause to believe a responsible party that is meeting the financial assurance requirements in the Act and this Chapter by self-insuring is no longer qualified under subsection (C), the Inspector may require additional reporting of the responsible party's financial condition.



- E.** A responsible party may meet the requirements of this Section by obtaining a written guarantee. If the responsible party obtains a written guarantee:
 - 1.** The guarantor shall be:
 - a.** The direct or higher-tier parent corporation of the responsible party;
 - b.** A group of legal entities controlled through stock ownership by a common parent corporation;
 - c.** A firm with a parent corporation that is also the parent corporation of the responsible party; or
 - d.** A firm with a substantial business relationship with the responsible party.
 - 2.** The guarantor shall meet all requirements for a responsible party specified in this Section.
 - 3.** The guarantor shall comply with all terms of the guarantee. The responsible party shall ensure the guarantee includes the following terms:
 - a.** If the responsible party fails to perform the reclamation specified in the approved reclamation plan and covered by the guarantee, the guarantor shall do so or establish a trust as specified in R11-3-806 in the name of the responsible party;
 - b.** The guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to both the responsible party and Inspector and waits at least 120 days after both the responsible party and Inspector receive the notice of cancellation; and
 - c.** If the responsible party fails to provide the Inspector with evidence an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter has been obtained within 90 days after the responsible party and Inspector receive notice of cancellation under subsection (F)(3)(b), the guarantor shall obtain and provide evidence to the Inspector of an alternate financial assurance mechanism in the name of the responsible party.
- G.** A responsible party that meets the requirements of this Section by obtaining a written guarantee shall include with the information submitted under subsection (B):
 - 1.** A certified copy of the guarantee;
 - 2.** If the guarantor’s parent corporation is also the parent corporation of the responsible party, a letter describing the value received in consideration of the guarantee; and
 - 3.** If the guarantor is a firm with a substantial business relationship with the responsible party, a letter describing the substantial relationship and the value received in consideration of the guarantee.

R11-3-810. Cash Deposit

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by depositing with the State Treasurer an amount equal to the estimated costs in the approved reclamation plan. The responsible party shall obtain from the State Treasurer a receipt of deposit showing funds are available for reclamation costs at a specified aggregate exploration operation or mining unit or facility.
- B.** The responsible party may cancel the deposit with the State Treasurer, with notification to the Inspector, if alternate financial assurance that meets the requirements of the Act and this Chapter is substituted.

R11-3-811. Annuity

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by obtaining an annuity that:
 - 1.** Meets the requirements of this Section, and
 - 2.** Names the State of Arizona as beneficiary.
- B.** The responsible party shall ensure the annuity is provided by an insurance company that:
 - 1.** Is licensed in Arizona or holds an approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers; and
 - 2.** Has an “A.M. Best” rating of not less than A-VII.
- C.** The responsible party shall ensure any incremental or annual payment for the annuity is in an amount adequate to pay all costs to reclaim surface disturbances created during the incremental or annual period.

R11-3-812. Bonding Pool

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by providing the Inspector with a certificate of participation in a reclamation bond pool.
- B.** The responsible party shall ensure the certificate of participation:
 - 1.** Is an indemnity agreement in a sum certain payable to the State of Arizona;
 - 2.** Is executed by a surety bond pool organization of which the responsible party is a member; and
 - 3.** Is supported by the performance guarantee of a corporation licensed to do business as a surety in Arizona.

R11-3-813. Limited Individual Financial Assurance

If two or more persons are the owners or operators of a single aggregate exploration operation or mining unit or facility, each owner or operator may limit the amount of the owner’s or operator’s financial assurance if the total financial assurance of all owners and operators satisfies the requirements of the Act and this Chapter.

R11-3-814. Final Action on Financial Assurance Mechanisms

As required under A.R.S. § 27-1292, the Inspector shall take final action on a financial assurance mechanism submitted by a responsible party within 30 days after the financial assurance mechanism is received.

R11-3-815. Incremental Financial Assurance

A responsible party that provides financial assurance on an incremental basis, as permitted under A.R.S. § 27-1295, shall ensure the amount of financial assurance provided during each increment is equal to or exceeds the estimated cost to reclaim surface disturbances created during the increment.

**R11-3-816. Application for Release of Financial Assurance**

- A.** Except as provided in subsection (E), the Inspector shall not release any financial assurance until the responsible party satisfies all conditions and requirements of the Act and this Chapter.
- B.** To obtain release of some or all financial assurance, the responsible party shall submit a written request to the Inspector.
- C.** Within 60 days after receiving the request for release of financial assurance submitted under subsection (B), the Inspector or a designated agent shall inspect the aggregate exploration operation or mining unit or facility to determine whether the responsible party has satisfied all conditions and requirements of the Act and this Chapter and either:
 - 1.** Approve release of some or all financial assurance; or
 - 2.** Provide written notice to the responsible party that release of some or all financial assurance is denied, reasons for the denial, and measures necessary to satisfy all conditions and requirements of the Act and this Chapter.
- D.** By agreement of the Inspector and responsible party, the time for inspection designated under subsection (C) may be extended if conditions prevent an inspection of the reclaimed land within the time specified.
- E.** If the responsible party transfers the aggregate exploration operation or mining unit or facility to another owner, the Inspector shall release the transferor's financial assurance mechanism when the transferee provides an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter.

R11-3-817. Forfeiture Criteria; Forfeiture of Financial Assurance

- A.** A financial assurance mechanism filed with the Inspector or a state agency is subject to forfeiture if any of the following exist:
 - 1.** An exploration operation or mining unit has been completed, abandoned, or temporarily closed for a period greater than allowed by the Act or this Chapter without initiating reclamation;
 - 2.** An exploration operation or mining unit has been completed, abandoned, or temporarily closed for a period greater than allowed by the Act or this Chapter and the responsible party stops or suspends any ongoing reclamation, as determined by the Inspector;
 - 3.** The responsible party stops conducting business in Arizona and does not transfer the approved reclamation plan and financial assurance to a new operator under A.R.S. § 27-1228;
 - 4.** The responsible party stops conducting business due to insolvency, bankruptcy, receivership, or engages in misconduct as described under A.R.S. § 27-1205;
 - 5.** The responsible party fails to comply with the conditions of the financial assurance mechanism; or
 - 6.** The responsible party fails to reclaim the surface disturbances under the approved reclamation plan, the Act, or this Chapter.
- B.** After determining one or more of the criteria specified in subsection (A) exist, the Inspector shall initiate forfeiture action or contact any federal or state agency with which the financial assurance mechanism was filed and ask the agency to initiate forfeiture action.

