



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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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 New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

# Arizona Administrative REGISTER

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**ADMINISTRATIVE REGISTER**  
This publication is available online for free at [www.azsos.gov](http://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.

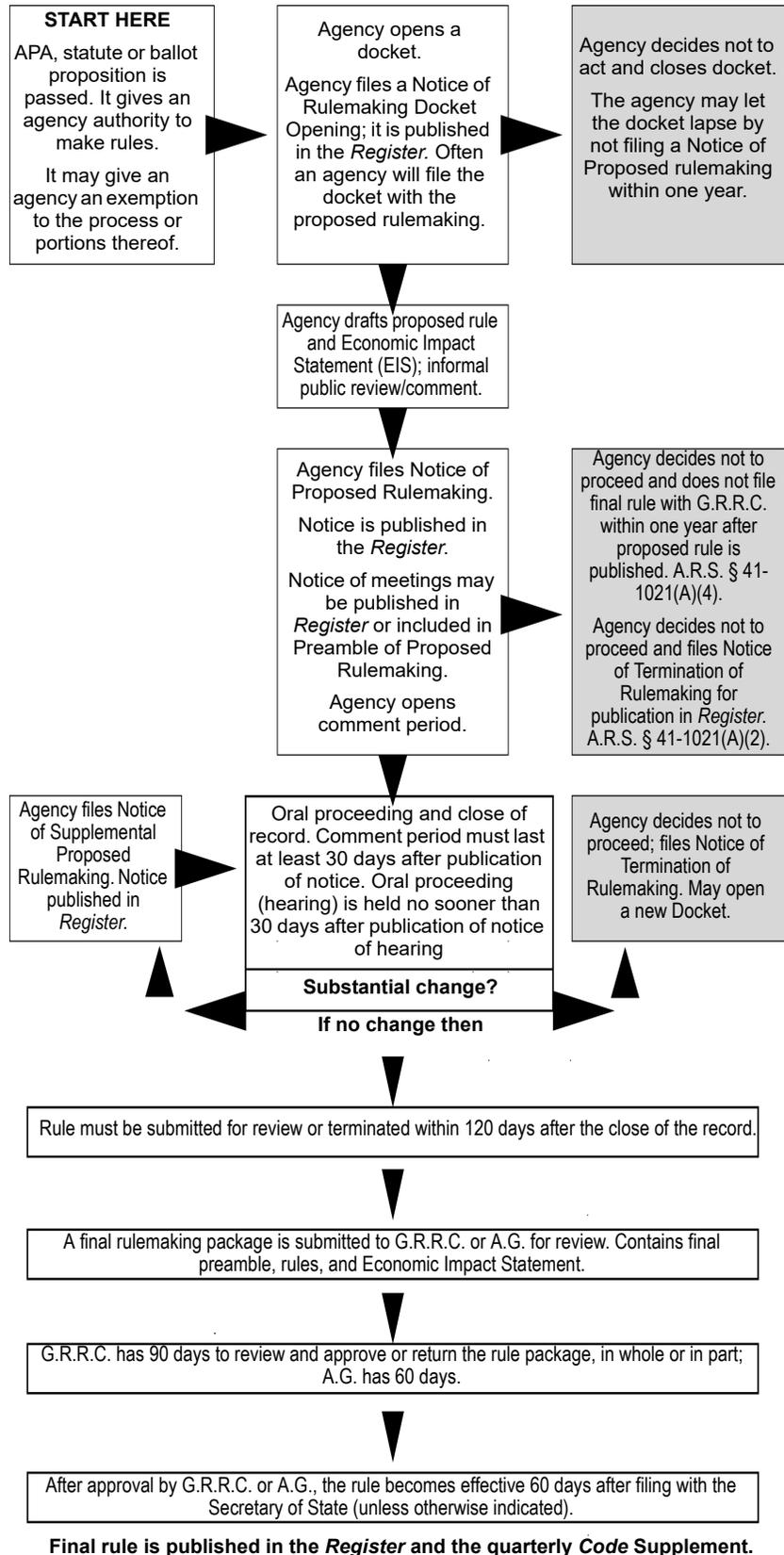
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## 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](http://www.azsos.gov).

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

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

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

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

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

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

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

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

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

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

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

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

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

## Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

## About Preambles

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

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

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



**NOTICES OF FINAL RULEMAKING**

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

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

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

**NOTICE OF FINAL RULEMAKING**

**TITLE 10. LAW**

**CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION**

[R18-26]

**PREAMBLE**

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R10-4-101   | Amend                           |
| R10-4-102   | Amend                           |
| R10-4-103   | Amend                           |
| R10-4-104   | Amend                           |
| R10-4-106   | Amend                           |
| R10-4-107   | Amend                           |
| R10-4-108   | Amend                           |
| R10-4-109   | Amend                           |
| R10-4-110   | Amend                           |
| R10-4-201   | Amend                           |
| R10-4-202   | Amend                           |
| R10-4-203   | Amend                           |
| R10-4-204   | Amend                           |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 41-2405(A)(8)  
 Implementing statute: A.R.S. § 41-2407
- 3. The effective date for the rules:**  
 April 7, 2018
- a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
 Not applicable
- b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**  
 Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 1640, June 16, 2017  
 Notice of Proposed Rulemaking: 23 A.A.R. 2793, October 13, 2017
- 5. The agency's contact person who can answer questions about the rulemaking:**  
 Name: Larry Grubbs, Program Manager  
 Address: Arizona Criminal Justice Commission  
 1110 W. Washington St., Suite 230  
 Phoenix, AZ 85007  
 Telephone: (602) 364-1154  
 Fax: (602) 364-1175  
 E-mail: lgrubbs@azcjc.gov  
 Web site: www.azcjc.gov



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

The current rules were made in a rulemaking that went into effect in February 2013. Experience using the rules and feedback from stakeholders indicate that changes are needed to make the rules more effective in achieving their goals. This rulemaking makes the necessary changes.

The current victim compensation program rules include unnecessary restrictions on how the program is administered at the state and county level. The rules lack clarity regarding the availability of additional resources to compensate victims of crime, and at what point certain claimant eligibility decisions must be made. Experience using the current rules has indicated additional need in the areas of transportation costs and work loss benefits for victims.

The current crime victim assistance program rules include unnecessary restrictions on what types of victim service program activities shall be funded by the grant program. The rules place an overly burdensome matching-funds requirement on funded projects, and place additional unnecessary application requirements on non-profit agencies. These requirements under the current rules have resulted in limiting access to grant funding for applicant agencies.

**7. 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:**

None

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

Not applicable

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

The amount of funds available to provide compensation awards or assistance to crime victims is not increased as a result of this rulemaking. However, the total amount that can be claimed for various compensation benefit expenses is increased. Availability of compensation benefits to certain eligible individuals has also expanded. The following changes may have some economic impact:

- Adding fee expenses as an eligible expense under transportation costs;
- Simplifying work loss benefit calculation to a single weekly maximum;
- Allowing the Commission to approve payment rate schedules for program benefit cost categories; and
- Increasing transportation cost maximum amount to \$2,000.

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

Only clarifying and technical changes, none of which are substantial under the standards set forth in A.R.S. § 41-1025, have been made between the proposed rulemaking and the final rulemaking. Changes made include the following:

- R10-4-104(B)(2)(h) Replaced the word “and” ending the clause
- R10-4-107(D)(2)(g) Removed “or act of international terrorism”
- R10-4-107(D)(5)(a) Removed “or act of international terrorism”
- R10-4-107(D)(7)(d) Removed “or act of international terrorism”
- R10-4-110(A) Added “calendar” to “30 days”
- R10-4-110(C) Added “calendar” to “30 days”
- R10-4-204(B)(1) Replaced “salaried” with “paid”

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

The agency received no public or stakeholder comments about the rulemaking during the public comment period or at the public hearing held on December 7, 2017.

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

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

**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 Federal Crime Victims Fund (the Fund) was established by the Victims of Crime Act (VOCA) of 1984. The Fund is financed by fines and penalties paid by convicted federal offenders. The Fund provides grant funding to the states for use in implementing state victim assistance and victim compensation programs. A state does not receive funding unless the state meets certain minimal criteria. Arizona receives funds under this act.

**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.



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

None

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

The rule was not previously made as an emergency rule.

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

**TITLE 10. LAW**

**CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION**

**ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM**

Section

- R10-4-101. Definitions
- R10-4-102. Administration of the Fund
- R10-4-103. Statewide Operation
- R10-4-104. Operational Unit Requirements
- R10-4-106. Prerequisites for a Compensation Award
- R10-4-107. Submitting a Claim
- R10-4-108. Compensation Award Criteria
- R10-4-109. Hearing; Request for Rehearing
- R10-4-110. State-level Claim Review

**ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**

Section

- R10-4-201. Definitions
- R10-4-202. Administration of the Fund
- R10-4-203. Grant Eligibility Requirements
- R10-4-204. Services

**ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM**

**R10-4-101. Definitions**

In this Article:

1. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.
3. "Claimant" means a natural person who files a claim.
4. "Collateral source" means a source of compensation for economic loss that a claimant received or is accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
  - a. The perpetrator or a third party responsible for the perpetrator's actions;
  - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
    - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
    - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
  - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
  - d. State-required, insurance for a temporary, non-occupational disability;
  - e. Worker's compensation insurance;
  - f. Wage continuation program of any employer;
  - g. Insurance proceeds payable to cover a specific compensable cost due to criminally injurious conduct ~~or an act of international terrorism;~~
  - h. A contract providing for prepaid hospital and other health care services or disability benefits; and
  - i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for:
  - a. Removing or attempting to remove bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct ~~or act of international terrorism~~ occurring within a residence or the surrounding curtilage;
  - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct ~~or act of international terrorism~~ occurring within a residence or the surrounding curtilage.
9. "Criminally injurious conduct" means conduct that:
  - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
  - b. Poses a substantial threat of physical injury, mental distress, or death; and



- c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
- 10. "Derivative victim" means:
  - a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct ~~or an act of international terrorism~~;
  - b. A child born to a victim after the victim's death;
  - c. A person living in the household of a victim who died as a result of criminally injurious conduct ~~or act of international terrorism~~, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
  - d. A member of the victim's family who witnessed the criminally injurious conduct ~~or act of international terrorism~~ or who discovered the scene of the criminally injurious conduct ~~or act of international terrorism~~;
  - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct ~~or act of international terrorism~~ or discovered the scene of the criminally injurious conduct ~~or act of international terrorism~~; or
  - f. A natural person whose own mental health counseling and care or presence during the victim's mental health counseling and care is ~~required~~ recommended for the successful treatment of the victim.
- 11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
  - a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct ~~or an act of international terrorism~~;
  - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
  - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
  - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
- 12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
- 13. "Fund" means ~~the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407~~ all State, Federal, and jurisdiction financial resources dedicated to the compensation program through statute, this chapter, or federal grant award.
- 14. "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation, Native American ceremony, or burial.
- 15. "Good cause" means a reason that the Board determines is substantial enough to afford a legal excuse.
- 16. "Inactive claim" means a claim for which no compensation award is made for 12 consecutive months.
- 17. "Incident of criminally injurious conduct" means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
- ~~18. "International terrorism" has the meaning prescribed in 18 U.S.C. 2331.~~
- ~~19~~18. "Jurisdiction" means any county in this state.
- ~~20~~19. "Medical expense" means a reasonable and customary cost for medical care provided to a victim due to a physical injury, mental health condition, or medical condition that is a direct result of criminally injurious conduct ~~or an act of international terrorism~~.
- ~~21~~20. "Mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
- ~~22~~21. "Mental health counseling and care expense" means a reasonable and customary cost to assess, diagnose, and treat a victim's or derivative victim's mental distress resulting from criminally injurious conduct ~~or an act of international terrorism~~.
- ~~23~~22. "Minimum wage standard" means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
- ~~24~~23. "Operational unit" means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
- ~~25~~24. "Program" means the Crime Victim Compensation Program.
- ~~26~~25. "Proximate cause" means an event sufficiently related to criminally injurious conduct ~~or act of international terrorism~~ to be held the cause of the criminally injurious conduct ~~or act of international terrorism~~.
- ~~27~~26. "Reasonable and customary" means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
- ~~28~~27. "Resident" means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
- ~~29~~28. "Subrogation" means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
- ~~30~~29. "Total and permanent disability" means a physical or mental condition that the Board finds is a proximate result of criminally injurious conduct ~~or act of international terrorism~~ and:
  - a. Produces a significant and sustained reduction in the victim's former mental or physical abilities dramatically altering the victim's ability to interact with others and carry on normal functions of life;
  - b. Lessens the victim's ability to work to a material degree; or
  - c. Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim's crime-related condition can reasonably be expected.
- ~~31~~30. "Transportation costs" means a travel expense that may be reimbursed to a claimant as follows:
  - a. Mileage, calculated at the rate established by:
    - i. The operational unit, or
    - ii. The state if the operational unit has not established a mileage rate;



- b. Fare or fee expenses; and
  - c. Vehicle rental at the cost specified in the rental agreement.
3231. "Victim" means a natural person who suffers a physical injury or medical condition, mental distress, or death as a direct result of:
- a. Criminally injurious conduct,
  - b. ~~An act of international terrorism,~~
  - eb. The person's good faith effort to prevent criminally injurious conduct ~~or an act of international terrorism,~~ or
  - ec. The person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct ~~or an act of international terrorism.~~
3332. "Work loss" means a reduction in income from:
- a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
  - b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have ~~benefited~~ benefited if the victim had not been killed.

#### R10-4-102. Administration of the Fund

- A. The Commission shall ~~deposit~~ include in the Fund all funds ~~received under A.R.S. § 12-116.01 and any other funds~~ received for compensating a claimant under this Chapter.
- B. The Commission shall designate one operational unit for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using a an allocation formula that approved by the Commission, ~~determines annually using:~~
  - 1. ~~A base amount for each operational unit,~~
  - 2. ~~An analysis of the prior year's claim activity,~~
  - 3. ~~The share of population of each jurisdiction, and~~
  - 4. ~~The share of crime of each jurisdiction.~~
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes an operational unit for a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall designate an additional operational unit to accept claims from that jurisdiction or make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. ~~An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report the amount of additional funds received and distributed to compensate victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds. If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.~~
- HH. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.
- L. An operational unit shall pay approved compensation program benefit expenses using benefit category cost rate schedules approved by the Commission. If the Commission has not approved a cost rate schedule for a benefit category, or if an eligible benefit cost is not covered by the approved rate schedule, the operational unit may negotiate a reasonable and customary cost with the service provider for the approved benefit expense.

#### R10-4-103. Statewide Operation

For any jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article, designate another operational unit as described in R10-4-104, or provide for a program by contract.

#### R10-4-104. Operational Unit Requirements

- A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:
  - 1. Only if the public or private agency agrees not to:
    - a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
    - b. Make a distinction between a resident and a non-resident in evaluating a claim; and
    - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
  - 2. Only if the public or private agency agrees to:
    - a. Forward to the Board a claim relating to an incident of criminally injurious conduct ~~or an act of international terrorism~~ occurring in the public or private agency's jurisdiction or jurisdictions;
    - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct ~~or an act of international terrorism~~ occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
    - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct ~~or an act of international terrorism~~ occurring outside of the United States in an area without a an accessible crime compensation program;



- d. Notify the Commission of any change in the public or private agency’s program procedures or program policies before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
  - e. Submit a ~~written quarterly~~ financial and program activity report reports to the Commission, ~~on a form provided in a format required by the Commission, and at a frequency established annually by the Commission; and provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission;~~
  - f. Provide an application form to a claimant;
  - g. Comply with all civil rights requirements;
  - h. Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and
  - i. Monitor a compensation award to ensure that amounts paid are consistent with this Article.
- C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

**R10-4-106. Prerequisites for a Compensation Award**

- A. The Board shall make a compensation award only if it determines that:
- 1. Criminally injurious conduct ~~or an act of international terrorism~~:
    - a. Occurred in Arizona; or
    - b. Occurred outside of Arizona in an area without ~~a~~ an accessible crime compensation program and affected a resident;
  - 2. The criminally injurious conduct ~~or act of international terrorism~~ directly resulted in the victim’s physical injury, mental distress, medical condition, or death;
  - 3. The victim of the criminally injurious conduct ~~or act of international terrorism~~ or a person who submits a claim regarding criminally injurious conduct ~~or an act of international terrorism~~ was not:
    - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct ~~or act of international terrorism~~ that ~~directly resulted in the victim’s physical injury, mental distress, medical condition, or death~~ is the subject of the claim;
    - b. ~~Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conductor act of international terrorism that directly resulted in the victim’s physical injury, mental distress, medical condition, or death; At the time of the criminally injurious conduct that is the subject of the claim:~~
      - i. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough; or
      - ii. Incarcerated in any detention facility awaiting criminal sentencing or disposition.
    - c. ~~Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conductor act of international terrorism that directly resulted in the victim’s physical injury, mental distress, medical condition, or death; At the time of claim submission to the operational unit for a jurisdiction:~~
      - i. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough;
      - dii. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
      - eiii. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
    - d. Wanted in Arizona on an active warrant, if warrant status is discovered anytime following submission of the claim.
  - 4. The criminally injurious conduct ~~or act of international terrorism~~ was reported to an appropriate law enforcement authority within 72 hours after its discovery;
  - 5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
  - 6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct ~~or act of international terrorism~~ that is not compensable by a collateral source; and
  - 7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct ~~or act of international terrorism~~.
- B. The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.
- C. If a victim died as a result of criminally injurious conduct ~~or act of international terrorism~~, the ~~requirement~~ requirements under ~~subsection (A)(3)(e)~~ subsections (A)(3)(c)(ii), (A)(3)(c)(iii), and (A)(3)(d) ~~is are~~ waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.
- D. If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under ~~subsection (A)(3)(e)~~ subsections (A)(3)(c)(ii) and (A)(3)(c)(iii), the ~~requirement~~ requirements under ~~subsection (A)(3)(e)~~ subsections (A)(3)(c)(ii) and (A)(3)(c)(iii) may be waived for:
- 1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious ~~conduct or an act of international terrorism~~; or
  - 2. A compensation award for expenses under R10-4-108(C)(3).