R11-3-818. Notice of Forfeiture Action; Avoidance of Forfeiture

At least 30 days before initiating forfeiture action, the Inspector shall provide written notice to both the responsible party and all principals and sureties by certified mail with receipt, express mail with receipt, or hand delivery that:

- 1.** The financial assurance is subject to forfeiture;
- 2.** The responsible party has a right to a hearing under A.R.S. Title 41, Chapter 6, Article 10; and
- 3.** The conditions under which the responsible party may avoid forfeiture including:
 - a.** Reaching an agreement with the Inspector regarding a compliance schedule under which the responsible party or another party will perform reclamation operations that meet the conditions and requirements of the approved reclamation plan, the Act, and this Chapter; and
 - b.** Obtaining a surety bond to replace the financial assurance mechanism subject to forfeiture in an amount sufficient to complete the reclamation as agreed under subsection (3)(a).

R11-3-819. Notice of Exercise of Forfeiture

The Inspector shall provide written notice by certified mail, with receipt, of any exercise of forfeiture of financial assurance to both the owner and operator and all principals and sureties.

R11-3-820. Municipal, County, or State Government

If the owner of an aggregate exploration operation or mining unit or facility is a municipal, county, or state governmental entity, the Inspector shall not require a financial assurance mechanism. However, the owner shall submit to the Inspector a written guarantee that private lands involved in the aggregate exploration operation or mining unit or facility will be reclaimed in accordance with the Act and this Chapter.

R11-3-821. Non-mining Excavation Surface Disturbances

A borrow pit, construction excavation, or other site-development excavation that is not located on mine property or related to mining is outside the jurisdiction of the Inspector but is subject to the jurisdiction of the U.S. Occupational Safety and Health Administration.



NOTICES OF PROPOSED EXPEDITED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Expedited Rulemaking. The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the proposed expedited rule should be addressed to the agency proposing the rule. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF PROPOSED EXPEDITED RULEMAKING
TITLE 17. TRANSPORTATION
CHAPTER 1. DEPARTMENT OF TRANSPORTATION
ADMINISTRATION

[R18-179]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
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 expedited rules:
4. The agency's contact person who can answer questions about the rulemaking:
5. An agency's explanation why the proposed expedited rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), and why expedited proceedings are justified under A.R.S. § 41-1001(16)(c):
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:
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:
8. The preliminary summary of the economic, small business, and consumer impact:
9. The agency's contact person who can answer questions about the preliminary summary of the economic, small business and consumer impact of the proposed expedited rule:



Phoenix, AZ 85007
 Telephone: (602) 712-4534
 E-mail: COlson2@azdot.gov
 Web site: http://www.azdot.gov/about/GovernmentRelations

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(E):

Written comments on the proposed rulemaking should be directed to the person listed in item 4. All comments must be received by the close of public record at 5:00 p.m. on September 26, 2018. The Department has scheduled the following oral proceeding for public comments:

Date: September 26, 2018
 Time: 1:30 p.m.
 Location: Department of Transportation
 206 S. 17th Ave., Rm. 107
 Phoenix, AZ 85007
 Nature: Oral Proceeding/Public Hearing

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), the Department does not discriminate on the basis of race, color, national origin, age, gender, disability, or limited English proficient. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or civilrightsoffice@azdot.gov. Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptación razonable por habilidad limitada en inglés o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-8946 or civilrightsoffice@azdot.gov. Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el estado tiene la oportunidad de abordar el alojamiento.

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

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rules require a permit, license, or agency authorization under A.R.S. § 41-1037(A), and whether a general permit is used and if not, the reasons why a general permit is not used:

These rules do not require the issuance of a permit, license, or agency authorization.

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

No federal laws apply to the rules.

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 to the Department.

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

This rulemaking incorporates no materials by reference.

13. The full text of the rules follows:

**TITLE 17. TRANSPORTATION
 CHAPTER 1. DEPARTMENT OF TRANSPORTATION
 ADMINISTRATION**

ARTICLE 2. FEES

Section

- R17-1-201. Definitions
- R17-1-202. ~~MVD Record Copy Charges Repealed~~
- Table 1. ~~Certified and Uncertified Motor Vehicle Record Fees Repealed~~

ARTICLE 2. FEES

R17-1-201. Definitions

In addition to the definitions prescribed under A.R.S. §§ ~~28-440 and~~ § 44-6851, the following terms apply to this Article:

“Automated clearing house” has the same meaning as provided under A.A.C. R17-8-401.

“Batch” means a query command method that initiates simultaneous production of an electronic file or series of requests that may have delayed results.

“Certified record” means a copy of a document designated as a true copy by the agency officer entrusted with custody of the original to be used for purposes prescribed under A.R.S. § 28-442.



“Electronic payment” means money which is exchanged electronically, including credit card payments, credit transfer, electronic checks, direct debit, and person-to-person payments.

“Interactive” means an electronic query-command method individually initiated by a person that produces immediate results.

“Reasonable costs” means 10 cents for each page of standard reproduction of documents and the actual costs for reproduction of documents which require special processing plus the reasonable clerical costs incurred in locating and making the documents available billed at the rate of \$10 per hour per person.

“Special MVR” means a motor vehicle record that is comprised of the least possible subset of information necessary to respond to the type of request received.

“Stale-dated” means a check presented at the paying bank six months or more after the issue date of the check. A stale-dated check is not an invalid check, but the paying bank may deem the check an irregular bill of exchange and return it unpaid.

“Support document” means any customer record maintained by the agency in an electronic, hardcopy, or microfilm file storage format.