**R10-4-107. Submitting a Claim**

- A. If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:
- 1. A victim;
  - 2. A derivative victim;
  - 3. A person authorized to act on behalf of a victim or a deceased victim’s dependent; or



4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.
- B. If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct ~~or act of international terrorism~~, the person shall submit a separate claim regarding each incident of criminally injurious conduct ~~or act of international terrorism~~.
- C. If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct ~~or act of international terrorism~~, each person shall submit a separate claim.
- D. To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit for the jurisdiction in which the incident of criminally injurious conduct occurred or to the operational unit for the jurisdiction in which a victim lives if the incident of criminally injurious conduct ~~is an act of international terrorism~~ or occurred in an area without a an accessible victim compensation program. The claimant shall provide the following:
  1. About the victim:
    - a. Full name,
    - b. Residential address,
    - c. Gender,
    - d. Date of birth,
    - e. Residential and work telephone numbers,
    - f. Statement of whether the victim is deceased,
    - g. Ethnicity,
    - h. Statement of whether the victim is a resident, and
    - i. Statement of whether the victim is disabled;
  2. About the claimant if the claimant is not the victim:
    - a. Full name;
    - b. Residential address;
    - c. Gender;
    - d. Date of birth;
    - e. Residential and work telephone numbers;
    - f. Relationship to the victim; and
    - g. If there are multiple victims or derivative victims of an incident of criminally injurious conduct ~~or act of international terrorism~~, the name, residential address, and date of birth of each, and for derivative victims, the relationship to the victim;
  3. About the crime:
    - a. Type of crime;
    - b. Statement of whether the crime was related to domestic violence;
    - c. Statement of whether the crime was a federal crime;
    - d. Date on which crime was committed;
    - e. Date on which crime was reported to law enforcement authorities;
    - f. Name of law enforcement agency to which the crime was reported;
    - g. Name of law enforcement officer to whom the crime was reported;
    - h. Law enforcement report number;
    - i. Location of crime;
    - j. Name of perpetrator, if known; and
    - k. Brief description of the crime and resulting injuries;
  4. About a civil lawsuit:
    - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
    - b. If the answer to subsection (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
  5. About benefits from collateral sources:
    - a. List of the benefits the claimant has received since the incident of criminally injurious conduct ~~or act of international terrorism~~ or is entitled to receive; and
    - b. For each benefit identified:
      - i. Type of benefit,
      - ii. Contact address and telephone number; and
      - iii. Claimant's identification or policy number;
  6. About the economic loss for which compensation is requested:
    - a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
    - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
    - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
    - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
    - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid;
    - f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10-4-108(C)(6) and if mileage is claimed, the date and mileage of each trip; and



- 7. The claimant's dated signature:
  - a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
  - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
  - c. Authorizing the release of confidential information necessary to administer the claim; and
  - d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct ~~or act of international terrorism~~ and is necessary to verify the claim.
- E. A claimant shall ~~attach~~ submit the following in addition to the claim form submitted under subsection (D):
  - 1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection (D)(6); ~~and~~
  - 2. If work loss expenses are claimed, a signed statement on official letterhead:
    - a. From the claimant's employer verifying the information provided under subsection (D)(6)(c); and
    - b. If applicable, from the physician or mental health care provider indicating the claimant:
      - i. Was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or
      - ii. Is totally and permanently disabled.
  - 3. Any documentation required by the operational unit to fully investigate and substantiate claimant eligibility and all claim expense requests.

**R10-4-108. Compensation Award Criteria**

- A. The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, the eligibility of the claimant, whether to make a compensation award, and ~~if so,~~ the terms and amount of the any compensation award. The Board shall make a decision within 60 days after the operational unit receives a complete and actionable claim under R10-4-107 unless good cause for delay exists. The Board shall inform the claimant in writing within 10 business days of the Board's decision.
- B. The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C. The Board shall make a compensation award only for the following:
  - 1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, mental health condition, or death.
    - a. The Board shall include the following as a medical expense:
      - i. Repair of damage to a victim's prosthetic device, eyeglasses or other corrective lenses, or a dental device; and
      - ii. Durable medical equipment required for treatment of the victim.
    - b. The Board shall not include as a medical expense ~~a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;~~
      - i. A charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary; and
      - ii. Any drug, substance, or chemical included under Schedule I of the Federal Controlled Substances Act 21 U.S.C. §812(c).
  - 2. Reasonable and customary work loss expenses for:
    - a. A victim whose ability to work is reduced due to physical injury, mental distress, or medical condition resulting from the criminally injurious conduct ~~or act of international terrorism~~;
    - b. ~~A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;~~
    - b. A victim or derivative victim to:
      - i. Make a medical or mental health counseling and care visit; or
      - ii. Attend a criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
    - c. A derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the derivative victim;
    - d. ~~A parent or guardian of a minor victim to transport or accompany the minor victim to a medical or mental health counseling and care visit or court proceeding directly related to the criminally injurious conduct or act of international terrorism;~~
    - d. A parent or guardian of a minor victim to transport or accompany the minor victim to:
      - i. A medical or mental health counseling and care visit; or
      - ii. A criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
    - e. A derivative victim to make funeral arrangements for a deceased victim, or tend to the affairs of a deceased victim ~~if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim~~; or
    - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required medically necessary as a result of the criminally injurious conduct ~~or act of international terrorism~~;
  - 3. Reasonable and customary funeral expenses. ~~Expenses~~ Personal attendee expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
  - 4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's mental distress resulting from the criminally injurious conduct ~~or act of international terrorism~~ if:
    - a. The mental health counseling and care is provided by an individual who:
      - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
      - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101, or





- b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct ~~or act of international terrorism~~ escaped prosecution or the prosecution of the suspect was negatively affected; or
- c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct ~~or act of international terrorism~~, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities; ~~or~~.
- 2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.
- I. If there are insufficient funds to make a compensation award, the Board may;
  - 1. Deny the claim,
  - 2. Make a partial award and reconsider the claim later during the fiscal year, or
  - 3. Extend the claim into a subsequent fiscal year.
- J. The Board shall not make a compensation award to pay attorney’s fees incurred by a victim or claimant.
- K. The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.
- ~~L. The operational unit may close an inactive claim:
 
  - 1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;
  - 2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case; and
  - 3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.~~

**R10-4-109. Hearing; Request for Rehearing**

- A. If the prerequisites in R10-4-106 are met, the Board shall conduct a hearing regarding a claim submitted under this Article.
- B. The Board shall provide a claimant with at least 10 business days’ notice of a hearing or rehearing.
- C. The Board shall provide written notice of its decision to the claimant within 10 business days after a hearing or rehearing.
- D. The Board shall serve notice of a compensation-award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.
- E. The ~~Board operational unit~~ may request a rehearing of a decision by the Board at any time and for any reason under this Article.
- F. A claimant who is aggrieved by a decision of the Board made at a hearing may request a rehearing of the decision within 30 days after the Board serves notice of the decision. A claimant shall request a rehearing in writing and specify the grounds for the request.
- G. A claimant may amend a request for a rehearing of a Board decision at any time before it is ruled on by the Board.
- H. The Board may require additional written explanation of an issue raised in a request for rehearing of a Board decision and may provide for oral argument.
- I. The Board shall grant a rehearing for any of the following reasons materially affecting a claimant’s rights:
  - 1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
  - 2. Misconduct of the Board, the operational unit, or staff of the operational unit;
  - 3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
  - 4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
  - 5. The decision is not justified by the evidence or is contrary to law.
- J. When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant’s rights.
- K. The Board may affirm or modify a decision on all or part of the issues for any of the reasons listed in subsection (I). An order modifying a decision shall specify with particularity the grounds for the order.

**R10-4-110. State-level Claim Review**

- A. A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 calendar days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- B. The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
  - 1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
  - 2. A representative of the Office of the Attorney General, and
  - 3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- C. The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 calendar days after receiving the written request required under subsection (A).
- D. A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- E. When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
  - 1. Considers only evidence previously presented to the Board, and
  - 2. Decides only whether the Board’s decision was consistent with the standards in this Article.
- F. The State Claim Review Panel may affirm or overturn a decision made by a Board.
- G. A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
  - 1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim; or
  - 2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.



- H. The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 business days after the state-level claim review.

## ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

### R10-4-201. Definitions

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
2. "Crime" means conduct, completed or preparatory, committed in Arizona that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
3. "Financial support from other sources" means that at least ~~one-fourth~~ one-fifth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
4. "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
5. "Immediate family" means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. "In-kind contribution" means a non-cash ~~donation source of program support~~ to which a cash value can be given.
7. "Subrogation" means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
8. ~~"Substantial financial support from other sources" means that at least half of the financial support to a victim assistance program is from sources, not including in-kind contributions, other than the Fund.~~
9. "Victim" means a natural person against whom a crime is perpetrated and the victim's immediate family.

### R10-4-202. Administration of the Fund

- A. The Commission shall deposit in the Fund all funds received ~~under A.R.S. § 31-467.06(B) and 31-411(F) and any other funds received~~ for victim assistance under this Chapter.
- B. The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution when possible and effective and efficient use of the funds.
- C. At least six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is [www.azcjc.gov](http://www.azcjc.gov).
- D. To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- E. The Commission's grant period coincides with the state's fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

### R10-4-203. Grant Eligibility Requirements

- ~~A.~~ A non-criminal justice governmental agency or private nonprofit organization may apply for and receive a grant from the Commission only if the non-criminal justice governmental agency or private nonprofit organization is approved by a prosecuting attorney's office or law enforcement agency.
- ~~BA.~~ A public agency or private nonprofit organization ~~qualified under subsection (A)~~ may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a program project that:
  1. Provides services described in R10-4-204 ~~to~~ benefitting victims or addressing victimization;
  2. Does not use Commission funds or federal funds to supplant funds otherwise available to the program project for victim assistance;
  3. Uses volunteers effectively and efficiently to provide ~~victim~~ services;
  4. Promotes coordinated public and private efforts to assist victims or address victimization within the community served;
  5. ~~Assists a victim in seeking available victim compensation benefits~~ Increases awareness of, and facilitates access to, available victim compensation benefits; and
  6. Complies with all applicable civil rights laws.
- ~~CB.~~ To receive a grant from the Commission, a public agency or private nonprofit organization that operates a ~~program that has existed for at least three years~~ project shall demonstrate to the Commission that the program project:
  1. Has ~~substantial financial support from a source other than the Fund~~ financial support from other sources; and
  2. Has a history of providing effective services ~~to victims in accordance with section (A)~~. The Commission shall determine whether the program's victim project's services are effective based on:
    - a. ~~The length of time the program has provided victim services~~ Evidence-based outcomes demonstrating project services are benefitting victims or addressing victimization, and
    - b. Whether data indicate program results are achieved in a cost-effective manner.
- ~~D.~~ To receive a grant from the Commission, a public agency or private nonprofit organization that operates a ~~program that has existed for fewer than three years~~ shall demonstrate to the Commission that the program:
  1. Has financial support from a source other than the Fund; and
  2. Is designed to meet a currently unmet need for a specific victim service.
- ~~EC.~~ To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:



1. Submit to the Commission ~~quarterly~~ financial reports, on a form provided by the Commission, at a frequency established by the Commission, containing detailed expenditures of funds received from the Commission and matching funds;
2. ~~Submit an annual report~~ Report project activity to the Commission, on a form provided by the Commission, at a frequency established annually by the Commission, and provide the following information:
  - a. ~~Number of victims served during the reporting period, by type of crime;~~
  - b. ~~Type of services provided;~~
  - c. ~~Number of times each service was provided;~~
  - d. ~~Ethnic background, age, and sex of each victim served;~~
  - e. ~~Type of assistance provided to victims in obtaining victim compensation;~~
  - f. ~~Number of times each type of assistance was provided; and~~
  - g. ~~A narrative assessment of the impact of Commission funds on the program.~~

**R10-4-204. Services**

- A. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services or services addressing victimization:
  1. Crisis intervention services to meet the urgent emotional or physical needs of a victim. ~~Crisis intervention services may include a 24-hour hotline for counseling or referrals for a victim;~~
  2. Emergency services including such as:
    - a. Temporary shelter or relocation for a victim who cannot safely remain in current lodgings;
    - b. ~~Petty cash~~ Emergency financial assistance for immediate needs related to transportation, food, shelter, and other necessities; and
    - c. Temporary repairs such as to doors, locks, and windows damaged as a result of a crime to prevent the home or apartment from being re-burglarized immediately further victimization;
  3. Support services, including such as:
    - a. ~~Counseling~~ Assistance dealing with the effects of victimization;
    - b. Assistance dealing with other social services and criminal justice agencies;
    - c. Assistance in replacing, or obtaining the return of property kept as evidence;
    - d. Assistance in dealing with the victim’s landlord or employer; and
    - e. Referral to other sources of assistance as needed;
  4. Court-related services, including such as:
    - a. Direct services or petty cash financial assistance that helps a victim participate in criminal justice proceedings, including transportation to court, such as child care, meals, and parking expenses; and
    - b. Advocate services including such as escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
  5. Notification services, including notifying a victim: such as those found in A.R.S Title 13, Chapter 40, Crime Victims’ Rights.
    - a. ~~Of significant developments in the investigation or adjudication of the case;~~
    - b. ~~That a court proceeding, for which the victim has been subpoenaed, has been canceled or rescheduled; and~~
    - c. ~~Of the final disposition of the case.~~
- B. A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to provide:
  1. ~~Training~~ Provide training for salaried paid or volunteer staff of criminal justice, social services, mental health, or related agencies, agencies who provide direct services to directly benefitting victims; and
  2. ~~Printing and distributing brochures or similar announcements~~ Produce educational or outreach materials describing the direct services available, how to obtain program assistance, and volunteer opportunities; and
  3. Provide training or services focused on preventing initial victimization or further victimization connected to violent crime.
- C. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:
  1. ~~Crime~~ Broad crime prevention efforts, other than those aimed at providing specific emergency help after an individual is victimized services addressing victimization;
  2. General public relations programs;
  3. Advocacy for a particular legislative or administrative reform;
  4. General criminal justice agency improvement; or
  5. A ~~program~~ project in which victims are not the primary beneficiaries, or a project not directly addressing victimization;
  6. ~~Management training or training for persons who do not provide direct services to a victim; or~~
  7. ~~Victim Compensation provided under this Chapter.~~



**NOTICES OF FINAL EXPEDITED RULEMAKING**

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

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

**NOTICE OF FINAL EXPEDITED RULEMAKING  
TITLE 9. HEALTH SERVICES  
CHAPTER 8. DEPARTMENT OF HEALTH SERVICES  
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

[R18-29]

**PREAMBLE**

- |   |                                 |
|---|---------------------------------|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| Article 3   | Amend                           |
| R9-8-301  | Amend                           |
| R9-8-302  | Amend                           |
| R9-8-303  | New Section                     |
| R9-8-304  | Amend                           |
| R9-8-306  | Repeal                          |
| R9-8-307  | Repeal                          |
- 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. §§ 36-104(1)(b)(i), 36-136(A)(7) and 36-136(G)  
 Implementing statutes: A.R.S. §§ 36-136(A)(6), 36-601, 36-602, and 36-603
- 3. The effective date of the rules:**  
 February 7, 2018 (*The rules were effective immediately upon filing the Notice of Final Expedited Rulemaking with the Office of the Secretary of State*).
- 4. Citations to all related notices published in the Register that pertain to the record of the Notice of Final Expedited Rulemaking:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 3363, December 8, 2017  
 Notice of Proposed Expedited Rulemaking: 23 A.A.R. 3356, December 8, 2017
- 5. The agency’s contact person who can answer questions about the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Eric Thomas, Chief   |
| Address:   | Arizona Department of Health Services<br>Division of Public Health Services, Public Health Preparedness<br>Office of Environmental Health<br>150 N. 18th Ave., Suite 140<br>Phoenix, AZ 85007-3248 |
| Telephone: | (602) 364-3142   |
| Fax:       | (602) 364-3146   |
| E-mail:    | Eric.Thomas@azdhs.gov  |
|            | or   |
| Name:      | Robert Lane, Chief   |
| Address:   | Arizona Department of Health Services<br>Office of Administrative Counsel and Rules<br>150 N. 18th Ave., Suite 200<br>Phoenix, AZ 85007  |
| Telephone: | (602) 542-1020   |
| Fax:       | (602) 364-1150   |
| E-mail:    | Robert.Lane@azdhs.gov  |
- 6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**  
 The five-year-review report (Report) for 9 A.A.C. 8, Article 3, was approved by the Governor’s Regulatory Review Council on September 6, 2017. The Report identified that the rules are not consistent with the statutory change under Laws 2001, Ch. 19, §1,



effective August 9, 2001. Laws 2001, Ch. 19, §1 removed the Arizona Department of Health Services' (Department) authority to regulate sanitary conditions for public and semipublic buildings. The Report also identified that the rules contain citations to A.A.C. Title 18 rules that have been recodified or repealed, as well as definitions that are unnecessary or outdated. As reported, the Department plans to amend the rules to comply with Laws 2001, Ch. 19 § 1; update or delete A.A.C. Title 18 citations; and amend, add, or delete definitions to make the rules more specific to portable toilets used for special events. Amending these rules as identified in the Report meets the criteria for expedited rulemaking. The changes identified will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of a regulated person as prescribed in A.R.S. § 41-1027(A). The rulemaking further meets the criteria for expedited rulemaking by implementing a course of action proposed in a five-year-review report, prescribed in A.R.S. § 41-1027(A)(7). The Department believes amending these rules will eliminate confusion and reduce regulatory burden.

**7. 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 for this expedited rulemaking.

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

Not applicable

**9. The agency 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).**

The agency is excluded from providing an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

**10. A description of any changes between the proposed expedited rulemaking and the final expedited rulemaking.**

Between the proposed expedited rulemaking and the final expedited rulemaking, no changes were made to the expedited rulemaking.

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

The Department did not receive public or stakeholder comments about the expedited rulemaking.

**12. Any 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 specifically to the Department or this specific rulemaking.

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

The rule does not require the issuance of a permit.

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

Federal law does not apply to the rule.

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

No such analysis was submitted.

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

Not applicable

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

The rule was not previously made as an emergency rule.