R17-1-202. MVD Record Copy Charges Repealed

In accordance with A.R.S. §§ 12-351 and 28-446, for each separate request, the Division shall assess a charge as provided in Table 1. Certified and Uncertified Motor Vehicle Record Fees. Therefore, a fee is collected if the request results in a motor vehicle record or “No Record Found.”

Table 1. Certified and Uncertified Motor Vehicle Record Fees Repealed

| Description | Method of Delivery | Amount |
|-----------------------------------------------------|-----------------------------------------------------------------------------------------------------|-------------------|
| A certified record: | Over the counter immediate or overnight service; Mail-in request; or Electronic interactive. | \$5 |
| | Electronic batch. | \$3 |
| A certified support document: | Over the counter immediate or overnight service; or Mail-in request. | \$5 |
| An uncertified record: | Over the counter immediate service; Mail-in request; or Electronic interactive. | \$3 |
| | Electronic batch; or Over the counter overnight service. | \$2 |
| An uncertified support document: | Over the counter immediate or overnight service; or Mail-in request. | \$3 |
| An uncertified Special MVR: | Over the counter immediate and overnight service; Mail-in request; or Electronic interactive. | \$1.50 |
| Civil subpoena support documentation: | Over the counter immediate and overnight service; or Mail-in request. | Reasonable costs. |
| Any photocopied item: (Does not include... etc.) | Over the counter immediate and overnight service; or Mail-in request. | 25¢ per page. |

**NOTICE OF PROPOSED EXPEDITED RULEMAKING
TITLE 17. TRANSPORTATION
CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

[R18-180]

PREAMBLE

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

- R17-4-801
- R17-4-802
- R17-4-803
- Table 1

Rulemaking Action

- Amend
- Amend
- New Section
- New Table

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

Authorizing statutes: A.R.S. § 28-366



Implementing statutes: A.R.S. §§ 28-446 and 28-455

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 expedited rules:

Notice of Rulemaking Docket Opening: 24 A.A.R. 2566, September 14, 2018 (*in this issue*)

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

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Web site: <http://www.azdot.gov/about/GovernmentRelations>

5. An agency's explanation why the proposed expedited rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), and why expedited proceedings are justified under A.R.S. § 41-1001(16)(c):

Pursuant to A.R.S. § 41-1027(A)(7), the Department is engaged in this expedited rulemaking to incorporate the changes proposed in the Department's recent five-year review report on 17 A.A.C. Chapter 4, Article 8, Motor Vehicle Records, approved by the Governor's Regulatory Review Council on March 6, 2018. The Department determined there is a need to update outdated, inconsistent, and incorrect text and add clarifying language for better understandability and accuracy. Some of these changes include changing the use of "Division" to "Department;" deleting unused definitions; and clarifying customer number, identification requirements, information needed to locate a record, and consent to release information. In addition, the Department is expanding the available types of motor vehicle records (MVRs). Part of clarifying the definition of "customer number" includes combining it with the definition of "driver license number" in order to better reflect that a customer number and driver license number can be one and the same; this helps to streamline and keep current with the Department's terminology.

The Department also made the determination that it would be more appropriate and would better serve the public to relocate R17-1-202, MVD Record Copy Charges and its corresponding Table 1, which details the fees charged by the Department for copies of the various types of records, to Article 8. This relocation would require the removal of the following definitions from R17-1-201, Definitions, to R17-4-801: "batch", "interactive", "reasonable costs", and "support document." In addition to relocation, terminology was updated in order to ensure accuracy, compliance, consistency in use, and to be current with the Department's practice.

Additional changes include making minor technical changes to ensure conformity to the rulemaking format and style requirements of the Arizona Administrative Procedure Act and the Office of the Secretary of State.

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

The Department did not review or rely on any study relevant to the rules.

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

Not applicable

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

The Department is exempt from the requirements under A.R.S. § 41-1055(G) to prepare and file an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

9. The agency's contact person who can answer questions about the preliminary summary of the economic, small business and consumer impact of the proposed expedited rule:

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Web site: <http://www.azdot.gov/about/GovernmentRelations>

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(E):

Written comments on the proposed rulemaking should be directed to the person listed in item 4. All comments must be received by the close of public record at 5:00 p.m. on September 26, 2018. The Department has scheduled the following oral proceeding for public comments:

Date: September 26, 2018
Time: 1:30 p.m.
Location: Department of Transportation
206 S. 17th Ave., Rm. 107
Phoenix, AZ 85007



Nature: Oral Proceeding/Public Hearing

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), the Department does not discriminate on the basis of race, color, national origin, age, gender, disability, or limited English proficient. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or civilrightsoffice@azdot.gov. Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptación razonable por habilidad limitada en inglés o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-8946 or civilrightsoffice@azdot.gov. Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el estado tiene la oportunidad de abordar el alojamiento.

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

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rules require a permit, license, or agency authorization under A.R.S. § 41-1037(A), and whether a general permit is used and if not, the reasons why a general permit is not used:

These rules do not require the issuance of a permit, license, or agency authorization.

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

The manner in which the Department may release information from MVRs is regulated by the Federal Driver’s Privacy Protection Act of 1994 (DPPA), 18 USC 2721-2725, and A.R.S. Title 28, Chapter 2, Article 5. The DPPA stipulates who may receive personal information from MVRs and its applicable penalties. These rules follow the permissible uses as prescribed in A.R.S. § 28-455, which is in keeping with the DPPA. The DPPA does not impose the criteria needed to request a record nor the length of time covered in a driver MVR. Therefore, the Department has determined that the rules in Article 8 are not more stringent than the corresponding federal law.

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

No analysis was submitted to the Department.

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

This rulemaking incorporates no materials by reference.

13. The full text of the rules follows:

**TITLE 17. TRANSPORTATION
CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

ARTICLE 8. MOTOR VEHICLE RECORDS

| | |
|-------------------|------------------------------------------------------------|
| Section | |
| R17-4-801. | Definitions |
| R17-4-802. | Motor Vehicle Record Request |
| <u>R17-4-803.</u> | <u>Reserved MVD Record Copy Charges</u> |
| <u>Table 1.</u> | <u>Certified and Uncertified Motor Vehicle Record Fees</u> |

ARTICLE 8. MOTOR VEHICLE RECORDS

R17-4-801. Definitions

In addition to the definitions under A.R.S. §§ 28-101 and 28-440, the following definitions apply to this Article, unless otherwise specified:

“Batch” means a query-command method that initiates simultaneous production of an electronic file or series of requests that may have delayed results.