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

**TITLE 9. HEALTH SERVICES  
CHAPTER 8. DEPARTMENT OF HEALTH SERVICES  
FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION  
  
ARTICLE 3. PUBLIC TOILETS ~~FACILITIES~~ PORTABLE TOILETS**

Section  
R9-8-301. Definitions  
R9-8-302. ~~Persons Responsible~~ General Requirements  
R9-8-303. ~~Expired~~ Public Portable Toilet Requirements  
R9-8-304. ~~Constructing and Maintaining a Portable Toilet~~ Inspections  
R9-8-306. ~~Special Events~~ Repealed  
R9-8-307. ~~Disposal of Sewage and Refuse~~ Repealed



### ARTICLE 3. PUBLIC TOILET FACILITIES PORTABLE TOILETS

#### R9-8-301. Definitions

In this Article:

1. "Bathroom" means a restroom that contains a shower or bathtub.
1. "Clean" means free of dirt, litter, and the remains of something that has broken or torn into pieces.
2. "Department" means the Department of Health Services.
2. "Complaint" means information indicating the need for inspection due to possible violations of this Article.
3. "Director" means the Director of the Department of Health Services.
3. "Durable" means capable of withstanding expected use and remaining easily cleanable.
4. "Flooded" means a sanitary fixture that is overflowing sewage or filled with sewage to the point of overflowing.
4. "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.
5. "Lavatory" means a sink or basin for cleansing hands.
5. "Human excreta" means fecal and urinary discharges and includes any waste that contains this material.
6. "Leakproof" means designed and constructed to prevent a substance from escaping.
7. "Non-absorbent" means incapable of being penetrated by liquid, such as a material coated or treated with rubber, plastic, or other sealing surface.
6. "Person" means a governmental agency, individual, organization, association, partnership, business, corporation, or company.
7. "Plumbing system" means sanitary fixtures, pipes, and related parts assembled to carry water into a structure and or carry sewage out of a structure.
8. "Portable hand-wash station" means a transportable sink or basin with a faucet for cleaning hands that supplies water and is:
  - a. Not connected to a sewage collection system,
  - b. Connected to a leakproof tank to receive and store waste water, and
  - c. Located in a public place.
8. "Portable toilet" means a transportable toilet connected to a leakproof tank to receive and store sewage temporarily.
9. "Portable toilet enclosure" means a structure that is capable of being moved and that houses a public portable toilet.
9. "Potable" means water obtained from a source or distribution system that complies with the requirements of the Department of Environmental Quality as provided in 18 A.A.C. 4.
10. "Putrescible waste" means a solid or semisolid waste material that is likely to decompose, decay, spoil, rot, or provide food for insects, rodents, birds, or other pests.
10. "Public nuisance" means activities or conditions that may be subject to A.R.S. § 36-601.
11. "Public place" means all or any portion of an area, land, or structure that is open to or may be accessed by any individual.
12. "Public portable toilet" means a toilet seat and toilet, or toilet seat, toilet, and urinal that is:
  - a. Not connected to a sewage collection system,
  - b. Connected to a leakproof tank to receive and store sewage temporarily,
  - c. Located in a public place, and
  - d. Housed in a portable toilet enclosure.
13. "Public restroom" means a structure or room that:
  - a. Is not connected to living or sleeping quarters;
  - b. Contains a lavatory and water closet or a lavatory, water closet, and urinal connected to a sewage collection system; and
  - c. Is located in a public place.
14. "Refuse" means putrescible and nonputrescible solid and semisolid waste, including trash, garbage, or rubbish the same as in A.A.C. R18-13-302.
15. "Regular basis" means at recurring, fixed, or uniform intervals.
16. "Regulatory authority" means:
  - a. The Arizona Department of Health Services; or
  - b. One of the following entities as specified in A.R.S. § 36-136(E):
    - i. A local health department;
    - ii. A county environmental department; or
    - iii. A public health services district.
17. "Responsible person" means an individual, partnership, corporation, association, governmental subdivision, state agency, or a public or private organization of any character that owns or manages the direct use of a public portable toilet within the state.
12. "Restroom" means a structure or room containing a lavatory and toilet, or lavatory, toilet, and urinal, available to a guest or customer of a business or governmental agency, and unconnected to dwelling or sleeping quarters.
18. "Sanitary" means free from filth, bacteria, viruses, mold, and fungi.
13. "Sanitary fixture" means a bathtub, floor drain, lavatory, shower, toilet, or urinal connected to a plumbing system.
14. "Sewage" means the liquid waste contained in a sanitary fixture or sanitary fixture drain pipe or any liquid-containing putrescible particles, feces, or urine the waste from a toilet, urinal, sink, and portable hand-wash station.
19. "Sewage collection system" has the same meaning as in A.A.C. R18-9-101.
20. "Sewage storage tank" means a receptacle for the collection and holding of the waste from a portable toilet.
15. "Special event" means a group of 100 or more individuals gathered together in lawful assembly for 4 or more hours in an outdoor area that does not have restroom or bathroom facilities.
22. "Toilet" means a water-flushed, chemical-flushed, or no-flush bowl for the disposal of human excreta.
23. "Toilet seat" means a detachable, split or U-shaped seat made of non-absorbent material hinged to the top of a toilet and used for sitting.
16. "Urinal" means a water-flushed, chemical-flushed, or no-flush upright basin used by males for urination only.



- 25. “Vent pipe” means a hollow cylinder of metal, plastic, or other material that allows gas to escape from a sewage storage tank.
- 26. “Water closet” means the same as in A.R.S. § 45-311.

**R9-8-302. ~~Persons Responsible~~ General Requirements**

An owner of a bathroom, restroom, or portable toilet, or a person who administers a special event, shall comply with the provisions of this Article.

- A.** A responsible person or the responsible person’s designee shall comply with the requirements in this Article and with federal and state laws and rules and local codes and ordinances governing public portable toilets.
- B.** A violation of this Article shall constitute a public nuisance under A.R.S. § 36-601.

**R9-8-303. ~~Expired~~Public Portable Toilet Requirements**

**A.** A responsible person or the responsible person’s designee shall ensure that:

- 1. A public portable toilet:
  - a. Is clean;
  - b. Is sanitary;
  - c. Is maintained to avoid odors and insect or vermin infestation;
  - d. Has a non-absorbent, durable, smooth, leakproof, and rustproof floor, wall, ceiling, and door materials;
  - e. Has a vent pipe connected to a sewage storage tank that:
    - i. Is wide enough in diameter to prevent the build up of gasses, and
    - ii. Extends upwards from the sewage storage tank through the roof of the portable toilet enclosure;
  - f. Has a supply of toilet paper that is replenished before running out; and
  - g. Has a self-closing door and privacy latch on the door;
- 2. Except as provided in subsection (B), one public portable toilet is deployed for the first 100 individuals using or expected to use public portable toilet facilities and one additional public portable toilet is deployed for each additional 100 individuals;
- 3. Each public portable toilet’s sewage storage tank is pumped out on a regular basis to keep the public portable toilet operating as designed;
- 4. Facilities for washing or sanitizing hands are provided as follows:
  - a. Except as provided in subsection (B), working portable hand-wash stations are deployed at a minimum rate of one per 10 public portable toilets;
  - b. Soap, water, and single use towels are continuously provided at each portable hand-wash station; and
  - c. Where conditions make the use of soap and water impractical, the regulatory authority may allow sanitizing gel in place of soap and water; and
- 5. Public portable toilets are located a minimum of 100 feet from any food establishment.

**B.** A responsible person or the responsible person’s designee shall ensure that sewage, human excreta, and refuse produced in a public portable toilet:

- 1. Does not create a public nuisance; and
- 2. Is disposed of according to 18 A.A.C. 13, Article 3 or 18 A.A.C. 13, Article 11.

**C.** The regulatory authority may adjust the number of public portable toilets required in subsection (A)(2) and portable hand-wash stations required in (A)(5)(a) provided based on the estimated number of users, the duration of use, and the availability of public restrooms within 200 feet of the public portable toilet.

**R9-8-304. ~~Constructing and Maintaining a Portable Toilet~~ Inspections**

**A.** A portable toilet shall be built and maintained to include:

- 1. A sewage storage tank, toilet seat, toilet, and urinal made of durable, smooth, leakproof, and rustproof materials;
- 2. Waterproof and durable floor, wall, ceiling, and door materials;
- 3. A vent pipe 3 inches in diameter connected to the sewage storage tank and extending 6 inches above the roof of the toilet enclosure; and
- 4. A constant supply of toilet paper from a toilet paper dispenser.

**A.** If a regulatory authority receives a complaint regarding a public portable toilet, the regulatory authority may conduct an inspection.

**B.** If a regulatory authority conducts an inspection, the regulatory authority’s inspector shall conduct the inspection according to A.R.S. § 41-1009.

**R9-8-306. ~~Special Events~~ Repealed**

**A.** Portable toilets and refuse containers shall be deployed at a special event as follows:

- 1. One portable toilet for the first 100 people, and one portable toilet for each additional 100 people, or portion thereof;
- 2. One refuse container for the first 100 people, and one refuse container for each additional 100 people, or portion thereof; and
- 3. Within 200 feet of the special event place.

**B.** Sewage and refuse generated at a special event shall be collected and disposed of under R9-8-307(A), (B), (C), and (E).

**R9-8-307. ~~Disposal of Sewage and Refuse~~ Repealed**

**A.** The collection, storage, and treatment of sewage and refuse shall comply with the requirements of the Department of Environmental Quality under:

- 1. 18 A.A.C. 8, Article 6, and 18 A.A.C. 9, Articles 7 and 8, for sewage; and
- 2. 18 A.A.C. 8, Article 5, for refuse.

**B.** A disposable refuse bag shall be used to store refuse generated at a special event. A full refuse bag shall be tied closed before disposal in accordance with subsection (A).

**C.** A refuse container in a bathroom or restroom, or at a special event, shall be free of accumulations of putrescible waste.



- ~~D. A bathroom or restroom exclusively for female use, or a combination male and female use restroom shall be provided with a refuse container with a matching lid.~~
- ~~E. An overflowing refuse container in a bathroom or restroom, or at a special event, is prohibited.~~

**NOTICE OF FINAL EXPEDITED RULEMAKING  
TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION**

[R18-27]

**PREAMBLE**

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

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R12-4-601	Renumber
R12-4-601	New Section
R12-4-602	Renumber
R12-4-602	Amend
R12-4-603	Renumber
R12-4-603	Amend
R12-4-604	Renumber
R12-4-604	Amend
R12-4-605	Renumber
R12-4-605	Amend
R12-4-606	Renumber
R12-4-606	Amend
R12-4-607	Renumber
R12-4-607	Amend
R12-4-608	New Section
R12-4-609	Amend
R12-4-610	Amend
R12-4-611	Amend
  
- 2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. §§ 17-231(A)(1) and 41-1027(A)  
 Implementing statute: A.R.S. §§ 17-231(B)(1), 17-231(B)(12), 17-231, 17-234, 17-304, 17-314, 17-340, 41-1003, 41-1023, 41-1033, and Title 41, Chapter 6, Article 10
  
- 3. The effective date of the rules:**  
 February 6, 2018
  - a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
 The rule is effective immediately upon filing with the Secretary of State's office as authorized under A.R.S. § 41-1027(H), which allows for an immediate effective date upon filing the Notice of Expedited Rulemaking with the Secretary of State's Office.
  - b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):**  
 Not applicable
  
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 2863, October 13, 2017  
 Notice of Proposed Expedited Rulemaking: 23 A.A.R. 2840, October 13, 2017
  
- 5. The agency's contact person who can answer questions about the rulemaking:**  
 Name: Celeste Cook, Rules and Policy Manager  
 Address: Arizona Game and Fish Department  
 5000 W. Carefree Highway  
 Phoenix, AZ 85086  
 Telephone: (623) 236-7390  
 Fax: (623) 236-7110  
 E-mail: CCook@azgfd.gov



Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda and all previous Five-year Review Reports; and learn about any other agency rulemaking matters at <https://www.azgfd.com/agency/rulemaking/>.

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

The Arizona Game and Fish Commission proposes to amend its rules following the 2017 five-year rule review of Article 6, Rules of Practice Before the Commission, to enact recommendations developed during the five-year review. The recommended amendments are designed to align the rule with statute, enable the Department to provide better customer service, and reduce regulatory and administrative burdens wherever possible.

Under A.R.S. § 41-1027, an agency may use the expedited rulemaking process to if the rulemaking does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights of persons regulated and does one or more of the following: (A)(3) clarifies language of a rule without changing its effect; (A)(5) reduces or consolidates steps, procedures, or processes in the rules; or (A)(7) implements, without material change, a course of action that is proposed in a five-year review report approved by the Governor's Regulatory Review Council (G.R.R.C.) pursuant to A.R.S. § 41-1056 within one hundred eighty days of the date that the agency files the Notice of Proposed Expedited Rulemaking with the Secretary of State. The Commission approved the Article 6 Five-year Review Report (5YRR) at the December 2, 2016 Commission Meeting and G.R.R.C. approved the Article 6 5YRR at the March 7, 2017 Council Meeting.

An exemption from Executive Order 2015-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated May 1, 2017.

**R12-4-601. Petition for Rule or Review of Practice or Policy**

The objective of the rule is to establish the manner and form in which a person may petition the Commission to adopt, amend, or repeal a rule or review an agency practice or policy. Under A.R.S. § 41-1033, all state agencies are required to establish the manner and form by which a person may petition the agency to request the making of a final rule or the review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule. The Commission proposes to adopt a definitions rule and transfer definitions provided within Article 6 rules to R12-4-601, and then renumber rules R12-4-601 through R12-4-607 to increase consistency between Commission rules and ensure conformity with the Arizona Administrative Procedures Act and Secretary of State's rulemaking format and style requirements and standards. The Commission proposes to renumber the rule to R12-4-602. The Commission also proposes to define the terms "business day", "Commission Chair" and "respondent" to clarify the terms referenced within Article 6 to ensure the consistent interpretation of Commission rules. A person is required to submit a petition that meets specific formatting requirements. In an effort to reduce the burden and costs to the regulated public and simplify and enhance the public petition process, the Commission also proposes to amend the rule to require a petitioner to use a form furnished by the Department. The proposed form will reduce the number of non-compliant petitions received by the Department by ensuring all petitions contain the applicable information; this will also reduce the amount of time spent by Department employees on working with petitioners to correct petitions that do not meet the requirements established under rule. This amendment will streamline the process going forward and ensure consistency in all future petitions. In addition, to increase consistency between Commission rules, the Commission proposes to amend the rule to require a person submitting a petition to provide a physical and mailing address (if different from the physical address) and an email address when one is available. The Commission also proposes to increase the amount of time in which the Department must review and accept or return the petition and the time in which the Commission must hear the petition to increase consistency between all Commission petition rules. The Commission proposes to amend the rule to replace the term "Director" with "Department" to reduce regulatory ambiguity. Because the petition process is delegated to appropriate Department staff for evaluation and recommendation of the proposed change, this amendment will make the rule more concise and ensure consistency between Commission rules. In addition, the Commission proposes to amend the rule to remove the statement that a petition shall be retained by the Department for a period of five-years and considered as a comment during the next five-year review process. This requirement is already prescribed under A.R.S. § 41-1056, it is not necessary to include the statement in rule.

**R12-4-602. Written Comments on Proposed Rules**

The objective of the rule is to establish requirements for written comments submitted to the Department in response to a notice of proposed rulemaking. Under A.R.S. § 41-1029, all state agencies are required to maintain all written petitions, requests, submissions, and comments received by the agency in connection with the rule. The Commission proposes to renumber the rule to R12-4-603. The Department recognizes the requirements specific to comments submitted on behalf of a group or organization are difficult to enforce. The Commission believes this information is necessary to determine the origin of the comment and the extent of its influence. Often, the person who submits a comment on behalf of a group or organization does not include all of the information required to classify the comment as that of the organization. The Department then attempts to obtain the required information by contacting the person who submitted the comment; this is often a time-consuming process for Department staff. The Commission proposes to amend the rule to clarify how comments submitted on behalf of a group or organization are recorded when the person fails to include all of the required information to reduce the resources spent by Department staff and prevent administrative delay. The Commission also proposes to amend the rule to remove the requirement that a group or organization provide the type of memberships available and number of Arizona residents represented by the group as this information serves no useful purpose and to reduce the burdens and costs to persons regulated by the rule. In addition, the Commission proposes to amend the rule to remove unnecessary verbiage and list requirements specific to comments submitted on behalf of a group or organization to make the rule more concise and reduce regulatory ambiguity.

**R12-4-603. Oral Proceedings Before the Commission**

The objective of the rule is to establish the Commission's operational process for oral proceedings held before the Commission. Under A.R.S. § 41-1023(F), each agency may make rules for the conduct of oral rulemaking proceedings, and may include provisions calculated to prevent undue repetition in the oral proceedings. The Commission proposes to renumber the rule to R12-4-604.



The Commission proposes to amend the rule to repeal the definition of “matter” and “proceeding” as the common-use definition is satisfactory. The Commission proposes to amend the rule to replace references to “Chair” with “Commission Chair” to increase consistency between Commission rules and Department publications. The Commission also proposes to amend the rule to list oral proceeding authorizations and requirements to make the rule more concise. In addition, the Commission proposes to amend the rule to remove “based on the amount of time available” to make the rule more concise. All of these amendments are proposed to reduce or consolidate steps, procedures, or processes in the rule and reduce regulatory ambiguity.

#### **R12-4-604. Ex Parte Communication**

The objective of the rule is to establish communication prohibitions during the course of Commission decision processes. The Commission proposes to renumber the rule to R12-4-605. The Commission proposes to amend the rule to repeal the definition of “individual outside the Commission” as the term is no longer referenced in rule. The Commission proposes to amend the rule to transfer the definition of “ex parte communication” to R12-4-601 to ensure conformity with the Arizona Administrative Procedures Act and Secretary of State's rulemaking format and style requirements and standards. Under A.R.S. § 17-340(G), the Commission may use the services of the Office of Administrative Hearings to conduct hearings and make recommendations to the Commission. The Office of Administrative Hearings adheres to the requirements of R2-19-105. Ex Parte Communications, not this rule. Thus, the Commission proposes to remove the reference to “hearing office.” The Commission compared its rule to rules governing rehearing or review made by other self-supporting agencies (Arizona Medical Board, State Board of Dental Examiners, Office of Administrative Hearings, and State Board of Accountancy) and, as a result of this comparison, the Commission proposes to amend the rule to remove language referencing the service of a memorandum and copies of each response and memorandum for each oral response to any ex parte communication received by the Commissioner as these are self-imposed burdens that serve no valid purpose. Because only members of the Commission are truly involved in the decision-making process and all persons are subject to the rule, the Commission proposes to remove redundant language from the rule to make the rule more concise. All of these amendments are proposed to reduce or consolidate steps, procedures, or processes in the rule and reduce regulatory ambiguity.

#### **R12-4-605. Standards for Revocation, Suspension, or Denial of a License**

The objective of the rule is to establish standards for the revocation, suspension, or denial of a Department-issued license (this includes hunting and fishing licenses, special licenses issued under Article 4, and fur dealer, guide, license dealer, and taxidermy licenses). The Commission proposes to renumber the rule to R12-4-606. Under A.R.S. § 17-340, the Commission may, after a public hearing, revoke or suspend a license issued to any person under Title 17 and deny that person the right to secure another license to take or possess wildlife. Laws 2006, Second Regular Session, Chapter 238 amended A.R.S. §§ 17-309 and 17-340 to include additional violations that may result in the suspension, revocation, or denial of a Department-issued license and the length of time for suspension, revocation, and denial actions. Under subsection (A), the Commission may hold a revocation hearing for a person convicted of certain violations; under Subsection (B), the Commission may hold a revocation hearing if the Department recommends a revocation, suspension, or denial for a person convicted of other violations. Currently under subsection (A), any person convicted of violating a wildlife law must go through the revocation hearing process. The Commission proposes to amend the rule to only require a revocation hearing upon recommendation of the Department. This change will provide the Department and Commission with greater flexibility in enforcing the rule and will reduce the burdens and costs to persons regulated by the rule. The Commission proposes to amend the rule to increase consistency between Commission rules and statute to reduce regulatory ambiguity. The Commission also proposes to amend the rule to replace references to “supports the following conclusion” with “indicates” to increase consistency between subsections. In addition, the Commission proposes to amend the rule to provide additional clarity by removing redundant language and restructuring the rule to more closely mirror A.R.S. § 17-340.