“Certified record” means a copy of a document designated as a true copy by the agency officer entrusted with custody of the original to be used for purposes prescribed under A.R.S. § 28-442.

“Commercial driver license record” has the same meaning as a CDLIS motor vehicle record as defined in 49 CFR 384.105.

“Customer number” means the system-generated, or other distinguishing number, assigned by the ~~Division~~ Department to each person ~~conducting business with the Division~~ with a record on the Department’s database, which includes the driver license number assigned to a person for a driver license, identification card, or instruction permit.

“Director” means the Arizona Department of Transportation’s Motor Vehicle Division Director or the Director’s designee.

“Division” means the Arizona Department of Transportation’s Motor Vehicle Division.

“Driver license number” means the system-generated, or other distinguishing number, assigned by the Division to a person for a driver license, identification card, or instruction permit record.



“Driver record” means a motor vehicle record more specifically defined to include any data that pertains to a driver license, identification card, instruction permit, or driver related activities.

“Interactive” means an electronic query-command method individually initiated by a person that produces immediate results.

“Reasonable costs” has the same meaning as prescribed under A.R.S. § 12-351.

“Requester” means the person, as defined under A.R.S. § 41-1001, requesting a motor vehicle record.

“Special MVR” means a motor vehicle record that is comprised of the least possible subset of information necessary to respond to the type of request received.

“Support document” means any customer record maintained by the Department in an electronic, hardcopy, or microfilm file storage format.

“Title and registration record” means a motor vehicle record more specifically defined to include any data that pertains to a vehicle title or registration record.

R17-4-802. Motor Vehicle Record Request

- A. Identification requirements. The requester of a motor vehicle record shall present valid ~~photo~~ identification information as indicated on the motor vehicle record request form or by the Department at the time a motor vehicle record request is made.
- B. Charges and exemptions. The requester of a motor vehicle record shall pay the appropriate motor vehicle record copy charge under ~~A.A.C. R17-4-202~~ R17-4-803, unless exempt under A.R.S. § 28-446.
- C. Motor vehicle record types. Under this Article, the ~~Division~~ Department may release any of the following motor vehicle record types:
1. Title and Registration record, uncertified;
 2. Title and Registration record, certified;
 3. Driver 39-month record, uncertified;
 4. Driver five-year record, certified;
 5. Driver extended history record, certified; ~~and~~
 6. Special MVR, uncertified;
 7. Commercial driver license record, uncertified;
 8. Support documents, uncertified; and
 9. Support documents, certified.
- D. ~~Permissible use record request~~ Search Criteria. A requester who has a permissible use under A.R.S. § 28-455, except as indicated under subsection (E) when using the permissible use under A.R.S. § 28-455(C)(11), shall provide at least one of the items of information listed in this subsection when requesting a motor vehicle record. The requester may need to provide additional information as needed in order to locate the record.
1. For a title and registration motor vehicle record:
 - a. Vehicle identification number,
 - b. License plate number, or
 - c. Vehicle owner’s full name.
 2. For a driver motor vehicle record:
 - a. The full name of the person whose record is requested, or
 - ~~b. Driver license number, or~~
 - ~~e-b. Customer number.~~
- E. ~~Non-permissible use Consent to release motor vehicle record request~~. A requester who ~~does not have a~~ uses the permissible use under A.R.S. § 28-455, but who presents either a notarized Consent To Release Motor Vehicle Record - General form #96-0276 or 28-455(C)(13) shall present a properly signed Consent To Release Motor Vehicle Record - One-Time form #96-0463 from the person whose motor vehicle record is requested shall provide the items of information listed in this subsection when requesting a motor vehicle record. A requester who uses the permissible use under A.R.S. § 28-455(C)(11) shall present a properly signed Consent To Release Motor Vehicle Record - General form from the person whose motor vehicle record is requested if that person has not previously submitted this form to the Department. In addition, a requester who uses the permissible use under A.R.S. § 28-455(C)(11) shall provide the items of information listed in this subsection. The Consent To Release Motor Vehicle Record forms are available at all Customer Service and Authorized Third Party Provider offices and online at <http://mvd.azdot.gov/mvd/FormsandPub/mvd.asp> <https://www.azdot.gov>.
1. For a title and registration motor vehicle record:
 - a. ~~The vehicle identification number and license plate number~~ Two items under subsection (D)(1), and
 - ~~The vehicle owner’s full name, or~~
 - ~~e-b. The vehicle owner’s residence address.~~
 2. For a driver motor vehicle record:
 - a. The name and ~~driver license number or~~ customer number of the person whose record is requested, and
 - b. The person’s date of birth, or
 - c. The person’s address, or
 - d. The person’s Arizona driver license expiration date.
- F. General consent to release information. The ~~Division~~ Department shall record a person’s general consent to release information on the person’s driver and title and registration records.
1. The general consent to release information is valid until revoked, in writing, by the person.
 2. A person may submit the written notice of revocation:
 - a. In person, at a Customer Service office or Authorized Third Party Provider; or
 - b. By mail, ~~at to~~ Motor Vehicle Division, ~~1801 W. Jefferson St., P.O. Box 2100, Mail Drop 500M, Phoenix, Arizona 85007-2100~~ AZ 85001-2100.



G. Insurance companies requesting a driver or title and registration record. The ~~Division~~ Department shall not release to an insurer, broker, managing general agent, authorized agent or insurance producer any information in a person’s driving record pertaining to a traffic violation that occurred 40 months or more before the date of a request for the release of the information.

R17-4-803. ~~Reserved~~ MVD Record Copy Charges

In accordance with A.R.S. §§ 12-351 and 28-446, for each separate request, the Department shall assess a charge as provided in Table 1. Certified and Uncertified Motor Vehicle Record Fees. Therefore, a fee is collected if the request results in a motor vehicle record or “No Record Found.”

Table 1. Certified and Uncertified Motor Vehicle Record Fees

| <u>Description</u> | <u>Method of Delivery</u> | <u>Amount</u> |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------|
| <u>A certified record:</u> | <u>Over-the-counter immediate or drop-off service;</u> <u>Mail-in request; or</u> <u>Electronic interactive.</u> | <u>\$5</u> |
| | <u>Electronic batch.</u> | <u>\$3</u> |
| <u>A certified support document:</u> | <u>Over-the-counter immediate or drop-off service; or</u> <u>Mail-in request.</u> | <u>\$5</u> |
| <u>An uncertified record:</u> | <u>Over-the-counter immediate service;</u> <u>Mail-in request; or</u> <u>Electronic interactive.</u> | <u>\$3</u> |
| | <u>Electronic batch; or</u> <u>Over-the-counter drop-off service.</u> | <u>\$2</u> |
| <u>An uncertified support document:</u> | <u>Over-the-counter immediate or drop-off service; or</u> <u>Mail-in request.</u> | <u>\$3</u> |
| <u>An uncertified Special MVR:</u> | <u>Over-the-counter immediate or drop-off service;</u> <u>Mail-in request; or</u> <u>Electronic interactive.</u> | <u>\$1.50</u> |
| <u>Civil subpoena support documentation:</u> | <u>Served by a process server.</u> | <u>Reasonable costs</u> |
| <u>Any photocopied item:</u> <u>(Does not include... etc.)</u> | <u>Over-the-counter immediate or drop-off service; or</u> <u>Mail-in request.</u> | <u>25¢ per page</u> |



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

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

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

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

**GOVERNOR’S REGULATORY REVIEW COUNCIL
NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)**

**DEPARTMENT OF ADMINISTRATION
PUBLIC BUILDINGS MAINTENANCE**

[R18-181]

- 1. **Agency name:** Department of Administration
- 2. **Title and its heading:** 2, Administration
- 3. **Chapter and its heading:** 11, Department of Administration - Public Buildings Maintenance
- 4. **Article and its heading:** 1, General
2, Traffic and Parking

As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of June 13, 2017:

- R2-11-112. Smoking
- R2-11-206. Penalties
- R2-11-207. Hearings
- R2-11-208. Rehearings

Signature is of Nicole O. Colyer

/s/

Nicole Ong Colyer
Chairwoman

Date of Signing

August 15, 2018

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 ACUPUNCTURE BOARD OF EXAMINERS

[R18-182]

- 1. Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 8, Acupuncture Board of Examiners
Article and its heading: 1, General Provisions
2, Acupuncture Licensing; Visiting Professor Certificate
3, Auricular Acupuncture Certification
4, Training Programs and Continuing Education
6, Complaints; Hearing Procedures; Discipline
7, Public Participation Procedures

Section numbers: R4-8-101, R4-8-103, R4-8-105, Table 1, R4-8-106, R4-8-203, R4-8-204, R4-8-206, R4-8-207, R4-8-301, R4-8-303, R4-8-304, R4-8-408, R4-8-601, R4-8-602, Article 7, R4-8-701, R4-8-702, R4-8-704, R4-8-706

- 2. The subject matter of the proposed rule:**
The Board is updating its rules to address concerns raised by the Auditor General in a report dated September 14, 2016, and to address the Governor's request that agencies eliminate rules that are antiquated, redundant, or otherwise unnecessary. An exemption from Executive Order 2017-02 was provided for this rulemaking by Emily Rajakovich, Director of Boards and Commissions, in an e-mail dated January 12, 2018.

- 3. A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 24 A.A.R. 2529, September 14, 2018 (*in this issue*)

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

Name: David Geriminsky
Address: Acupuncture Board of Examiners
1740 W. Adams, Suite 300
Phoenix, AZ 85007
Telephone: (602) 364-0145
Fax: (602) 926-8104
E-mail: director@acupuncture.az.gov
Website: acupunctureboard.az.gov

- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Agency will accept comments during business hours at the address listed in item 4. E-mail comments will be accepted. The agency does not intend to hold public hearings on this rule, unless a public hearing is requested within 30-days of the publication of this rule.

- 6. A timetable for agency decisions or other action on the proceeding, if known:**
To be determined



**NOTICE OF RULEMAKING DOCKET OPENING
STATE MINE INSPECTOR
AGGREGATE MINED LAND RECLAMATION**

[R18-183]

1. **Title and its heading:** 11, Mines
Chapter and its heading: 3. State Mine Inspector - Aggregate Mined Land Reclamation
Article and its heading: 1, Definitions
 2, General Regulatory Provisions
 3, Exploration Operation Reclamation Plan
 4, Exploration Operation Reclamation Standards
 5, Aggregate Mining Unit Reclamation Plan
 6, Aggregate Mining Unit Reclamation Standards
 7, Revegetation and Soil Standards
 8, Financial Assurance

Section numbers: R11-3-101 through R11-3-103, R11-3-201 through R11-3-212, R11-3-301 and R11-3-302, R11-3-401 and R11-3-402, R11-3-501 through R11-3-505, R11-3-601 through R11-3-603, R11-3-701 through R11-3-705, and R11-3-801 through R11-3-821 (*Additional Sections may be made, amended, or repealed as necessary.*)

2. **The subject matter of the proposed rule:**
 The legislature enacted the Aggregate Mine Land Reclamation Act (A.R.S. Title 27, Chapter 6) in 2005. The Act requires aggregate exploration operations and aggregate mining units to submit reclamation plans and financial assurance mechanisms to the Office of the State Mine Inspector. The Act requires the State Mine Inspector to make rules consistent with the Act for reclamation of surface disturbances at aggregate exploration operations and mining units, financial assurances, and notice and public meetings. This rulemaking makes the required rules.

 A Notice of Proposed Rulemaking for the required rules was published at 12 A.A.R. 742, March 10, 2006. The rulemaking process was not completed. However, in the interim, members of the industry have been complying with the proposed rules.

 This rulemaking is exempt from Executive Order 2018-02 under paragraph (7)(a) of the Order.