#### **R12-4-606. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages**

The objective of the rule is to establish the proceedings for license revocation, suspension, or denial of Department issued licenses (this includes hunting and fishing licenses, special licenses issued under Article 4, and fur dealer, guide, license dealer, and taxidermy licenses) and the assessment of civil damages. The Commission proposes to renumber the rule to R12-4-607. Under A.R.S. § 17-340, the Commission may, after a public hearing, revoke or suspend a license issued to any person under Title 17 and deny that person the right to secure another license to take or possess wildlife. Under A.R.S. § 17-314, the Commission may bring a civil action in the name of the state against any person unlawfully taking, wounding or killing, or unlawfully in possession of certain wildlife. The Commission proposes to amend the rule to clearly indicate the rule applies only to actions taken under A.R.S. § 17-340 to reduce regulatory ambiguity. The Commission also proposes to amend the rule to remove redundant language to make the rule more concise and understandable. Laws 2006, Second Regular Session, Chapter 238 amended A.R.S. § 17-340 to include additional time-frames for such suspension, revocation, or denial actions resulting from subsequent violations. As a result, a person's license may be revoked for five years, ten years, or permanently, depending on the number of convictions. In addition, the Commission proposes to amend the rule to reflect amendments made to statute to reduce regulatory ambiguity.

#### **R12-4-607. Rehearing or Review of Commission Decisions**

The objective of the rule is to establish the requirements for rehearing or review of a Commission decision. Under A.R.S. § 41-1092.09, a party may file a motion for rehearing or review within thirty days after service of the final administrative decision. A rehearing follows a Commission decision to revoke or suspend a person's license. A review is a Commission hearing on the Department's decision to deny a license to a person. The Commission proposes to renumber the rule to R12-4-608. The Commission proposes to amend the rule to transfer definitions included in this rule to R12-4-601 to ensure conformity with the Arizona Administrative Procedures Act and Secretary of State's rulemaking format and style requirements and standards. On occasion, a person fully intends to file an appeal to a Commission decision with the Maricopa County Superior Court, but unknowingly eliminates that option by failing to file a motion for rehearing or review with the Commission. The Commission proposes to amend the rule to indicate a person who fails to file a timely motion for rehearing or review is prohibited from seeking a judicial review of the



Commission's decision to clarify when a rehearing or review is required and reduce regulatory ambiguity. The Commission proposes to remove the requirement that a person filing a motion for rehearing or review attach a supporting memorandum, specifying the grounds for the motion to reduce the burdens and costs to persons regulated by the rule as this information may be gleaned from the motion itself. During this review the Department compared this rule to rules governing rehearing or review made by other self-supporting agencies (Arizona Medical Board, State Board of Dental Examiners, and State Board of Accountancy) and, as a result of this comparison, the Commission proposes to amend the rule to clarify filing time-frames, extend the time in which the Commission may initiate a rehearing or review, and specify the time-frame in which the Commission shall hold the rehearing or review. These changes are made to increase clarity, make the rule more concise, and reduce regulatory uncertainty.

**R12-4-609. Commission Orders**

The objective of the rule is to establish the public process for the consideration of a Commission Order. Under A.R.S. § 17-234, the Commission shall by order open, close or alter seasons and establish bag and possession limits for wildlife, but a Commission Order to open a season shall be issued not less than ten days prior to the opening date. The Commission proposes to amend the rule to reduce the time in which the Department must post a public meeting notice and agenda and provide a draft of the proposed Commission Order from 20 days to 14. Due to leaner processes and technological advances, the Department is able to provide the required information in a shorter amount of time. In addition, an incident involving Tempe Town Lake gave light to the fact that the Commission does not have sufficient authority to issue an Order establishing a special season to allow the take of fish by additional methods on waters where a fish die-off is imminent due to the public meeting notice time-frame requirement. In addition, to ensure the Commission is able to respond more quickly should a similar situation arise, the Commission proposes to amend the rule to allow the Commission to exempt the Commission and Department from the 14-day time-frame in order to review an order establishing a special season, allowing fish to be taken by additional methods on waters where a fish die-off is imminent to reduce processes in the rule.

**R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles**

The objective of the rule is to establish the requirements for submitting a petition for the closure of state or federal lands to hunting, fishing, trapping, or operation of motor vehicles. Under A.R.S. § 17-452, the Commission may, with the concurrence of the land management agency involved and after a public hearing, order such area closed to motor vehicles for not more than five years from the date of such closure, provided that all roads in such area shall remain open unless specifically closed. A person is required to submit a petition that meets specific formatting requirements. In an effort to reduce the burden and costs to the regulated public and simplify and enhance the public petition process, the Commission also proposes to amend the rule to require a petitioner to use a form furnished by the Department. The proposed form will reduce the number of non-compliant petitions received by the Department by ensuring all petitions contain the applicable information; this will also reduce the amount of time spent by Department employees on working with petitioners to correct petitions that do not meet the requirements established under rule. This amendment will streamline the process going forward and ensure consistency in all future petitions. In addition, to increase consistency between Commission rules, the Commission proposes to amend the rule to require a person submitting a petition to provide a physical and mailing address (if different from the physical address) and an email address when one is available. The Commission also proposes to increase the amount of time in which the Department must review and accept or return the petition and the time in which the Commission must hear the petition to increase consistency between all Commission petition rules. In addition, the Commission proposes to amend the rule to replace the term "Director" with "Department" to reduce regulatory ambiguity. Because the petition process is delegated to appropriate Department staff for evaluation and recommendation of the proposed change, this amendment will make the rule more concise and ensure consistency between Commission rules.

**R12-4-611. Petition for Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy**

The objective of the rule is to establish the method and form a person shall use to petition the Arizona Game and Fish Commission when no remedy is provided in statute, rule, or policy. A person is required to submit a petition that meets specific formatting requirements. In an effort to reduce the burden and costs to the regulated public and simplify and enhance the public petition process, the Commission also proposes to amend the rule to require a petitioner to use a form furnished by the Department. The proposed form will reduce the number of non-compliant petitions received by the Department by ensuring all petitions contain the applicable information; this will also reduce the amount of time spent by Department employees on working with petitioners to correct petitions that do not meet the requirements established under rule. This amendment will streamline the process going forward and ensure consistency in all future petitions. In addition, to increase consistency between Commission rules, the Commission proposes to amend the rule to require a person submitting a petition to provide a physical and mailing address (if different from the physical address) and an email address when one is available. The Commission also proposes to increase the amount of time in which the Department must review and accept or return the petition and the time in which the Commission must hear the petition to increase consistency between all Commission petition rules. In addition, the Commission proposes to amend the rule to replace the term "Director" with "Department" to reduce regulatory ambiguity. Because the petition process is delegated to appropriate Department staff for evaluation and recommendation of the proposed change, this amendment will make the rule more concise and ensure consistency between Commission rules.

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

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



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

Not applicable

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

Under A.R.S. § 41-1027, the rulemaking is exempt from this requirement; however, the Commission offers the following: The proposed rulemaking implements changes the Department proposed to make as a result of the most recent five-year review of Article 6. The Commission's intent in proposing these amendments is to align the rule with statute, enable the Department to provide better customer-service, and reduce regulatory and administrative burdens wherever possible. The Commission believes the majority of the rulemaking will benefit persons regulated by the rule, members of the public, and the Department by clarifying rule language, creating consistency among existing Commission rules, reducing the burden on the regulated community where practical, implementing customer-service-oriented processes, and allowing the Department additional oversight where necessary. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. In addition to the cost of rulemaking, the Commission anticipates the Department will incur costs to implement the proposed amendments; however, these amendments will not require new full-time employees. Therefore, the Commission has determined that the benefits of the rulemaking outweigh any costs.

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

Minor grammatical and formatting corrections that were made at the request of Governor's Regulatory Review Council staff.

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

In addition to the publication of the Notice of Proposed Expedited Rulemaking in the *Arizona Administrative Register*, the Department posted the Notice of Proposed Expedited Rulemaking to the Department's website, from September 15 to October 15, 2017, for the purpose of public comment. In addition, on October 15, 2017, the Department emailed information regarding the proposed rulemaking to persons interested in receiving rulemaking notices. The Department also issued a press release regarding the proposed changes included in the Notice of Proposed Expedited Rulemaking and the Department's contact information for persons interested in submitting a comment. The Department did not receive any public or stakeholder comments in response to the proposed expedited rulemaking.

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

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

The rule does not require a general permit.

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

The subject matter covered in the rulemaking are governed by state law rather than any 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:**

The agency has not received an analysis that compares the rule's impact of competitiveness of business in this state to the impact on business in other states.

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

Not applicable

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

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

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

**TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION**

Section

R12-4-601. Definitions

R12-4-601.R12-4-602. Petition for Rule or Review of Practice or Policy

R12-4-602.R12-4-603. Written Comments on Proposed Rules

R12-4-603.R12-4-604. Oral Proceedings Before the Commission

R12-4-604.R12-4-605. Ex Parte Communication



- R12-4-605-R12-4-606. Standards for Revocation, Suspension, or Denial of a License
- R12-4-606-R12-4-607. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages
- R12-4-608. ~~Expired~~
- R12-4-607-R12-4-608. Rehearing or Review of Commission Decisions
- R12-4-609. Commission Orders
- R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles
- R12-4-611. Petition for Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

**ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION**

**R12-4-601. Definitions**

The following definitions apply to this Article unless otherwise specified:

- “Appealable agency action” has the same meaning as provided under A.R.S. § 41-1092.
- “Business day” means any day other than a furlough day, Saturday, Sunday, or holiday.
- “Commission Chair” means the person who presides over the Arizona Game and Fish Commission.
- “Contested case” has the same meaning as provided under A.R.S. § 41-1001.
- “Ex parte communication” means any oral or written communication with a Commissioner by a party concerning a substantive issue in a contested proceeding that is not part of the public record.
- “Party” has the same meaning as provided under A.R.S. § 41-1001.
- “Respondent” means the person named as the respondent in a notice of hearing issued by the Department.

~~R12-4-601~~**R12-4-602. Petition for Rule or Review of Practice or Policy**

- A. Any individual, including any organization or agency, requesting that the Commission make, amend, or repeal a rule, shall submit a petition as prescribed under this Section. ~~A person may petition the Commission under A.R.S. § 41-1033 for a:~~
  - 1. Rulemaking action relating to a Commission rule, including making a new rule or amending or repealing an existing rule; or
  - 2. Review of an existing Department practice or substantive policy statement alleged to constitute a rule.
- B. Any individual, including any organization or agency, requesting that the Commission review an existing Department practice or substantive policy that the petitioner alleges to constitute a rule under A.R.S. § 41-1033, as defined under A.R.S. § 41-1001, shall submit a petition as prescribed under this Section. ~~To act under A.R.S. § 41-1033 and this Section, a person shall submit a petition form to the Arizona Game and Fish Department, Director’s Office, 5000 W. Carefree Highway, Phoenix, AZ 85086. The form is available at any Department office and on the Department’s website.~~
- C. A petitioner shall not address more than only one rule, practice, or substantive policy in the petition.
- ~~D.~~ If the Commission has considered and denied a petition, and a petitioner submits a petition within the next year that addresses the same substantive issue, the petitioner shall provide a written statement that contains any reason not previously considered by the Commission in making a decision.
- ~~E.~~D. A petitioner shall submit an original and one copy of a the petition form to the Arizona Game and Fish Department, Director’s Office, 5000 W. Carefree Highway, Phoenix, AZ 85086. ~~The Commission shall render a decision on the petition as required under A.R.S. § 41-1033.~~ The petition form is furnished by the Department and is available at any Department office and on the Department’s website. A petitioner shall provide all of the following information:
  - 1. Petitioner identification:
    - a. When the petition is submitted by a private person, the person’s:
      - i. Name;
      - ii. Physical and mailing address, if different from the physical address;
      - iii. Contact telephone number; and
      - iv. Email, when available;
    - b. When the petition is submitted by an organization or private group:
      - i. Name of organization or group;
      - ii. Name and title of the organization’s or group’s representative;
      - iii. Physical and mailing address, if different from the physical address;
      - iv. Representative’s contact telephone number; and
      - v. Email, when available;
    - c. When the petition is submitted by a public agency:
      - i. Name of the public agency;
      - ii. Name and title of the agency’s representative;
      - iii. Physical and mailing address if different from the physical address;
      - iv. Representative’s contact telephone number; and
      - v. Email, when available;
  - 2. Type of request:
    - a. Adopt, amend, or repeal a rule, or
    - b. Review of a practice or substantive policy statement;
  - 3. When the petition is for rulemaking action:
    - a. Statement of the rulemaking action sought, including the Arizona Administrative Code citation of 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. When the petition is for a review of an existing 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. When the petitioner is a public agency, a summary of issues raised in any public meeting or hearing regarding the petition or any written comments offered by the public.
  - 6. Any other information required by the Department;
  - 7. Petitioner's signature; and
  - 8. Date on which the petition was signed.
- D-E.** In addition to the requirements listed under subsection (D), a person may submit supporting information with a petition, including:
- 1. Statistical data; and
  - 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- F.** When a petitioner submits a petition that addresses the same substantive issue considered by the Commission within the previous year, the petitioner shall also provide an additional written statement that includes rationale not previously considered by the Commission in making the previous decision.
- F-G.** Within five working days after a petition is submitted, the Director The Department shall determine whether the petition complies with this Section within fifteen business days after the date on which the petition was received.
- 1. If the petition complies with this Section the Director:
    - a. The Department shall place the petition on a Commission open meeting agenda.
    - b. The petitioner may present oral testimony at that open meeting, as established under R12-4-603 R12-4-604.
    - c. The Commission shall render a final decision on the petition as prescribed under A.R.S. § 41-1033.
  - 2. If a petition does not comply with subsection (G) through (L) of this Section, the:
    - a. The Director shall return a copy of the petition as filed to the petitioner, and indicate
    - b. Indicate in writing why the petition does not comply with this Section. The Director shall not place the petition on a Commission agenda. The Department shall maintain the original petition on file for five years and consider the petition as a comment during the five-year review process. The petitioner shall be afforded the opportunity to resubmit a corrected petition.
- G.** Petitions shall be typewritten, computer or word processor printed, or legibly handwritten, and double spaced, on 8 1/2" x 11" paper; or typewritten, computer or word processor printed, or legibly handwritten on a form provided by the Department. The title shall be centered at the top of the first page and appear as "Petition to the Arizona Game and Fish Commission." The petition shall include the items listed in subsections (H) through (L). The items in the petition shall be presented in the order in which they are listed in this Section.
- H.** The title of Part 1 shall be "Identification of Petitioner." The title shall be centered at the top of the first page of this part. Part 1 shall contain:
- 1. If the petitioner is a private individual, the name, mailing address, and telephone number of the petitioner;
  - 2. If the petitioner is a private group or organization, the name and address of the group or organization; the name, mailing address, and telephone number of an individual who is designated as the representative or official contact for the petitioner; the total number of individuals; and the number of Arizona residents represented by the petitioner; or the names and addresses of all individuals represented by the petitioner; or
  - 3. If the petitioner is a public agency, the name and address of the agency and the name, title, and telephone number of the agency's representative.
- I.** The title of Part 2 shall be "Request for Rule" or "Request for Review," as applicable. The title shall be centered at the top of the first page of this part. Part 2 shall contain:
- 1. If the petition is for a new rule, a statement to this effect, followed by the heading and specific language of the proposed rule;
  - 2. If the request is for amendment of a current rule, a statement to this effect, followed by the Arizona Administrative Code number of the current rule proposed for amendment, the heading of the rule, the specific, clearly readable language of the rule, indicating language to be deleted with strikeouts, and language to be added with underlining;
  - 3. If the request is for repeal of a current rule, a statement to this effect, followed by the Arizona Administrative Code number of the rule proposed for repeal and the heading of the rule; or
  - 4. If the request is for review of an existing agency practice or substantive policy statement that the petitioner alleges qualifies as a rule, as defined under A.R.S. § 41-1001, a statement to this effect, followed by the practice or policy number, if any, the practice or policy heading, if any, or a brief description of the practice or policy subject matter.
- J.** The title of Part 3 shall be "Reason for the Petition." The title shall be centered at the top of the first page of this part. Part 3 shall contain:
- 1. The reason the petitioner believes rulemaking or review of a practice or policy is necessary;
  - 2. Any statistical data or other justification supporting rulemaking or review of the practice or policy, with clear reference to any exhibits that are attached to or included with the petition;
  - 3. An identification of any individuals or special interest groups the petitioner believes would be impacted by the rule or a review of the practice or policy, and how they would be impacted; and
  - 4. If the petitioner is a public agency, a summary of issues raised in any public meeting or hearing regarding the petition, or any written comments offered by the public.
- K.** The title of Part 4 shall be "Statutory Authority." The title shall be centered at the top of the first page of this part. In Part 4, the petitioner shall identify any statute that authorizes the Commission to make the rule, if known, or cite A.R.S. § 41-1033 if the petition relates to review of an existing practice or substantive policy statement.
- L.** The title of Part 5 shall be "Date and Signature." The title shall be centered at the top of the first page of this part. Part 5 shall contain:



1. An original signature of the representative or official contact, if the petitioner is a private group or organization or private individual named under subsection (H)(1) or (H)(2); or
2. If the petitioner is a public agency, the signature of the agency head or the agency head's designee; and
3. The month, day, and year that the petition is signed.

**R12-4-602R12-4-603. Written Comments on Proposed Rules**

- A.** ~~Any~~ Under A.R.S. § 41-1023, an individual a person may submit written statements, arguments, data, and views on ~~the a~~ proposed rules ~~that have been filed with~~ rulemaking published by the Secretary of State ~~under A.R.S. § 41-1022 in the Arizona Administrative Register.~~
- B.** ~~An individual who submits~~ A person submitting a written comments comment to the Commission ~~for consideration in a final decision on the rulemaking~~ may voluntarily provide their name and mailing address. ~~To be placed into the rulemaking record and considered by the Commission for a final decision, the individual submitting the~~ The Commission may only consider written comments shall ensure that they:
  1. ~~Are received before on or on before the closing~~ close of record date ~~for written comments~~, as published by the Secretary of State in the *Arizona Administrative Register*;
  2. ~~Indicate if expressed on behalf of a group or organization, whether the views expressed are the official position of the group or organization, the number of individuals represented are represented, types of membership available, and number of Arizona residents in each membership category. Comments that do not include the information required under this subsection will be placed in the rulemaking record as the views of the individual submitting the comments and not the views of any group or organization; and~~
  - 3-2. ~~Are submitted to the employee designated by the Department to receive written comments, as published in the Arizona Administrative Register agency contact identified in the Department's notice of proposed rulemaking as published by the Secretary of State in the Arizona Administrative Register.~~
  3. In addition, a person submitting a comment submitted on behalf of a group or organization shall include a statement that the comment represents the official position of the group or organization. A comment submitted on behalf of a group or organization that does not contain this statement shall be considered the comment of the person submitting the comment, and not that of the group or organization.