3. **A citation to all published notices relating to the proceeding:**
 Notice of Proposed Rulemaking: 24 A.A.R. 2540, September 14, 2018 (*in this issue*)

4. **Name and address of agency personnel with whom persons may communicate regarding the rule:**
 Name: Laurie Swartzbaugh
 Address: State Mine Inspector
 1700 W. Washington St., Suite 403
 Phoenix, AZ 85007

 Telephone: (602) 542-5971
 Fax: (602) 542-5335
 E-mail: lswartzbaugh@asmi.az.gov
 Web site: https://asmi.az.gov

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
 The Inspector will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

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

**NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF TRANSPORTATION
ADMINISTRATION**

[R18-184]

1. **Title and its heading:** 17, Transportation
Chapter and its heading: 1, Department of Transportation - Administration
Article and its heading: 2, Fees
Section numbers: R17-1-201, R17-1-202, and Table 1 (*Sections may be added, deleted, or modified as necessary.*)

2. **The subject matter of the proposed rules:**
 The Department engages in this expedited rulemaking to incorporate the changes proposed in the Department's recent five-year review report on 17 A.A.C. Chapter 4, Article 8, Motor Vehicle Records, approved by the Governor's Regulatory Review Council on March 6, 2018. The Department has determined that it would be more appropriate and would better serve the public to relocate R17-1-202, MVD Record Copy Charges and its corresponding Table 1 to 17 A.A.C. Chapter 4, Article 8, Motor Vehicle Records.



This relocation requires the removal of the following definitions from R17-1-201, Definitions, to R17-4-801, Definitions: “batch”, “interactive”, “reasonable costs”, and “support document” since they do not appear in the remaining Sections of the Article.

3. A citation to all published notices relating to the proceeding:

Notice of Proposed Expedited Rulemaking: 24 A.A.R. 2556, September 14, 2018 (in this issue)

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

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Please visit the ADOT web site to track the progress of this rule and any other agency rulemaking matters at <http://www.azdot.gov/about/GovernmentRelations>

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

Written comments may be submitted at any time prior to the close of the public record listed in the Notice of Proposed Expedited Rulemaking. All comments should be directed to the person listed under item 4. The date, time, and location of any oral proceeding scheduled for this rulemaking will be included in the Notice of Proposed Expedited Rulemaking in this issue.

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

To be determined

**NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES**

[R18-185]

- 1. Title and its heading:** 17, Transportation
- Chapter and its heading:** 4, Department of Transportation – Title, Registration, and Driver Licenses
- Article and its heading:** 8, Motor Vehicle Records
- Section numbers:** R17-4-801, R17-4-802, R17-4-803, and Table 1 (Sections may be added, deleted, or modified as necessary.)

2. The subject matter of the proposed rules:

The Department engages in this expedited rulemaking to incorporate the changes proposed in the Department’s recent five-year review report on 17 A.A.C. Chapter 4, Article 8, Motor Vehicle Records, approved by the Governor’s Regulatory Review Council on March 6, 2018. The Department determined there is a need to update outdated, inconsistent, and incorrect text and add clarifying language for better understandability and accuracy. The Department has also determined that it would be more appropriate and would better serve the public to relocate R17-1-202, MVD Record Copy Charges and its corresponding Table 1 to 17 A.A.C. Chapter 4, Article 8, Motor Vehicle Records.

3. A citation to all published notices relating to the proceeding:

Notice of Proposed Expedited Rulemaking: 24 A.A.R. 2558, September 14, 2018 (in this issue)

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

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Please visit the ADOT web site to track the progress of this rule and any other agency rulemaking matters at <http://www.azdot.gov/about/GovernmentRelations>

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

Written comments may be submitted at any time prior to the close of the public record listed in the Notice of Proposed Expedited Rulemaking. All comments should be directed to the person listed under item 4. The date, time, and location of any oral proceeding scheduled for this rulemaking will be included in the Notice of Proposed Expedited Rulemaking in this issue.

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

To be determined



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 ECONOMIC SECURITY SOCIAL SERVICES

[M18-72]

1. The Department of Economic Security (DES) scheduled an oral proceeding to be held on October 3, 2018 for the following proposed rulemaking:

6 A.A.C. 5 Department of Economic Security – Social Services, Article 33 Achieving a Better Life Experience (ABLE)

2. The public information relating to the oral proceeding for the Notice of Proposed Rulemaking for the ABLE Program:

On August 24, 2018 the Secretary of State published a Notice of Proposed Rulemaking for the ABLE Program in the *Arizona Administrative Register* (24 A.A.R 2357, August 24, 2018). The Notice of Proposed Rulemaking announced the oral proceeding and provided the date, time, location, and a telephone number for the public to attend. DES is now including the following toll-free number the public may use to call in and participate:

Telephone: 1-888-808-5828

Access Code: 281 317 200

3. The agency contact person who can answer questions about this notice of public information:

Name: Christian J. Eide
Address: Department of Economic Security
P.O. Box 6123, Mail Drop 1292
Phoenix, AZ 85005
Telephone: (602) 542-9199
E-mail: ceide@azdes.gov



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 REAL ESTATE DEPARTMENT

[M18-70]

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

Non-commercial Requests to Inspect Department Records & Fees for Copies: No. 2005.09

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

Effective: 6/18/1999; Revised & Renumbered 5/28/04; Renumbered 4/01/2005; Revised 8/21/2006; Revised 8/29/2016; Revised 8/20/2018.

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

This policy statement clarifies the Department's policy for fulfilling public records requests and charging fees when necessary. Authority is found in A.R.S. §§ 39-121.03, 32-2125.03, and A.A.C. R4-28-1303(A) and R4-28-1303(B).

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. §§ 39-121.03 and 32-2125.03

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

This is a revision to an existing policy statement, previously no. 2005.09.

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

Name: Louis Dettorre
Address: Arizona Department of Real Estate
100 N. 15th Ave., Suite 201
Phoenix, AZ 85007
Telephone: (602) 771-7760
Fax: (602) 771-7023
E-mail: ldettorre@azre.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 this policy statement may be obtained at no cost via e-mail to the person listed above or on the Department web site: www.azre.gov. Hard copies may be obtained by contacting the person listed above for \$0.25 per page.