**R12-4-603R12-4-604. Oral Proceedings Before the Commission**

- A.** ~~For the purposes of this Section, "matter" or "proceeding" means any contested case, appealable agency action, rule or review petition hearing, rulemaking proceeding, or any public input at a Commission meeting.~~
- B-A.** ~~The Commission may allow an oral proceeding on any matter on the Commission's agenda. At an oral proceeding, the Commission Chair:~~
  1. ~~The Chair is responsible for conducting the proceeding. If an individual wants to speak, the individual shall first request and be granted permission by the Chair.~~
  2. ~~Depending on the nature of the proceeding, the Chair may administer an oath to a witness before receiving testimony.~~
  3. ~~The Chair may order the removal of any individual who is disrupting the proceeding.~~
  4. ~~Based on the amount of time available, the Chair may limit the number of presentations or the time for testimony regarding a particular issue and shall prohibit irrelevant or immaterial testimony.~~
    1. Is responsible for conducting the proceeding.
    2. May administer an oath to a witness before receiving testimony.
    3. May order the removal of any person who is disrupting a proceeding.
    4. May limit the number of presentations or the time for testimony regarding a particular issue.
- B.** A person desiring to speak at an oral proceeding shall first request permission to speak from the Commission Chair.
- 5-C.** ~~Technical rules of evidence do not apply to an oral proceeding, and no informality in any proceeding or in the manner of taking testimony invalidates any order, decision, or rule made by the Commission.~~
- C-D.** ~~The Commission authorizes the Director to designate a hearing officer for oral proceedings to take public input on proposed rulemaking. The hearing officer has the same authority as the Chair in conducting oral proceedings, as provided in this Section.~~
- D-E.** ~~The Commission authorizes the Director to continue a scheduled proceeding to a later Commission meeting. To request a continuance, a petitioner shall:~~
  1. ~~Deliver the request to the Director no later than 24 hours before the scheduled proceeding;~~
  2. ~~Demonstrate that the proceeding has not been continued more than twice; and~~
  3. ~~Demonstrate good cause for the continuance.~~

**R12-4-604R12-4-605. Ex Parte Communication**

- A.** ~~For purposes of this Section:~~
  1. ~~"Individual outside the Commission" means any individual other than a Commissioner, personal aide to a Commissioner, Department employee, consultant of the Commission, or an attorney representing the Commission.~~
  2. ~~"Ex parte communication" means any oral or written communication with the Commission that is not part of the public record and for which no reasonable prior written notice has been given to all interested parties.~~
- B-A.** In any contested case (as defined in A.R.S. § 41-1001) or proceeding or appealable agency action (as defined in A.R.S. § 41-1092) before the Commission, except to the extent required for disposition of ex parte matters as authorized by law or these rules of procedure, the following prohibitions apply to ex parte communication A party shall not communicate, either directly or indirectly, with a Commissioner about any substantive issue in a pending contested case or appealable agency action, unless:
  1. ~~An interested individual outside the Commission shall not make or knowingly cause to be made to any Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may reasonably be~~



expected to be involved in the decision-making process of the proceeding, an ex parte communication relevant to the merits of the proceeding All parties are present;

2. A Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall not make or knowingly cause to be made to any interested person outside the Commission an ex parte communication relevant to the merits of the proceeding The communication occurs during the scheduled proceeding, where an absent party failed to appear after proper notice; or
  3. It is by written motion with a copy provided to all parties.
- C.B.** A Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may be reasonably expected to be involved in the decisional process of the proceeding, who receives, makes, or knowingly causes to be made a an ex parte communication prohibited by subsection (B)(1) or (B)(2) of this Section, shall place on the public record of the proceeding and serve on all interested parties to the proceeding:
1. A copy of each the written communication;
  2. A memorandum stating the substance of each summary of the oral communication; and
  3. A copy of each response and memorandum stating the substance of each oral The Commissioner's response to any such ex parte communication governed by subsections (C)(1) and (C)(2).
- D.** Upon receipt of a communication made or knowingly caused to be made by a party in violation of this Section, the Commission or its hearing officer, to the extent consistent with equity and fairness, may require the party to show cause why the claim or interest in proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected because of the violation.
- E.C.** The provisions of this Section apply from the date that a notice of hearing for a contested case is served, a notice of or an appealable agency action is served, or a request for hearing is filed, whichever comes first, unless the person responsible for the communication has knowledge that a proceeding will be noticed, in which case the prohibitions apply from the date that the individual acquired the knowledge on the parties.

#### **R12-4-605R12-4-606.** Standards for Revocation, Suspension, or Denial of a License

- A.** Under A.R.S. § 17-340, when the Department makes a recommendation to the Commission for license revocation, the Commission shall hold a hearing and may revoke, suspend, or deny any hunting, fishing, or trapping license for an individual who has been a person convicted of any of the following offenses:
1. Killing or wounding a big game animal during a closed season or possessing.
  2. Possessing a big game animal taken during a closed season. Conviction for possession of a road kill animal or an animal that was engaged in depredation is not considered "possessing during a closed season" for the purposes of this subsection.
  - 2-3. Destroying, injuring, or molesting livestock, or damaging or destroying personal property, notices or signboards, other improvements, or growing crops while hunting, fishing, or trapping.
  4. Damaging or destroying personal property, growing crops, notices or signboards, or other improvements while hunting, fishing, or trapping.
  5. Bartering, selling, or offering to sell unlawfully taken wildlife or wildlife parts.
  - 3-6. Careless use of a firearm while hunting, fishing, or trapping that results in the injury or death of any person, if the act of discharging the firearm was deliberate.
  - 4-7. Applying for or obtaining a license or permit by fraud or misrepresentation in violation of A.R.S. § 17-341.
  8. Knowingly allowing another person to use the person's big game tag, except as provided under A.R.S. § 17-332(D).
  - 5-9. Entering upon a game refuge or other area closed to hunting, trapping or fishing and taking, driving, or attempting to drive wildlife from the area in violation of A.R.S. §§ 17-303 and 17-304.
  - 6-10. Unlawfully posting state or federal lands in violation of A.R.S. § 17-304(B).
  11. Unlawfully using aircraft to take, assist in taking, harass, chase, drive, locate, or assist in locating wildlife in violation of A.R.S. § 17-340(A)(8).
- B.** Under A.R.S. § 17-340, the Commission shall hold a hearing and may revoke, suspend, or deny any hunting fishing, or trapping license if the Department recommends revocation, suspension, or denial of the license for an individual convicted of any of the following offenses:
- 1-12. Unlawfully taking or possessing big game, if sufficient evidence, which may or may not have been introduced in the court proceeding, supports any of the following conclusions:
    - a. The big game was taken without a valid license or permit.
    - b. The unlawful taking was willful and deliberate.
    - e. The person in unlawful possession aided the unlawful taking or was, or should have been, aware that the taking was unlawful.
  - 2-13. Unlawfully taking or possessing small game or fish, if sufficient evidence, which may or may not have been introduced in the court proceeding, supports any of the following conclusions:
    - a. The taking was willful and deliberate.
    - b. The possession was in excess of the lawful possession limit plus the daily bag limit.
  - 3-14. Unlawfully taking or possessing wildlife species if sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that the act of taking was willful and deliberate and showed disregard for state wildlife laws.
  15. Unlawful take of any bird or the removal of its nest or eggs.
  - 4-16. Littering a public hunting or fishing area while taking wildlife, if sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that an individual littered the area, the amount of litter discarded was unreasonably large, and that the individual convicted made no reasonable effort to dispose of the litter in a lawful manner.
  5. Careless use of a firearm while hunting, fishing, or trapping that resulted in injury or death to any person, if the act of discharging the firearm was not deliberate, but sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that the careless use demonstrated wanton disregard for the safety of human life or property.
  17. Waste of edible portions of a game species under A.R.S. § 17-309, in violation of A.R.S. § 17-309(A)(5).



~~6-18.~~ Any violation for which a license can be revoked under A.R.S. § 17-340, ~~if the person has been convicted of a revocable offense within the past three years.~~

~~7-19.~~ Violation Any violation of A.R.S. § 17-306 ~~for unlawful possession of wildlife.~~

~~C-B.~~ Under A.R.S. §§ 17-238, 17-334, 17-340, 17-362, 17-363, and 17-364, ~~and 17-340, if when~~ the Department ~~has made~~ makes a recommendation to the Commission for license revocation, the Commission shall hold a hearing and may revoke any fur dealer, guide, taxidermy, license dealers license, or special license (as defined ~~in~~ under R12-4-401) in any case where license revocation is authorized by law.

~~R12-4-606~~**R12-4-607. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages**

- A. The Director may commence a proceeding for the Commission to revoke, suspend or deny a license under A.R.S. §§ ~~17-236,~~ 17-238, ~~17-334,~~ 17-340, 17-362, 17-363, and 17-364, ~~R12-4-105, and R12-4-605.~~ The Director may also commence a proceeding for the Commission to impose a civil damages penalty under A.R.S. § 17-314.
- B. The Commission shall conduct a hearing concerning revocation, suspension, or denial of the right to obtain a license in accordance with the Administrative Procedure Act, A.R.S. Title 41, Chapter 6, Article 10. ~~A~~ In a proceeding conducted under A.R.S. § 17-340, a respondent shall limit testimony to facts that show why the license should not be revoked or denied. Because the Commission does not have the authority to consider or change the conviction, a respondent is not permitted to raise this issue in the proceeding. The Commission shall permit a respondent to offer testimony or evidence relevant to the Commission's decision to ~~order recovery of~~ impose a civil damages penalty or order a civil action for the recovery of wildlife parts.
- C. If a respondent does not appear for a hearing on the date scheduled, at the time and location noticed, no further opportunity to be heard ~~is~~ shall be provided, unless a rehearing or review is granted under ~~R12-4-607~~ R12-4-608. If the respondent does not wish to attend the hearing, the respondent may submit written testimony to the Department before the hearing date designated in the Notice of Hearing ~~required by A.R.S. § 17-340(D).~~ The Commission shall ensure that written testimony received at the time of the hearing is read into the record at the hearing.
- D. The Commission shall base its decision on the officer's case report, a summary prepared by the Department, a certified copy of the court record, and any testimony presented at the hearing. ~~With the notice of hearing required by A.R.S. § 17-340(D), the~~ The Department shall supply the respondent with a copy of each document provided to the Commission for use in reaching a decision.
- E. Any party may apply to the Commission for issuance of a subpoena to compel the appearance of any witness or the production of documents at any Commission hearing or deposition. ~~Not later~~ No less than 10 calendar days before the hearing ~~or deposition,~~ the party shall file a written application that provides the name and address of the witness, the subject matter of the expected testimony, the documents sought to be produced, and the date, time, and place of the hearing ~~or deposition.~~ The Commission ~~chair~~ Chair has the authority to issue the subpoenas.
  1. A party shall have a subpoena served as prescribed in the Arizona Rules of Civil Procedure, Rule 45. An employee of the Department may serve a subpoena at the request of the Commission ~~chair~~ Chair.
  2. A party may request that a subpoena be amended at any time before the deadline provided in this Section for filing the application. The party shall have the amended subpoena served as provided in subsection (E)(1).
- ~~F.~~ The Commission may vote to use the services of the office of administrative hearings to conduct a hearing concerning revocation, suspension, or denial of the right to obtain a license and to make a recommendation to the Commission, which shall review and accept, reject or modify the recommendation and issue its decision in an open meeting. When the Department receives a recommendation from the administrative law judge at least 30 days prior to the next regularly scheduled Commission meeting, the Department shall place the recommendation on the agenda for that meeting. A recommendation from the administrative law judge received after this time shall be considered at the next regularly scheduled open meeting.
- ~~F-G.~~ A license revoked by the Commission is suspended on the date of the hearing and revoked upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order revoking a license, the license is revoked after all appeals have been ~~completed~~ exhausted. A denial of the right to obtain a license is effective for a period ~~not to exceed five years,~~ as determined by the Commission as authorized under A.R.S. § 17-340, beginning on the date of the hearing.
- ~~G-H.~~ A license suspended by the Commission is suspended on the date of the hearing, and suspended upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order suspending a license, the license is suspended after all appeals have been ~~completed~~ exhausted. ~~Under A.R.S. § 17-340(A), a~~ The suspension of a license is effective for a period ~~not to exceed five years,~~ as determined by the Commission as authorized under A.R.S. § 17-340, beginning on the date of the hearing.

~~R12-4-607~~**R12-4-608. Rehearing or Review of Commission Decisions**

- ~~A.~~ For purposes of this Section the following terms apply:
  1. "Contested case" and "party" are defined as provided in A.R.S. § 41-1001;
  2. "Appealable agency action" is defined as provided in A.R.S. § 41-1092(3).
- ~~A.~~ A party shall exhaust the party's administrative remedies by filing a motion for rehearing or review as provided in this Section. Failure to file a motion for rehearing or review within 30 days of service of the Commission's decision has the effect of prohibiting the party from seeking judicial review of the Commission's decision.
- ~~B.~~ Except as provided in subsection (G), any A party in a contested case or appealable agency action before the Commission may file a motion for rehearing or review of a Commission decision, specifying the grounds upon which the motion is based. The motion for rehearing or review shall be filed within 30 calendar days after service of the final administrative Commission's decision. For purposes of this subsection a decision is served when personally delivered or mailed by certified mail to the party's last known residence or place of business. ~~The party shall attach a supporting memorandum, specifying the grounds for the motion.~~
- ~~C.~~ A party may amend a motion for rehearing or review at any time before the Commission rules upon the motion. ~~An opposing party has 15 calendar days after service to respond to the motion or the amended motion. A written response to a motion for rehearing or review may be filed and served within 15 days after service of the motion for rehearing or review.~~ The Commission ~~has the authority to~~ may require that the parties file written briefs supplemental memoranda on any issue raised in a motion or response, and allow for oral argument.



- D. The Commission has the authority to grant rehearing or review for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the proceedings of the Commission, or any order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Commission, its staff, an administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding; or
  7. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Commission may ~~affirm or modify the decision~~ either deny the motion for rehearing or review or grant a rehearing to all or any of the parties on all or part of the issues or review for any of the reasons ~~in listed under subsection (D)~~ (E). The Commission's order ~~modifying a decision or granting a rehearing or review~~ shall specify the grounds for the order, and any rehearing shall cover only those ~~specified matters~~ grounds upon which the rehearing or review was granted.
- ~~F.~~ After giving the party notice and an opportunity to be heard, the Commission may grant a motion for a rehearing or review for a reason not stated in the motion.
- ~~F.G.~~ Not later than 15 calendar days, after a decision Within the time frame for filing the motion for rehearing or review, the Commission may grant a rehearing or review on its own initiative for any reason for which ~~it might~~ the Commission may have granted relief on motion of a party. ~~After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Commission may grant a motion for rehearing or review for a reason not stated in the motion.~~
- ~~H.~~ When the Commission grants a rehearing or review, the Commission shall hold the rehearing or review at its next regularly scheduled meeting or within 90 days of issuance of the order granting the rehearing or review. With the consent of the parties, the Commission may proceed to conduct the rehearing or review in the same meeting in which the Commission granted the rehearing or review.
- ~~G.~~ When a motion for rehearing or review is based upon affidavits, the party shall serve the affidavits with the motion. An opposing party may, within 10 calendar days after service, serve opposing affidavits. The Commission may extend this period for no more than 20 calendar days for good cause shown or by written stipulation of the parties. The Commission has the authority to permit reply affidavits.
- ~~I.~~ The Commission may take additional testimony, amend findings of fact and conclusions of law, and affirm, modify or reverse the original decision.

#### R12-4-609. Commission Orders

- A. Except as provided ~~in~~ under subsection (B):
1. At least 20 calendar days before a meeting where the Commission will consider a Commission Order, the Department shall ensure that a public meeting notice and agenda for the public meeting is posted in accordance with A.R.S. § 38-431.02. The Department shall also issue a public notice of the recommended Commission Order to print and electronic media at least 20 calendar days before the meeting. At least 14 calendar days before a meeting where the Commission will consider a Commission Order, the Department shall:
    - a. Post a public meeting notice and agenda in accordance with A.R.S. § 38-431.02; and
    - b. Issue a public notice of the recommended Commission Order in print and electronic media.
  2. The Department shall ensure that the public meeting notice and agenda contains the date, time, and location of the Commission meeting where the Commission Order will be considered and a statement that the public may attend and present written comments ~~at or before the meeting.~~ The Department shall ensure the public meeting notice and agenda includes:
    - a. The date, time, and location of the Commission meeting where the Commission Order will be considered;
    - b. A statement that the public may attend and present written comments at or before the meeting; and
    - c. A statement that a copy of the proposed Commission Order shall be made available to the public 10 calendar days before the meeting. Copies are available for public inspection on the Department's website and at Department offices in Phoenix, Pinetop, Flagstaff, Kingman, Yuma, Tucson, and Mesa.
  3. The Department shall also ensure that the public meeting notice and agenda states that a copy of the proposed Commission Order is available for public inspection at the Department offices in Phoenix, Pinetop, Flagstaff, Kingman, Yuma, Tucson, and Mesa ~~10 calendar days before the meeting.~~ The Commission may make changes to the recommended Commission Order at the Commission meeting.
- B. The requirements of subsection (A) do not apply to a Commission ~~orders establishing~~ Order that establishes:
1. Supplemental hunts A supplemental hunt as prescribed in authorized under R12-4-115; and;
  2. Special seasons A special season for individuals that persons who possess a special license tags tag issued under A.R.S. § 17-346 and R12-4-120; and
  3. A special season that allows fish to be taken by additional methods on waters where a fish die-off is imminent as established under R12-4-317(C).
- C. The Department shall publish the content of all Commission orders and make them available to the public ~~without~~ free of charge.

#### R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles

- A. ~~An individual or agency~~ A person requesting that the Commission consider closing state or federal land to hunting, fishing, or trapping as provided under A.R.S. § 17-304(B) or R12-4-110; or closing roads or trails on state lands as provided under R12-4-110, shall submit a petition as prescribed in this Section before the Commission will consider the request.
- B. A ~~petition~~ petitioner shall not address more than one contiguous closure request in a petition.



- C. ~~Once the Commission has considered and denied a petition, an individual who subsequently submits~~ A petitioner submitting a petition that addresses the same contiguous closure request ~~previously considered and denied by the Commission shall provide~~ an additional written statement that ~~contains any reason~~ includes rationale not previously considered by the Commission ~~in making a decision.~~
- D. A petitioner shall submit ~~an original and one copy of the petition form to the Director of the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086, not less than 60 calendar days before a scheduled Commission meeting to be placed on the agenda for that meeting. If the Commission receives a petition after that time it will be considered at the next regularly scheduled open meeting. At any time, the petitioner may withdraw the petition or request delay to a later regularly scheduled open meeting. The petition form is furnished by the Department and is available at any Department office and on the Department's website. The petition form shall contain all of the following information:~~
  - 1. Petitioner identification:
    - a. When the petitioner is the leaseholder of the area proposed for closure:
      - i. Name of person;
      - ii. Lease number;
      - iii. Physical and mailing address, if different from the physical address;
      - iv. Contact telephone number; and
      - v. Email, when available;
    - b. When the petitioner is anyone other than the leaseholder of the area proposed for closure:
      - i. Name of person;
      - ii. Lease number;
      - iii. Physical and mailing address, if different from the physical address;
      - iv. Contact telephone number;
      - v. Email, when available; and
      - vi. Name of each group or organization or organizations that the petitioner represents; or
    - c. When the petitioner is a public agency:
      - i. Name of person;
      - ii. Name of agency;
      - iii. Petitioner's title;
      - iv. Lease number;
      - v. Agency's physical and mailing address, if different from the physical address;
      - vi. Contact telephone number; and
      - vii. Email, when available;
  - 2. Type of closure requested:
    - a. Hunting.
    - b. Fishing.
    - c. Trapping, or
    - d. Operation of motor vehicles.
  - 3. Reason for petition:
    - a. Each reason why the closure should be considered under R12-4-110, A.R.S. § 17-304(B), or A.R.S. § 17-452(A);
    - b. Any data or other justification supporting the reasons for the closure with clear reference to any exhibits that may be attached to the petition;
    - c. Each person or segment of the public the petitioner believes will be impacted by the closure, including any other valid licensees, lessees, or permittees that will or may be affected, and how they will be impacted, including both positive and negative impacts;
    - d. If the petitioner is a public agency, a summary of issues raised in any public hearing or public meeting regarding the petition and a copy of written comments received by the petitioning agency; and
    - e. A proposed alternate access route, under R12-4-110.
  - 4. A concise map identifying the specific location of the proposed closure;
  - 5. Petitioner's signature;
  - 6. Date on which the petition was signed; and
  - 7. Any other information required by the Department.
- E. ~~Within 15 business days after the petition is filed, the Department~~ The Director ~~Department shall determine whether the petition complies with the requirements established under A.R.S. § 17-452, R12-4-110, and this Section~~ within 15 business days after receiving the petition.
  - 1. ~~Once the Department determines that~~ If the petition meets these requirements, and if provided the petitioner has not agreed to an alternative solution or withdrawn the petition, the Department, in accordance with the schedule in subsection ~~(D)~~ (F), shall place the petition on the agenda for the Commission's next regularly scheduled open meeting and provide written notice to the petitioner of the meeting date ~~that the Commission will consider the petition.~~
  - 1. ~~The petitioner may present oral testimony in support of the petition at the Commission meeting, in accordance with the provisions established under R12-4-603.~~
  - 2. If a petition does not ~~meet~~ comply with the requirements prescribed under A.R.S. § 17-452, R12-4-110, and this Section, ~~the:~~
    - a. ~~The Department shall return one copy of the petition as filed to the petitioner, and~~
    - b. Indicate in writing with the reasons why the petition does not comply with this Section ~~meet the requirements, and not place the petition on a Commission agenda.~~
  - 3. If the Department returns a petition to a petitioner for a reason that cannot be corrected, the Department shall serve on the petitioner a notice of appealable agency action under A.R.S. § 41-1092.03.



- E.** When the Department receives a petition not less than 60 calendar days before a regularly scheduled Commission meeting, the Department shall place the petition on the agenda for that meeting. A petition received after this time will be considered at the next regularly scheduled open meeting.
- G.** The petitioner may:
1. Present oral testimony in support of the petition at the Commission meeting, in accordance with the provisions established under R12-4-604.
  2. Withdraw the petition or request a continuance to a later regularly scheduled open meeting at any time.
- F.** The petitioner shall submit a petition that:
1. Is typewritten, computer or word processor printed, or legibly handwritten, and double spaced, on 8 1/2 x 11" paper;
  2. Has a concise map that shows the specific location of the proposed closure;
  3. Has the title "Petition for the Closure of Hunting, Fishing, or Trapping Privileges on Public Land" or "Petition for the Closure of Public Lands to the Operation of Motor Vehicles" at the top of the first page;
  4. Is in four parts, with titles designating each part as prescribed in this subsection;
  5. Has a "Part 1" with the title "Identification of Petitioner" and contains the following information, if applicable:
    - a. If the petitioner is the leaseholder of the area proposed for closure, the name, lease number, mailing address, and home telephone number of the petitioner;
    - b. If the petitioner is anyone other than the leaseholder, the name, mailing address, and telephone number of the leaseholder; the name, mailing address, and telephone number of the petitioner; and the name of each group or organization or organizations that the petitioner represents; or
    - e. If the petitioner is a public agency, the name and address of the agency and the name, title, and telephone number of the agency's representative regarding the petition.
  6. Has a "Part 2" with the title "Request for Closure" and contains all of the following information, if applicable:
    - a. The type of closure requested: either a hunting, fishing, or trapping closure, or closure to the operation of motor vehicles;
    - b. A complete legal description of the area to be closed;
    - e. The name or identifying number of any road and the portion of the road affected by the closure; and
    - d. The dates proposed for the closure:
      - i. If the closure is to the operation of motor vehicles, the actual time period of the closure (up to five years), and whether or not the closure is seasonal; or
      - ii. If the closure is for hunting, fishing, or trapping, whether or not the request is for a permanent closure or for some other period of time.
  7. Has a "Part 3" with the title "Reason for Closure" and contains all of the following information, if applicable:
    - a. Each reason why the closure should be considered under R12 4 110, A.R.S. § 17 304(B), or A.R.S. § 17 452(A);
    - b. Any data or other justification supporting the reasons for the closure with clear reference to any exhibits that may be attached to the petition;
    - e. Each individual or segment of the public the petitioner believes will be impacted by the closure, including any other valid licensees, lessees, or permittees that will or may be affected, and how they will be impacted, including both positive and negative impacts;
    - d. If the petitioner is a public agency, a summary of issues raised in any public hearing or public meeting regarding the petition and a copy of each written comment or document of concurrence authorized under A.R.S. § 17 452(A), received by the petitioning agency; and
    - e. A proposed alternate access route, under R12 4 110.
  8. Has a "Part 4" with the title "Dates and Signatures" and contains the following:
    - a. The original signature of the private party or the official contact named under subsection (F)(5)(a) or (b) of this Section, or, if the petitioner is a public agency, the signature of the agency head or the agency head's designee; and
    - b. The month, day, and year when the petition was signed.

**R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy**

- A.** If ~~no~~ A person may request a hearing before the Commission when an administrative remedy exists in does not exist under statute, rule, or policy, an aggrieved individual may request a hearing before the Commission by following the provisions of this Section by submitting a petition as prescribed by this Section.
- B.** Any individual who requests a hearing under this Section shall submit a petition as prescribed in this Section before the request for a hearing will be considered by the Commission.
- C.B.** A petitioner shall submit an original and one copy of a the petition form to the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086. The petition form is furnished by the Department and is available at any Department office and on the Department's website. The petition form shall contain all of the following information:
1. Petitioner identification:
    - a. When the petitioner is a private person:
      - i. Name of person;
      - ii. Physical and mailing address, if different from the physical address;
      - iii. Contact telephone number; and
      - iv. Email, when available;
    - b. When the petitioner is a private group or organization:
      - i. Name of the person designated as the contact for the group or organization;
      - ii. Physical and mailing address, if different from the physical address;
      - iii. Contact telephone number;
      - iv. Email, when available; or
    - c. When the petitioner is a public agency:



- i. Name of person.
- ii. Name of agency.
- iii. Petitioner's title.
- iv. Agency's physical and mailing address, if different from the physical address.
- v. Contact telephone number, and
- vi. Email, when available;
- 2. Statement of Facts and Issues:
  - a. Description of issue to be resolved, and
  - b. Any facts relevant to resolving the issue;
- 3. Specific proposed remedy;
- 4. Petitioner's signature;
- 5. Date on which the petition was signed; and
- 6. Any other information required by the Department.
- ~~D.~~ The petitioner shall ensure that the petition is typewritten, computer or word processor printed, or legibly handwritten, and double-spaced on 8 1/2" x 11" paper. The petitioner shall place the title "Petition for Hearing by the Arizona Game and Fish Commission" at the top of the first page. The petition shall include the items listed in subsections (E) through (H). The petitioner shall present the items in the petition in the order in which they are listed in this Section.
- ~~E.~~ The petitioner shall ensure that the title of Part 1 is "Identification of Petitioner" and that Part 1 includes the following information, as applicable:
  - 1. If the petitioner is a private person, the name, mailing address, telephone number, and e-mail address (if available) of the petitioner;
  - 2. If the petitioner is a private group or organization, the name and address of the organization; the name, mailing address, telephone number, and e-mail address (if available) of one person who is designated as the official contact for the group or organization; the number of individuals or members represented by the private group or organization, and the number of these individuals or members who are Arizona residents. If the petitioner prefers, the petitioner may provide the names and addresses of all members; or
  - 3. If the petitioner is a public agency, the name and address of the agency and the name, title, telephone number, and e-mail address (if available) of the agency's representative.
- ~~F.~~ The petitioner shall ensure that the title of Part 2 is "Statement of Facts and Issues." Part 2 shall contain a description of the issue to be resolved, and a statement of the facts relevant to resolving the issue.
- ~~G.~~ The petitioner shall ensure that the title of Part 3 is "Petitioner's Proposed Remedy." Part 3 shall contain a full and detailed explanation of the specific remedy the petitioner is seeking from the Commission.
- ~~H.~~ The petitioner shall ensure that the title of Part 4 is "Date and Signatures." Part 4 shall contain:
  - 1. The original signature of the private party or the official contact named in the petition, or, if the petitioner is a public agency, the signature of the agency head or the agency head's designee; and
  - 2. The month, day, and year that the petition is signed.
- ~~I.C.~~ If a petition does not comply with this Section, the Director Department shall return the petition and indicate why the petition is deficient:
  - 1. Return the petition to the petitioner, and
  - 2. Indicate in writing why the petition does not comply with this Section.
- ~~J.D.~~ After the Director Department receives a petition that complies with this Section, the Director Department shall place the petition on the agenda of a regularly scheduled Commission meeting.
- ~~K.E.~~ If the Commission votes to deny a petition, the Department shall not accept a subsequent petition on the same ~~matter~~ issue, unless the petitioner presents new evidence or reasons for considering the subsequent petition.
- ~~L.E.~~ This Section does not apply to the following:
  - 1. ~~A matter~~ An action related to a license revocation, suspension, denial, or civil ~~assessment penalty;~~ or
  - 2. An unsuccessful hunt permit-tag draw application, ~~where there was no~~ that did not involve an error on the part of the Department; or
  - 3. The reinstatement of a bonus point, except as authorized under R12-4-107(M).



**NOTICE OF FINAL EXPEDITED RULEMAKING  
TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION**

[R18-28]

**PREAMBLE**

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

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 9	Renumber
Article 11	Renumber
R12-4-901	Renumber
R12-4-902	Renumber
R12-4-902	Amend
R12-4-1101	Renumber
R12-4-1102	Renumber
  
- 2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 17-231(A)(1)  
 Implementing statute: A.R.S. §§ 17-255.01, 17-255.02, and 17-255.03
  
- 3. The effective date of the rules:**

February 6, 2018

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

The rule is effective immediately upon filing with the Secretary of State's office as authorized under A.R.S. § 41-1027(H), which allows an immediate effective date upon filing the Notice of Expedited Rulemaking with the Secretary of State's Office.
  - b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):**

Not applicable
  
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 23 A.A.R. 2864, October 13, 2017  
 Notice of Proposed Expedited Rulemaking: 23 A.A.R. 2853, October 13, 2017
  
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name: Celeste Cook, Rules and Policy Manager  
 Address: Game and Fish Department  
 5000 W. Carefree Highway  
 Phoenix, AZ 85086  
 Telephone: (623) 236-7390  
 Fax: (623) 236-7110  
 E-mail: [CCook@azgfd.gov](mailto:CCook@azgfd.gov)  
 Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda and all previous Five-year Review Reports; and learn about any other agency rulemaking matters at <https://www.azgfd.com/agency/rulemaking/>.
  
- 6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Arizona Game and Fish Commission proposes to amend its rules following the 2017 five-year rule review of Article 11, Aquatic Invasive Species, to enact recommendations developed during the five-year review. The recommended amendments are designed to make the rule more concise and reduce regulatory ambiguity.

Under A.R.S. § 41-1027, an agency may use the expedited rulemaking process to if the rulemaking does not increase the cost of regulatory compliance, increase a fee or reduce procedural rights of persons regulated and does one or more of the following: (A)(3) clarifies language of a rule without changing its effect; or (A)(7) implements, without material change, a course of action that is proposed in a five-year review report approved by the Governor's Regulatory Review Council (G.R.R.C.) pursuant to A.R.S. § 41-1056 within one hundred eighty days of the date that the agency files the Notice of Proposed Expedited Rulemaking with the Secretary of State. The Commission approved the Article 6 Five-year Review Report (5YRR) at the December 2, 2016 Commission Meeting and G.R.R.C. approved the Article 6 5YRR at the March 7, 2017 Council Meeting.

An exemption from Executive Order 2015-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated May 1, 2017.

**R12-4-1101. Definitions**

The objective of the rule is to establish definitions that assist the regulated community and members of the public in under-



standing the unique terms that are used throughout Article 11. The Commission proposes to renumber the rule to R12-4-901.

**R12-4-1102. Aquatic Invasive Species; Prohibitions; Inspection, Decontamination Protocols**

The objective of the rule is to establish the requirements necessary to eradicate, abate, or prevent the transport and spread of aquatic invasive species in and through Arizona. Aquatic invasive species are a threat to Arizona’s water and electrical infrastructure and the public’s angling and boating recreation. It is critical for anyone who owns or uses watercraft, vehicle, conveyance or equipment on Arizona’s waterbodies, to understand the essential nature of the aquatic invasive species containment effort by the Department, other state and federal agencies and political subdivisions. The spread of aquatic invasive species will result in far-reaching impacts that can touch virtually every resident of Arizona. For example, quagga mussels have a negative ecological and environmental impact to Arizona waterways and water delivery systems. These mussels accumulate on underwater surfaces and impair water delivery structures and systems. They clog water intake and delivery pipes and infest hydropower infrastructure, dams, and water control structures. They adhere to watercraft bottoms, engines, docks, and pilings and can ultimately destroy beaches and alter the functioning of native aquatic ecosystems.

The principle pathway for quagga mussel transfer between watersheds is the overland movement of boats and equipment with attached adult mussels and the movement of water itself containing juvenile mussels in un-drained bilge areas, live wells, internal storage spaces, or conveyances designed to carry water. The initial movement of these mussels to the Colorado River was in all likelihood as a hitchhiker on a boat or equipment item that was moved more than 1,000 miles overland. Aquatic invasive species are currently established in a number of Arizona waterbodies: Lake Pleasant, Lake Havasu, Lake Mead, Lake Mohave, Martinez Lake, Mittry Lake, Topock Marsh, and Lake Powell; water delivery systems: parts of the Central Arizona Project aqueduct and Salt River Project Canal System; and other states and countries: Alabama, Arkansas, California, Colorado, Connecticut, Iowa, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Mississippi, Nebraska, Nevada, New York, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Virginia, Vermont, Wisconsin, West Virginia; and the Provinces of Ontario and Quebec.

Since 2011, in addition to media campaigns (newsletters, billboards, radio and televisions advertisements), the Department’s Aquatic Invasive Species Program has performed numerous outreach campaigns and conducted surveys on the boat ramps at various quagga infested waterbodies (e.g., Havasu, Pleasant, and Powell). State-wide surveys indicate a gap between knowledge of required actions and the physical action of pulling a drainage plug when exiting infested waterbodies in Arizona. In 2015, 85% of boaters surveyed verbally by Department personnel said they pull their boat’s plug upon exit; however only 67% were physically observed pulling the boat’s drain plug upon exiting.

The Commission proposes to renumber the rule from R12-4-1102 to R12-4-902. The Commission has determined there are issues with compliance due to the current boating culture, (similar to requiring the use of seat belts in automobiles) which will require a paradigm shift in common boating practices. Some persons do not believe they need to remove plugs and devices that prevent water from draining; other persons remove the plug or barrier, but then replace it before leaving the waterbody, which makes it difficult for law enforcement to determine whether a person is in compliance with the rule when they are driving away from a waterbody where aquatic invasive species are established or suspected with the plug and/or device in place. To reduce regulatory ambiguity and clearly communicate compliance requirements, the Department proposes to amend the rule to specify a person is required to remove all plugs and devices, except those that are sealed and exist for maintenance purposes only, and any other barriers that prevent water drainage while a watercraft, vehicle, conveyance, or equipment is in transport after leaving any affected waterbody.

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

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

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

Not applicable

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

Under A.R.S. § 41-1027, the rulemaking is exempt from this requirement; however, the Commission offers the following: The Commission anticipates the proposed amendments will have an insignificant impact on persons regulated by the rule. However, establishing conditions for the overland movement of watercraft, vehicles, conveyances, and equipment is crucial in helping to prevent the accidental spread of aquatic invasive species and the far-reaching financial and ecological impacts that can affect virtually every Arizona resident and water storage, treatment, and delivery provider. The rulemaking will benefit private consumers and public and private entities by addressing a current threat to the state’s economy, ecology, and public health and safety. The rulemaking will have little or no financial effect on most watercraft owners and operators. The Commission anticipates increased costs associated with implementing the amended rules due to increased training of enforcement officers. The Commission has determined that the benefits of the rulemaking outweigh any costs.

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

Minor grammatical and formatting corrections that were made at the request of Governor’s Regulatory Review Council staff.

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

In addition to the publication of the Notice of Proposed Expedited Rulemaking in the *Arizona Administrative Register*, the Department posted the Notice of Proposed Expedited Rulemaking to the Department’s website, from September 15 to October 15, 2017, for the purpose of public comment. In addition, on October 15, 2017, the Department emailed information regarding the proposed



rulemaking to persons interested in receiving rulemaking notices. The Department also issued a press release regarding the proposed changes included in the Notice of Proposed Expedited Rulemaking and the Department's contact information for persons interested in submitting a comment. The Department did not receive any public or stakeholder comments in response to the proposed rulemaking.

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

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

The rule does not require a general permit.

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

Federal law is not directly applicable to the subject of the rule. The rule is based on state 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:**

The agency has not received an analysis that compares the rule's impact of competitiveness of business in this state to the impact on business in other states.

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

Not applicable

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

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

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

**TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 449. AQUATIC INVASIVE SPECIES**

Section

R12-4-1101-R12-4-901. Definitions

R12-4-1102-R12-4-902. Aquatic Invasive Species; Prohibitions; Inspection, Decontamination Protocols

**ARTICLE 449. AQUATIC INVASIVE SPECIES**

**R12-4-1101-R12-4-901. Definitions**

In addition to the definitions provided under A.R.S. §§ 5-301 and 17-255, the following definitions apply to this Article, unless otherwise specified:

“Aquatic invasive species” means those species listed in Director’s Order 1.

“Certified agent” means a person who meets Department standards to conduct inspections authorized under A.R.S. § 17-255.01(C)(1).

“Conveyance” means a device designed to carry or transport water. Conveyance includes, but is not limited to, dip buckets, water hauling tanks, and water bladders.

“Equipment” means an item used either in or on water; or to carry water. Equipment includes, but is not limited to, trailers used to launch or retrieve watercraft, rafts, inner tubes, kick boards, anchors and anchor lines, docks, dock cables and floats, buoys, beacons, wading boots, fishing tackle, bait buckets, skin diving and scuba diving equipment, submersibles, pumps, sea planes, and heavy construction equipment used in aquatic environments.