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
ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION**

[M18-69]

- 1. **The agency name:** Arizona Health Care Cost Containment Systems (AHCCCS) - Administration
- 2. **The ombudsman's:**
 - a. **Name:** Patricia McGinnis
 - b. **Title:** Executive Staff Assistant
- 3. **The ombudsman's office address to include the city, state and zip code:**
 - Address: AHCCCS
701 E. Jefferson St., Office of the Director
Phoenix, AZ 85034
- 4. **The ombudsman's area code and telephone number, fax number and e-mail address, if available:**
 - Telephone: (602) 417-4240
 - Fax: (602) 256-6756
 - E-mail: Patricia.McGinnis@azahcccs.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**

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

SUPPLEMENTAL EXPEDITED

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

FINAL EXPEDITED

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

EXEMPT RULEMAKING**EXEMPT PROPOSED**

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

EXEMPT SUPPLEMENTAL PROPOSED

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

FINAL EXEMPT RULEMAKING

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

EMERGENCY RULEMAKING

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

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

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

RULE EXPIRATIONS

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

CORRECTIONS

C = Corrections to Published Rules

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RULEMAKING ACTIVITY INDEX

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

THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 36 OF VOLUME 24.

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| <p>Accountancy, Board of</p> <p>R4-1-226.01. PM-1707 R4-1-343. PM-1707 R4-1-453. PM-1707</p> <p>Administration, Department of</p> <p>R2-1-601. FR-625 R2-1-602. F#-625 R2-1-603. FR-625 R2-1-801. FM-625 R2-1-802. FM-625 R2-1-803. FM-625 R2-1-804. FM-625 R2-1-805. FR-625; F#-625; FM-625</p> <p>R2-1-901. FR-625 R2-1-902. FR-625 R2-1-903. FR-625 R2-1-904. FR-625 R2-1-905. FR-625</p> <p>Administration, Department of - Benefit Services Division</p> <p>R2-6-105. PM-2349</p> <p>Agriculture, Department of - Animal Services Division</p> <p>R3-2-203. FXM-2219 R3-2-701. FXM-2219 R3-2-810. FXM-2219</p> <p>Agriculture, Department of - Citrus Fruit and Vegetable Division</p> <p>R3-10-101. FXN-2227 R3-10-102. FXN-2227</p> | <p>Agriculture, Department of - Environmental Services Division</p> <p>R3-3-702. FXM-2222</p> <p>Agriculture, Department of - Office of Commodity Development and Promotion</p> <p>R3-6-102. FXM-2226</p> <p>Agriculture, Department of - Plant Services Division</p> <p>R3-4-301. FXM-2223</p> <p>Agriculture, Department of - Weights and Measures Services Division</p> <p>R3-7-101. PM-595 R3-7-701. PM-595 R3-7-702. PM-595 R3-7-708. PM-595 R3-7-749. PM-595 R3-7-751. PM-595 R3-7-752. PM-595 R3-7-755. PM-595 R3-7-757. PM-595 R3-7-759. PM-595 Table 1. PM-595 Table 2. PM-595</p> <p>Arizona Health Care Cost Contain- ment System - Administration</p> <p>R9-22-202. PM-337 R9-22-303. PR-337 R9-22-703. PM-337 R9-22-712.05. FM-185; PM-2061 R9-22-712.35. PM-1712</p> | <p>R9-22-712.61. PM-1712 R9-22-712.71. PM-1712 R9-22-718. PM-345; FM-1515 R9-22-721. PM-2066 R9-22-730. FXM-2229 R9-22-1202. PM-337 R9-22-1302. PM-1716 R9-22-1303. PM-1716 R9-22-1305. PM-1716 R9-22-1306. PR-1716 R9-22-1501. PM-337 R9-22-1910. PR-337 R9-22-2101. PM-1722</p> <p>Arizona Health Care Cost Contain- ment System - Arizona Long-term Care System</p> <p>R9-28-401.01. PM-348 R9-28-408. FM-667 R9-28-703. FM-191 R9-28-801. FM-670 R9-28-801.01. FR-670 R9-28-802. FM-670 R9-28-803. FM-670 R9-28-806. FM-670 R9-28-807. FM-670</p> <p>Arizona Health Care Cost Contain- ment System - Medicare Cost Shar- ing Program</p> <p>R9-29-210. PM-351</p> <p>Behavioral Health Examiners, Board of</p> <p>R4-6-101. PM-1609 R4-6-211. PM-1609</p> |
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Boxing and Mixed Martial Arts Commission, State

R4-3-101. FR-435
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Child Safety, Department of - Adoption Agency Licensing

R21-9-202. PN-738
 R21-9-207. PN-738

Clean Elections Commission, Citizens

R2-20-106. FXM-107
 R2-20-109. FXM-109
 R2-20-111. FXM-111

Constable Ethics, Standards and Training Board

R13-14-101. FN-1518
 R13-14-102. FN-1518
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 R13-14-201. FN-1518

R13-14-202. FN-1518
 R13-14-203. FN-1518
 R13-14-204. FN-1518
 R13-14-205. FN-1518
 R13-14-301. FN-1518
 R13-14-302. FN-1518

Corporation Commission, Arizona - Fixed Utilities

R14-2-107. PM-1643
 R14-2-108. PN-1643
 R14-2-803. PM-1617;
 FM-2468

Criminal Justice Commission, Arizona

R10-4-101. FM-377
 R10-4-102. FM-377
 R10-4-103. FM-377
 R10-4-104. FM-377
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 R10-4-406. PM-2259

Department Dissolved (previously Department of Weights and Measures)

R20-2-205. EXP-1125

Dispensing Opticians, Board of

R4-20-102. PM-2299
 R4-20-103. PR-2299
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Economic Security, Department of

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 R6-1-202. F#-1415;
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 R6-1-203. F#-1415;
 FN-1415;
 FM-1415

Economic Security, Department of - Developmental Disabilities

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 R6-6-302. F#-2013;
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 R6-6-307. FN-2013
 R6-6-308. FN-2013
 R6-6-309. FN-2013
 R6-6-501. FR-2013
 R6-6-502. FR-2103
 R6-6-503. FR-2013
 R6-6-504. FR-2013
 R6-6-505. FR-2013