“Operator” means a person who operates or is in actual physical control of a watercraft, vehicle, conveyance or equipment.

“Owner” means a person who claims lawful possession of a watercraft, vehicle, conveyance, or equipment.

“Person” has the same meaning as defined under A.R.S. § 1-215.

“Release” means to place, plant, or cause to be placed or planted in waters.

“Transporter” means a person responsible for the overland movement of a watercraft, vehicle, conveyance, or equipment.

“Waters” means surface water of all sources, whether perennial or intermittent, in streams, canyons, ravines, drainage systems, canals, springs, lakes, marshes, reservoirs, ponds, and other bodies or accumulations of natural, artificial, public or private waters situated wholly or partly in or bordering this state.

**R12-4-1102-R12-4-902. Aquatic Invasive Species; Prohibitions; Inspection, Decontamination Protocols**

A. A person shall not, unless authorized under Article 4:

1. Possess, import, ship, or transport into or within this state an aquatic invasive species, unless authorized by the Director.



- 2. Sell, purchase, barter, or exchange in this state an aquatic invasive species.
- 3. Release an aquatic invasive species into waters or into any water treatment facility, water supply or water transportation facility, device or mechanism in this state.
- B. Upon removing a watercraft, vehicle, conveyance, or equipment from any waters listed in Director’s Order 2 and ~~before leaving that location~~ prior to transport, a person shall:
  - 1. Remove all clinging materials such as plants, animals, and mud.
  - 2. Remove ~~any plug or all plugs and other barrier valves or devices that prevents prevent~~ water drainage ~~or, where none exists, take reasonable measures to drain or dry from all~~ compartments ~~or spaces that hold may retain~~ water. ~~Reasonable measures include, but are not limited to, emptying, such as ballast tanks, ballast bags, bilges, application of absorbents, or ventilation and ensure plugs or devices remain removed or open during transport.~~
  - 3. If no plugs or barriers exist, take reasonable measures to drain or dry all compartments or spaces that may retain water. Reasonable measures include, but are not limited to, emptying bilges, application of absorbents, or ventilation.
- C. Before transporting a watercraft, vehicle, conveyance, or equipment to any waters located within or bordering this state from waters or locations ~~where aquatic invasive species are suspected or known to be present, as~~ listed in Director’s Order 2, a person shall comply with the mandatory conditions and protocols identified in Director’s Order 3 for decontamination of watercraft, vehicles, conveyances, and equipment.
- D. Department employees, certified agents, and Arizona peace officers authorized under A.R.S. § 17-104 may inspect a watercraft, vehicle, conveyance, or equipment for the purposes of determining compliance with A.R.S. Title 17, Chapter 2, Article 3.1 and this Section.
- E. If the presence of an aquatic invasive species is documented or suspected on or in a watercraft, vehicle, conveyance, or equipment, a Department employee or any Arizona peace officer may order a person to decontaminate or cause to be decontaminated such watercraft, vehicle, conveyance, or equipment using the mandatory protocols described in Director’s ~~order~~ Order 3.
- F. The following Director’s Orders are available at any Department office and online at azgfd.gov:
  - 1. Director’s Order 1 – Listing of Aquatic Invasive Species for Arizona,
  - 2. Director’s Order 2 – Designation of Waters or Locations Where Listed Aquatic Invasive Species are Present, and
  - 3. Director’s Order 3 – Mandatory Conditions on the Movement of Watercraft, Vehicles, Conveyances, or Other Equipment from Listed Waters Where Aquatic Invasive Species are Present.
- G. This Section does not apply to owners and operators exempt under A.R.S. § 17-255.04.




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## NOTICES OF PROPOSED DELEGATION AGREEMENTS

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

The Administrative Procedure Act requires the publication of notices of proposed delegation agreements in the *Register*. A delegation agreement is an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers, or duties conferred on the delegating agency by a provision of law.

Delegation agreements are not intergovernmental agreements pursuant to A.R.S. Title 11, Chapter 7, Article 3. For at least 30 days after publication of the Notice of Proposed Delegation Agreement in the Register, the agency shall provide persons the opportunity to submit in writing statements, arguments, data, and views on the proposed delegation agreement and shall provide an opportunity for a public hearing if there is sufficient interest. The delegating agency shall follow the procedures for delegation agreements specified in A.R.S. Title 41, Chapter 6, Article 8.

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### NOTICE OF PROPOSED DELEGATION AGREEMENT (AMENDMENT #1)

#### DEPARTMENT OF HEALTH SERVICES

[M18-24]

**1. Name of agency proposing the delegation agreement:**

Arizona Department of Health Services

**2. The name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated:**

Maricopa County

**3. The name and address of agency personnel to whom persons may direct questions or comments:**

Name: Eric Thomas, Office Chief  
 Address: Arizona Department of Health Services, Public Health Preparedness,  
 Office of Environmental Health  
 150 N. 18th Ave., Suite 140  
 Phoenix, AZ 85007  
 Telephone: (602) 364-3142  
 Fax: (602) 364-3146  
 E-mail: [Eric.Thomas@azdhs.gov](mailto:Eric.Thomas@azdhs.gov)  
 or  
 Name: Robert Lane, Chief  
 Address: Arizona Department of Health Services  
 Office of Administrative Counsel and Rules  
 150 N. 18th Ave., Suite 200  
 Phoenix, AZ 85007  
 Telephone: (602) 542-1020  
 Fax: (602) 364-1150  
 E-mail: [Robert.Lane@azdhs.gov](mailto:Robert.Lane@azdhs.gov)

**4. A summary of the delegation agreement and the subjects and issues involved:**

On June 13, 2017, the Arizona Department of Health Services (Department) and Maricopa County (County) entered into a delegation agreement (AGR2017-048) authorizing the County to perform functions, powers, and duties on behalf of the Department for the enforcement of Food Safety and General Sanitation Control, Pure Food Control, and the Smoke-Free Arizona Act. According to Section 7 of AGR2017-048, the Department and the County by mutual approval may amend AGR2017-048. The Department is amending AGR2017-048 with the County to revise Appendix B, Section A and B, to exclude County delegated responsibilities for swimming pools and bathing places, public school sanitation, public nuisance responses, public toilet facilities, and Pure Food Control investigations at the Arizona State University. Other minor changes to AGR2017-048 include updating a statutory citation, subsection references, and contact information for County Department of Public Health and Department's Office of Environmental Health.

**5. Copies of the proposed delegation agreement may be obtained from the agency as follows:**

Copies of the proposed delegation agreement may be requested, in writing, from the Arizona Department of Health Services, Office of Environmental Health, 150 N. 18th Ave., Suite 140, Phoenix, AZ 85007, or by telephone at (602) 364-3118.

**6. The schedule of public hearing on the proposed delegation agreement:**

A person may submit written comments on the proposed delegation agreement to an individual listed in item #3 until the close of record on March 28, 2018. The Arizona Department of Health Services will hold a public hearing for the proposed delegation agreement on March 28, 2018 at 12:30 p.m. in Conference Room 200 B at the Arizona Department of Health Services, 150 N. 18th Ave., Phoenix, AZ 85007.



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
DEPARTMENT OF FINANCIAL INSTITUTIONS

[M18-30]

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

Document Title: Procedures for Hearings and Disciplinary Proceedings
Identification Number: REA-1

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

Issue Date: February 6, 2018

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

The Department has issued this policy to inform the regulated real estate appraisers industry of the stages and steps associated with the complaint resolution process and the administrative procedures for hearings and disciplinary proceedings, in light of the consolidation of the Board and the Department, pending further legislative changes and rulemaking in accordance with Senate Bill 1480, 2015 52nd Reg. Sess.

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

2015 Ariz. Legis. Serv. Ch. 19 (S.B. 1480), A.R.S. § 32-3601 et seq., A.R.S. § 6-101 et seq.

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

This is a revision of the Substantive Policy Statement previously issued on July 3, 2015.

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

Name: Tammy Seto
Address: Arizona Department of Financial Institutions
2910 N. 44th St., Suite 310
Phoenix, AZ 85018
Telephone: (602) 771- 2804
Fax: (602) 381-1225
E-mail: tseto@azdfi.gov
Web Site: http://www.azdfi.gov/LawsRulesPolicy/Policy.html

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 website: Hard copies may be obtained for \$0.25 per page by filling out a public records request on the website or by calling the Department's Custodian of Records.




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## COUNTY NOTICES ACCORDING TO A.R.S. § 49-112

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This section of the *Arizona Administrative Register* contains County Notices (according to A.R.S. § 49-112).

Each county writes rules and regulations in its own unique style. Although these notices are published in the Register, they do not conform to the standards specified in the Arizona Rulemaking Manual.

With the exception of minor formatting changes, County Notices (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

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### NOTICE OF PROPOSED RULEMAKING MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS REGULATION III – CONTROL OF AIR CONTAMINANTS RULE 320: ODORS AND GASEOUS AIR CONTAMINANTS

The Maricopa County Air Quality Department (MCAQD) is proposing to revise Rule 320 (Odors and Gaseous Air Contaminants). The Control Officer is filing this Notice of Proposed Rulemaking for publication in the *Register*, as required by Arizona Revised Statute (A.R.S.) § 49-471.04. This notice includes the preamble, as prescribed in A.R.S. § 49-471.05, and the exact wording of the rule.

[M18-31]

#### PREAMBLE

**1. Statutory authority for the rulemaking:**

A.R.S. §§ 49-112, 49-474, 49-479 and 49-480

**2. Name and address of MCAQD personnel with whom persons may communicate regarding the rulemaking:**

Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N. Central Ave., Suite 125  
Phoenix, AZ 85004  
Telephone: (602) 506-6010  
Fax: (602) 506-6179

Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

**3. Rulemaking process:**

This rulemaking is following procedures identified in state statutes and the Maricopa County Enhanced Regulatory Outreach Program (EROP) Policy.

County Manager Briefing: June 2016

Stakeholder Workshop: November 16, 2017

Board of Health Meeting to Initiate Regulatory Change: February 2, 2018

Written comments may be submitted to the MCAQD through the EROP website (see Item #2 of this notice).

An oral proceeding is scheduled on April 4, 2018, at 10:00 a.m. at 1001 N. Central Ave., Phoenix, AZ 85004 in the 9th Floor Classroom.

Responses to all written comments received since the Briefing Notification to the County Manager was completed in June 2016, including those received via EROP, at stakeholder workshops, Board of Health meetings and oral comments received at the oral proceeding will be included in the Draft Notice of Final Rulemaking.

Maricopa County is currently under a “Moratorium on Increased Regulatory Burden”, Maricopa County Board of Supervisors Resolution C-44-13-104-M-02. The MCAQD obtained approval to proceed with this rulemaking on June 6, 2016.

**4. Explanation of the rule, including the control officer's reasons for initiating the rulemaking:**

**Summary:**

Rule 320 contains regulations addressing gaseous or odorous air contaminants, animal and vegetable matter reduction, material containment, stack height, hydrogen sulfide, high sulfur oil, sulfur from other industries and asphalt kettles and dip tanks. The rule was last revised in July of 2003. The MCAQD is proposing to revise Rule 320 to update and enhance the rule, to remove broad, unenforceable language in the rule and to clarify MCAQD's authority so that it is consistent with the intent of the Maricopa County Air Pollution Control Regulations and the general air pollution prohibition standard in Rule 100. This rule revision is part of a larger project to update, clarify and improve the Maricopa County Air Pollution Control Regulations.

**Updates and Enhancements:**

The MCAQD is proposing to update and enhance several sections of the rule. First, the MCAQD is proposing to add another emission control system option, a scrubbing or filtration system, to Section 301 for the control of emissions from equipment used for the reduction of animal matter. Second, the MCAQD is proposing to add text to the hydrogen sulfide emissions section, proposed Section 303, to delineate a standard method to calculate the 30 minute average hydrogen sulfide concentration which is used to

determine compliance with the hydrogen sulfide emission limit. The proposed method ensures all sources are determining compliance with the hydrogen sulfide emission limit in a consistent manner. Third, the MCAQD is proposing to add a monitoring and recordkeeping section, Section 500, to provide clear monitoring and recordkeeping requirements for sources subject to the rule and to provide consistency with the format of other air quality rules.

#### Issues of Enforceability:

Several sections in Rule 320 contain language that is broad and unenforceable. The department is proposing to remove these sections from the rule because they do not achieve emissions reductions. At the core of any effective regulation is a specific emission limit or a specific work practice that can be enforced consistently for all sources subject to that regulation. Sections 300, 302 and 303 of Rule 320 lack specific emissions limits and specific work practices. Section 300, for example, states no person shall emit gaseous or odorous air contaminants from equipment, operations or premises under his control “in such quantities or concentrations as to cause air pollution”. The phrase “in such quantities or concentrations as to cause air pollution” lacks a specific emission limit. Section 302, a second example, states materials including, but not limited to, solvents or other volatile compounds, paints, acids, alkalies, pesticides, fertilizer and manure shall be processed, stored, used and transported “in such a manner and by such means” that they will not unreasonably evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution. Where means are available to reduce effectively the contribution to air pollution from evaporation, leakage or discharge, the installation and use of such control methods, devices or equipment shall be mandatory. The phrase “in such a manner and by such means” lacks a specific work practice. Emissions limits and work practices such as these are very general and open to broad interpretation making them unenforceable.

Although the MCAQD is proposing to remove these sections, the MCAQD does regulate many of the emissions that Sections 300, 302, and 303 are meant to regulate by using one of the other 60 plus rules in the Maricopa County Air Pollution Control Regulations. For example, Section 302 (Material Containment Required) is meant to regulate emissions from the handling of materials such as fertilizer and manure; however, due to the broad, unenforceable language, these emissions are not effectively regulated by this section. The MCAQD more effectively regulates emissions from fertilizer and manure using Rule 310 (Fugitive Dust from Dust-Generating Operations) which contains specific emissions limits and work practices necessary for enforcement.

Questions about the enforceability of Rule 320, and about the enforceability of odor regulations in general, go back as far as the late 1960s and early 1970s. In 1967, The Maricopa County Board of Supervisors appointed the Maricopa County Air Pollution Advisory Council in accordance with the provisions of Senate Bill Number 1 of the 28th Arizona Legislature. The Advisory Council’s mission was to advise and consult with the Board of Supervisors about matters regarding air pollution. One of the first orders of business for the Advisory Council was to review the proposed air pollution control regulations prepared by the Maricopa County Health Department and make recommendations to the Board of Supervisors. The proposed regulations addressed, amongst other things, visible emissions, particulate matter emissions, hydrocarbon emissions, incinerator emissions and open burning. The Advisory Council spent several months reviewing the air pollution regulations, including conducting several public meetings. In March of 1968, the Advisory Council submitted a report to the Board of Supervisors regarding its review of the regulations and its recommendations. The report stated much of the Advisory Council’s time was devoted to the consideration of regulations regarding odors. One of the Advisory Council’s recommendations was to delete the enforcement provision addressing odor when the effect of odor “is likely to be injurious to the public welfare of property, to the health of human, plant or animal life, or which interferes with the enjoyment of life or property”. The Advisory Council made this recommendation based on the two reasons stated below:

- a. “the provisions of the Arizona Statutes relating to nuisances together with the exercise of civil action could be best utilized at the present time to provide for the objective described by the deleted words [is likely to be injurious to the public welfare of property, to the health of human, plant or animal life, or which interferes with the enjoyment of life or property].”
- b. “the provisions of the proposed regulations should be limited to those forms of pollution which are susceptible to unqualified identification, evaluation of effect, and (hopefully) may be correctly and quantitatively measured. It was the feeling of various members of the Council that the exercise of discretionary powers for odor regulation, as suggested by one of the citizen representatives, would constitute an activity of the County’s enforcement officers which should not presently be undertaken.”

The Advisory Council recognized the regulation lacked specific emissions limits necessary for enforcement and did not want to leave enforcement of the regulation to the discretionary power of the County enforcement officers.

Although the Maricopa County Air Pollution Advisory Council recommended removing the proposed language mentioned above, a regulation addressing odor was later adopted in the 1970 Maricopa County Air Pollution Control Regulations, Regulation 3 of Section 4 of the regulations. The regulation contained language similar to the language found in current Rule 320. During the public hearing when the regulation was being adopted it was recognized the regulation contained enforceability issues. Dr. Farnsworth, the Director of the Maricopa County Health Department at the time, stated the following at the public hearing in regards to the regulation: “The statement within the regulations on page 18, under Regulation 3, subparagraph a, has to do with odors and gaseous emissions. These were put in at the recommendation of our Legal Counsel, all of us knowing that some phrases [phrases] of it may not be completely enforceable if it went to Superior Court.” The department recognized in 1970 that some sections [phrases] of the rule may not be completely enforceable and the department recognizes the same issues today.

#### Clarification of the MCAQD’s authority:

The intent of the Maricopa County Air Pollution Control Regulations, as stated in Section 101 of Rule 100, is to prevent, reduce, control, correct, or remove **regulated air pollutants** originating within the territorial limits of Maricopa County and carry out the mandates of Arizona Revised Statutes. The general air pollution prohibition standard in Rule 100, Section 301 (Air Pollution Prohibited), states no person shall discharge from any source whatever into the atmosphere **regulated air pollutants** which exceed in quantity or concentration that specified and allowed in these rules, the AAC or ARS, or which cause damage to property, or unrea-



sonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the Board Of Supervisors or the Director. Regulated air pollutants, per the definition of regulated air pollutant in Section 200.104 of Rule 100, include Criteria Pollutants (ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter and lead), nitrogen oxides and volatile organic compounds, New Source Performance Standard Air Pollutants, and National Emission Standards for Hazardous Air Pollutants. Odors are **not** considered regulated air pollutants. In order to clarify the MCAQD's authority and be consistent with the intent of the Maricopa County Air Pollution Control Regulations and the general air pollution prohibition standard in Rule 100, the MCAQD is proposing to remove the regulation of odor from the rule. This includes revising the title and purpose of the rule and removing the definition of odors in Section 203.

Although the MCAQD is proposing to remove the regulation of odor from Rule 320, it is important to note the MCAQD will continue to take and investigate odor complaints because regulated air pollutants may emit odors and odors can be an indication a source is in violation of one or more of the Maricopa County Air Pollution Control Regulations.

**5. Studies relied on in the control officer's evaluation of or justification for the rule and where the public may obtain or review the studies, all data underlying the studies, any analysis of the studies and other supporting material.**

Not applicable

**6. An economic, small business and consumer impact statement:**

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement, as prescribed by A.R.S. §§ 41-1055, subsections A, B and C, and 41-1035:

**An identification of the proposed rulemaking, including all of the following:**

This rulemaking is proposing to revise Rule 320.

**(a) The conduct and its frequency of occurrence that the rule is designed to change.**

This rulemaking is designed to revise Rule 320 to update and enhance the rule, to remove broad, unenforceable language and to clarify the MCAQD's authority. This rulemaking is part of a larger project to update, improve and clarify MCAQD regulations.