Economic Security, Department of - Food Stamps Program

R6-14-301. EN-2081
 R6-14-302. EN-2081
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Economic Security, Department of - Social Services

R6-5-3301. PN-2357
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 R6-5-3306. PN-2357
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Economic Security, Department of - Unemployment Insurance

R6-3-51140. FM-1417
 R6-3-5205. FM-1417
 R6-3-5240. FM-1417
 R6-3-52235. FM-1417
 R6-3-55460. FM-1417

Education, State Board of

R7-2-301. FXM-691
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Environmental Quality, Department of - Air Pollution Control

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 R18-2-1603. EXP-2500
 R18-2-1604. EXP-2500
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Equalization, State Board of

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Game and Fish Commission

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Governor's Regulatory Review Council

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Health Services, Department of - Child Care Facilities

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 R9-5-507. PEM-2471
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Health Services, Department of - Communicable Diseases and Infections

R9-6-601. FEM-261
 R9-6-701. PEM-745
 R9-6-702. PEM-745
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 R9-6-706. PEM-745
 R9-6-707. PEM-745
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| R9-6-802. | PEM-1650 | R9-10-1506. | P#-1922; | | PEM-1325; |
| R9-6-1001. | PEM-1973 | | PM-1922 | | FEM-2151 |
| R9-6-1002. | PEM-1973 | R9-10-1507. | P#-1922; | R9-7-303. | RC-813; |
| R9-6-1004. | PEM-1973 | | PM-1922 | | PEM-1325; |
| R9-6-1005. | PEM-1973 | R9-10-1508. | P#-1922; | | FEM-2151 |
| R9-6-1006. | PEM-1973 | | PM-1922 | R9-7-304. | RC-813; |
| Health Services, Department of - Emergency Medical Services | | R9-10-1509. | P#-1922; | | PEM-1325; |
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| R9-25-301. | FEM-268; | R9-10-1510. | P#-1922; | R9-7-305. | RC-813; |
| | PEM-2492 | | PM-1922 | | PEM-1325; |
| R9-25-303. | PEM-2492 | R9-10-1511. | P#-1922; | R9-7-306. | FEM-2151 |
| R9-25-305. | FEM-268; | | PM-1922 | | RC-813; |
| | PEM-2492 | R9-10-1512. | P#-1922; | | PEM-1325; |
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| R9-25-403. | FEM-268 | | PM-1922 | R9-7-311. | RC-813; |
| R9-25-405. | FEM-268 | R9-10-1515. | PR-1922; | | PEM-1325; |
| R9-25-406. | FEM-268 | | P#-1922; | | FEM-2151 |
| R9-25-407. | FEM-268 | | PM-1922 | R9-7-312. | RC-813 |
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| R9-25-409. | FEM-268 | R9-10-2002. | PN-1901 | | PEM-1325; |
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| | | R9-10-2006. | PN-1901 | R9-7-316. | RC-813 |
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| R9-8-201. | FEM-263 | R9-10-2009. | PN-1901 | R9-7-319. | RC-813 |
| R9-8-203. | FEM-263 | R9-10-2010. | PN-1901 | R9-7-320. | RC-813 |
| R9-8-205. | FEM-263 | Health Services, Department of - Noncommunicable Diseases | | R9-7-322. | RC-813 |
| R9-8-206. | FEM-263 | R9-4-601. | PN-93; | R9-7-323. | RC-813; |
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| R9-8-302. | FEM-389 | | EN-783 | R9-7-324. | FEM-2151 |
| R9-8-303. | FEM-389 | R9-4-602. | PN-93; | | RC-813 |
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| | PN-1922 | Appendix A. | RC-813 | R9-7-416. | FEM-2151 |
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RULES EFFECTIVE DATES CALENDAR

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

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



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



REGISTER PUBLISHING DEADLINES

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

| Deadline Date (paper only) Friday, 5:00 p.m. | Register Publication Date | Oral Proceeding may be scheduled on or after |
|---------------------------------------------------------|--------------------------------------|---------------------------------------------------------|
| 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 |
|-----------------------------------|--------------------------------------|-------------------------------|--------------------------------|
| Tuesday November 21, 2017 | Tuesday December 19, 2017 | Wednesday January 3, 2018 | Tuesday January 9, 2018 |
| Tuesday December 19, 2017 | Tuesday January 23, 2018 | Tuesday January 30, 2018 | Tuesday February 6, 2018 |
| Tuesday January 23, 2018 | Tuesday February 20, 2018 | Tuesday February 27, 2018 | Tuesday March 6, 2018 |
| Tuesday February 20, 2018 | Tuesday March 20, 2018 | Tuesday March 27, 2018 | Tuesday April 3, 2018 |
| Tuesday March 20, 2018 | Tuesday April 17, 2018 | Tuesday April 24, 2018 | Tuesday May 1, 2018 |
| Tuesday April 17, 2018 | Tuesday May 22, 2018 | Wednesday May 30, 2018 | Tuesday June 5, 2018 |
| Tuesday May 22, 2018 | Tuesday June 19, 2018 | Tuesday June 26, 2018 | Tuesday July 10, 2018 |
| Tuesday June 19, 2018 | Tuesday July 24, 2018 | Tuesday July 31, 2018 | Tuesday August 7, 2018 |
| Tuesday July 24, 2018 | Tuesday August 21, 2018 | Tuesday August 28, 2018 | Wednesday September 5, 2018 |
| Tuesday August 21, 2018 | Tuesday September 18, 2018 | Tuesday September 25, 2018 | Tuesday October 2, 2018 |
| Tuesday September 18, 2018 | Tuesday October 23, 2018 | Tuesday October 30, 2018 | Tuesday November 6, 2018 |
| Tuesday October 23, 2018 | Tuesday November 20, 2018 | Tuesday November 27, 2018 | Tuesday December 4, 2018 |
| Tuesday November 20, 2018 | Tuesday December 18, 2018 | Thursday January 3, 2019 | Tuesday January 8, 2019 |
| Tuesday December 18, 2018 | Tuesday January 22, 2019 | Tuesday January 29, 2019 | Tuesday 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.