**(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.**

This rulemaking is designed to revise Rule 320 to update and enhance the rule, to remove broad, unenforceable language and to clarify the MCAQD's authority. This rulemaking is part of a larger project to update, improve and clarify MCAQD regulations.

**(c) The estimated change in frequency of the targeted conduct expected from the rule change.**

This rulemaking is designed to revise Rule 320 to update and enhance the rule, to remove broad, unenforceable language and to clarify the MCAQD's authority. This rulemaking is part of a larger project to update, improve and clarify MCAQD regulations.

**A brief summary of the information included in the economic, small business and consumer impact statement.**

This rulemaking should not have an economic impact on small businesses or consumers in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on small businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

**Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.**

Name: Greg Verkamp or Hether Krause  
Maricopa County Air Quality Department  
Planning and Analysis Division  
Address: 1001 N. Central Ave., Suite 125  
Phoenix, AZ 85004  
Telephone: (602) 506-6010  
Fax: (602) 506-6179

Submit Comments At: <http://maricopa.gov/FormCenter/Regulatory-Outreach-17/Citizen-Comments-94>

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

This rulemaking should not have an economic impact on businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses.

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

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

This rulemaking should not have an economic impact on the MCAQD or any other agency. The proposed revisions do not impose any new, significant compliance burdens on small businesses; therefore, the MCAQD and other agencies should not have any extra costs related to the rulemaking.

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

This rulemaking should not have an economic impact on any political subdivision in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on political subdivisions.

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

This rulemaking should not have an economic impact on businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

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

Because this rulemaking does not impose any new, significant compliance burdens on small businesses, the MCAQD does not anticipate this rulemaking will have an impact on private and public employment for any businesses, agencies or political divisions.

**A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:**

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

Small businesses regulated by the MCAQD with Rule 320 regulations in their permits will be subject to this rulemaking.

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

This rulemaking should not have an economic impact on businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

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

**i. Establish less stringent compliance or reporting requirements in the rule for small businesses.**

The proposed revisions do not impose any new, significant compliance burdens on businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

**ii. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.**

The proposed revisions do not impose any new stringent schedules or deadlines for compliance or reporting requirements on small businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

**iii. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.**

The proposed revisions do not impose any new, significant compliance or reporting requirements on small businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

**iv. Establish performance standards for small businesses to replace design or operational standards in the rule.**

The proposed revisions do not impose any new, significant compliance burdens on businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

**v. Exempt small businesses from any or all requirements of the rule.**

The proposed revisions do not impose any new, significant compliance burdens on businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

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

This rulemaking does not impose any new, significant compliance burdens on businesses and will not impose increased monetary or regulatory costs on any regulated business, persons, or individuals. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

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

The rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.**

This rulemaking should not have an economic impact on small businesses in Maricopa County. The proposed revisions do not impose any new, significant compliance burdens on businesses. The revisions do include some new emission control system, monitoring and recordkeeping requirements but these new requirements are already present in the permits of the affected businesses.

**A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.**

Not applicable.

**If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.**

Not applicable.

**7. The proposed effective date of the rule:**

The proposed effective date of this rulemaking is October 24, 2018.

**8. Such other matters as are prescribed by statute and that are applicable to the county or to any specific rule or class of rules:**

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.



§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following requirements are met:

1. The rule, ordinance or regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or regulation is either;
  - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
  - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or regulation does not exceed the reasonable costs of the county to issue and administer the permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The MCAQD is in compliance with A.R.S. §§ 49-112(A) and (B). This rulemaking is not making the rule more stringent.

**EXACT WORDING OF THE RULE**

**REGULATION III - CONTROL OF AIR CONTAMINANTS**

**RULE 320**

**ODORS AND GASEOUS AIR CONTAMINANTS REDUCTION OF ANIMAL MATTER, ASPHALT DAY TANKERS AND/OR TAR KETTLES, HYDROGEN SULFIDE (H<sub>2</sub>S) AND SULFUR IN FUEL**

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Revised 07/13/88  
Revised 07/02/03

Revised 07/13/1988; Revised 07/02/2003; Revised ~~XX/XX/XXXX~~

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION III - CONTROL OF AIR CONTAMINANTS**

**RULE 320**

~~ODORS AND GASEOUS AIR CONTAMINANTS~~ **REDUCTION OF ANIMAL MATTER, ASPHALT DAY TANKERS AND/OR TAR KETTLES, HYDROGEN SULFIDE (H<sub>2</sub>S) AND SULFUR IN FUEL**

**SECTION 100 - GENERAL**

- 101** ~~PURPOSE: To limit the emissions of odors and other gaseous air contaminants into the atmosphere. To establish performance standards for reduction of animal matter and asphalt day tankers and/or tar kettles, emission limits for hydrogen sulfide (H<sub>2</sub>S) and standards for sulfur in fuel.~~ PURPOSE: To establish performance standards for reduction of animal matter and asphalt day tankers and/or tar kettles, emission limits for hydrogen sulfide (H<sub>2</sub>S) and standards for sulfur in fuel.
- 102** ~~APPLICABILITY: The provisions of this rule shall apply to reduction of animal matter, asphalt day tankers and/or tar kettles, the emissions of H<sub>2</sub>S and the standards for sulfur in fuel.~~ APPLICABILITY: The provisions of this rule shall apply to reduction of animal matter, asphalt day tankers and/or tar kettles, the emissions of H<sub>2</sub>S and the standards for sulfur in fuel.
- 103** ~~EXEMPTION: An owner or operator subject to standards for sulfur in fuel in Rule 322 (Power Plant Operations), Rule 323 (Fuel Burning Equipment From Industrial/Commercial/Institutional (ICI) sources), or Rule 324 (Stationary Reciprocating Internal Combustion Engines (RICE)) of these rules is not subject to the standards for sulfur in fuel in this rule.~~ EXEMPTION: An owner or operator subject to standards for sulfur in fuel in Rule 322 (Power Plant Operations), Rule 323 (Fuel Burning Equipment From Industrial/Commercial/Institutional (ICI) sources), or Rule 324 (Stationary Reciprocating Internal Combustion Engines (RICE)) of these rules is not subject to the standards for sulfur in fuel in this rule.

**SECTION 200 - DEFINITIONS:** ~~For the purpose of this rule, the following definitions shall apply: For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.~~ For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County Air Pollution Control Regulations, the definitions in this rule take precedence.

- 201 ~~HIGH SULFUR OIL Fuel oil containing 0.05 percent or more by weight of sulfur.~~
- 202 ~~LOW SULFUR OIL Fuel oil containing less than 0.05 percent by weight of sulfur.~~
- 203 ~~ODORS Smells, aromas or stenches commonly recognized as offensive, obnoxious or objectionable to a substantial part of a community.~~
- 204 ~~REDUCTION Any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating and protein-concentrating.~~
- 201** **ASPHALT DAY TANKER:** A storage tank that is sometimes mounted on mobile equipment and is used exclusively for storing, holding, melting and transferring asphalt or coal tar pitch with a maximum holding capacity equal to or greater than 159



gallons (600 liters) but no more than 5,000 gallons (18,925 liters) and is equipped with a demister and burner(s) designed to fire on natural gas, butane, propane or other fuels as approved by the Control Officer.

**202** **OCCUPIED PLACE:** A location where people are either residing (a residence) or working (a workplace) or any place people might have an activity (e.g. bus stop, basketball court, patio).

**203** **REDUCTION:** Any heated process, including rendering, cooking, drying, dehydrating, digesting, evaporating and protein concentrating. For the purpose of this rule, reduction does not include incineration, composting, cremation or the use of any article, machine, equipment or other contrivance used exclusively for the processing of food for human consumption.

**204** **TAR KETTLE:** Any mobile equipment used exclusively for storing, holding, melting, and transferring asphalt or coal tar pitch with a maximum holding capacity greater than 159 gallons (600 liters) but no more than 1,000 gallons (3,785 liters) and is equipped with burner(s) designed to fire on natural gas, butane, propane or other fuels as approved by the Control Officer.

**205** **WASTE DERIVED FUEL GAS:** A gaseous fuel that is generated from the biodegradation of solid or liquid waste including, but not limited to, digester gas and landfill gas. For the purpose of this rule, waste derived fuel gas does not apply to untreated landfill gas to an enclosed flare.

**SECTION 300 - STANDARDS:** ~~No person shall emit gaseous or odorous air contaminants from equipment, operations or premises under his control in such quantities or concentrations as to cause air pollution.~~

**301** ~~**ANIMAL AND VEGETABLE MATTER REDUCTION:** No person shall operate or use any machine, equipment or other contrivance for the reduction of animal or vegetable matter, separately or in combination, unless all gases, vapors and gasentrained effluents have been incinerated to destruction at a temperature of not less than 1,300 degrees fahrenheit or processed in a manner determined by the Control Officer to be equally or more effective for the control of air pollution.~~

**302** ~~**MATERIAL CONTAINMENT REQUIRED:** Materials including, but not limited to, solvents or other volatile compounds, paints, acids, alkalies, pesticides, fertilizer and manure shall be processed, stored, used and transported in such a manner and by such means that they will not unreasonably evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution. Where means are available to reduce effectively the contribution to air pollution from evaporation, leakage or discharge, the installation and use of such control methods, devices or equipment shall be mandatory.~~

**303** ~~**REASONABLE STACK HEIGHT REQUIRED:** Where a stack, vent or other outlet is at such a level that air contaminants are discharged to adjoining property, the Control Officer may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet to a degree that will adequately dilute, reduce or eliminate the discharge of air contaminants to adjoining property.~~

**304** ~~**LIMITATION HYDROGEN SULFIDE:** No person shall emit hydrogen sulfide from any location in such a manner or amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.~~

**305** ~~**PERMIT CONDITIONS HIGH SULFUR OIL:** Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. The applicant must demonstrate to the Control Officer that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to insure that the sulfur dioxide ambient air quality standards set forth in Rule 510 of these Regulations will not be violated. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Control Officer monthly reports detailing its efforts to obtain low sulfur oil. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.~~

**306** ~~**LIMITATION SULFUR FROM OTHER INDUSTRIES:** No person shall discharge into the atmosphere from any industry, reduced sulfur, which includes sulfur equivalent from all sulfur emissions including but not limited to sulfur dioxide, sulfur trioxide and sulfuric acid, in excess of ten percent of the sulfur entering the process as feed.~~

**307** ~~**OPERATING REQUIREMENTS ASPHALT KETTLES AND DIP TANKS:**~~

**307.1** ~~No person shall operate an asphalt kettle or dip tank unless the owner or operator controls air contaminant emissions by good modern practices, including but not limited to:~~

- ~~a: Maintenance of temperature below both the asphalt flash point and the maximum temperature recommended by the asphalt manufacturer through the use of automatic temperature controls.~~
- ~~b: Operation of the kettle or dip tank with the lid closed except when charging.~~



- e. ~~Pumping or drawing the asphalt through cocks without dipping.~~
- d. ~~Firing of the kettle or dip tank with a clean burning fuel.~~
- e. ~~Maintaining the kettle or dip tank in clean, properly adjusted and good operating condition.~~

307.2 ~~The visible emissions from the operation of an asphalt kettle or dip tank shall comply with the provisions of Rule 300.~~

**301** **Reduction OF ANIMAL MATTER:** An owner or operator of any equipment used for the reduction of animal matter shall comply with the following requirements:

**301.1** All gases, vapors and gas-entrained effluents shall be vented without bypass to one of the following Emission Control Systems listed below:

- a. A thermal destruction device operated at a temperature of no less than 1300 degrees Fahrenheit, or
- b. A scrubbing system or filtration system capable of removing total reduced sulfur with a control efficiency of at least 90% by weight.

**301.2** Records shall be maintained and provided in accordance with Section 500 of this rule.

**301.3** The Emission Control System shall be operated in accordance with Section 305 of this rule.

**302** **ASPHALT DAY TANKERS AND/OR TAR KETTLES:** An owner or operator of an asphalt day tanker and/or tar kettle shall comply with the following requirements:

**302.1** Maintain temperature below both the asphalt/tar flash point and the maximum temperature recommended by the manufacturer through the use of automatic temperature controls.

**302.2** Operate the asphalt day tanker and/or tar kettle with the lid closed except when charging.

**302.3** Pump or draw the asphalt/tar through cocks without dipping.

**302.4** Fire the asphalt day tanker and/or tar kettle with natural gas, butane, propane or other fuels as approved by the Control Officer.

**302.5** Maintain and operate the asphalt day tanker and/or tar kettle in proper working condition.

**302.6** Comply with the provisions of Rule 300 (Visible Emissions) of these rules for any visible emissions.

**303** **EMISSIONS OF H<sub>2</sub>S:** An owner or operator shall not emit H<sub>2</sub>S emissions into the ambient air at any occupied place beyond the premises that exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.

**303.1** H<sub>2</sub>S emissions shall be calculated using 5 minute data concentrations to obtain a 30 minute average concentration in parts per million by volume.

**304** **SULFUR IN FUEL:**

**304.1** An owner or operator burning fuel oil or a blend of fuel oil with any other fuels shall use only low sulfur oil that contains less than or equal to 0.05% sulfur by weight.

**304.2** An owner or operator using waste derived fuel gas shall use only waste derived fuel gas that contains no more than 0.08% sulfur by weight, alone or in combination with other fuels.

**304.3** An owner or operator shall maintain one or more of the following records to demonstrate compliance with the sulfur content limits of fuel of this rule:

- a. Fuel receipts; or
- b. Contract specifications; or
- c. Pipeline meter tickets; or
- d. Fuel supplier information; or
- e. Purchase records; or
- f. Test results

The items listed above must be based on enforceable test methods as approved by the Control Officer and provide accurate values for the sulfur content of the fuel.

**305** **EMISSION CONTROL SYSTEM (ECS):** An owner or operator shall comply with the following requirements for any ECS



subject to this rule:

**305.1** **Operation and Maintenance (O&M) Plan Required for ECS:** An owner or operator shall comply with a Control Officer approved O&M Plan for any ECS used for emission control. An owner or operator shall revise the O&M Plan upon the request of the Control Officer and/or whenever substantive changes are made to the equipment or plan, in accordance with MCAOD guidelines. An owner or operator shall monitor, operate and maintain the equipment in accordance with the device's approved O&M Plan.

- a.** An owner or operator shall provide and maintain (an) O&M Plan(s) for any ECS and any ECS monitoring devices used in accordance with this rule or to an air pollution control permit.
- b.** An owner or operator shall submit to the Control Officer for approval of the O&M Plan(s) of each ECS and each ECS monitoring device used in accordance with this rule.
- c.** An owner or operator shall comply with all the identified actions and schedules provided in each O&M Plan.
- d.** An owner or operator may revise an initial O&M Plan by submitting written revisions to the Control Officer. An owner or operator shall at all times comply with the latest version of the O&M Plan submitted to the Control Officer unless otherwise notified by the Control Officer in writing.

**305.2** An owner or operator shall properly install, operate, and maintain in calibration and in good working order, devices for indicating temperatures, pressures, transfer rates, rates of flow, or other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained as described in an approved O&M Plan.

**305.3** An owner or operator of any equipment subject to this rule that uses an ECS shall maintain and provide records in accordance with Section 500 of this rule.

#### **SECTION 400 – ADMINISTRATIVE REQUIREMENTS (NOT APPLICABLE)**

#### **SECTION 500 – MONITORING AND RECORDS**

**501** **RECORDKEEPING AND REPORTING:** Any records and data required by this section shall be kept on site at all times in a consistent and complete manner, in either electronic or paper format, and be made available without delay to the Control Officer or his designee upon request. The records shall be retained for 5 years.

**502** **REDUCTION OF ANIMAL MATTER:** An owner or operator of any equipment used for the reduction of animal matter shall maintain the following records:

**502.1** Weight of material processed in the cooker(s) totaled at the end of the month for the previous month.

**502.2** Total hours the cooker exhaust is vented to the ECS.

**502.3** A permanent, uninterrupted recorded determination of temperature as approved by the Control Officer.

**502.4** Date and duration when the equipment or instruments are inoperative, adjusted or repaired.

**503** **ASPHALT DAY TANKERS AND/OR TAR KETTLES:** An owner or operator shall maintain records of the monthly and 12-month rolling total amount of asphalt used for a period of at least five years from the date of the records and make them available to the Control Officer upon request. Records shall be updated monthly by the end of the following month.

**504** **COMPLIANCE DETERMINATION-** The following test methods are approved for use for the purpose of determining compliance with this rule. These test methods are incorporated by reference in Appendix G of the Maricopa County Air Pollution Control Regulations. Alternative test methods as approved by the Control Officer or other EPA-approved test methods may be used upon prior written approval from the Control Officer. When more than one test method is permitted for the same determination, an exceedance under any method will constitute a violation. Copies of test methods referenced in this section are available at the Maricopa County Air Quality Department, 1001 N. Central Avenue, Suite 125, Phoenix, AZ 85004-1942.

**504.1** Method 16 - Semicontinuous determination of sulfur emissions from stationary sources

**504.2** Method 16A - Semicontinuous determination of sulfur emissions from stationary sources

**504.3** Method 16B - Determination of total reduced sulfur emissions from stationary sources

**504.4** Method 16C - Determination of Total Reduced Sulfur Emissions from Stationary Sources

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**REGISTER INDEXES**

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

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Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**

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

**SUPPLEMENTAL PROPOSED RULEMAKING**

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

**FINAL RULEMAKING**

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

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

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

**FINAL SUMMARY**

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

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

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

**SUPPLEMENTAL EXPEDITED**

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

**FINAL EXPEDITED**

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

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

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

**EXEMPT SUPPLEMENTAL PROPOSED**

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

**FINAL EXEMPT RULEMAKING**

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

**EMERGENCY RULEMAKING**

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

**RECODIFICATION OF RULES**

RC = Recodified

**REJECTION OF RULES**

RJ = Rejected by the Attorney General

**TERMINATION OF RULES**

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

**RULE EXPIRATIONS**

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

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C = Corrections to Published Rules

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			FM-239		

**OTHER NOTICES AND PUBLIC RECORDS INDEX**

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

**THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 6 OF VOLUME 24.**

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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.

<b>Deadline Date (paper only) Friday, 5:00 p.m.</b>	<b>Register Publication Date</b>	<b>Oral Proceeding may be scheduled on or after</b>
November 3, 2017	November 24, 2017	December 26, 2017
November 10, 2017	December 1, 2017	January 2, 2018
November 17, 2017	December 8, 2017	January 8, 2018
November 24, 2017	December 15, 2017	January 16, 2018
December 1, 2017	December 22, 2017	January 22, 2018
December 8, 2017	December 29, 2017	January 29, 2018
December 15, 2017	January 5, 2018	February 5, 2018
December 22, 2017	January 12, 2018	February 12, 2018
December 29, 2017	January 19, 2018	February 20, 2018
January 5, 2018	January 26, 2018	February 26, 2018
January 12, 2018	February 2, 2018	March 5, 2018
January 19, 2018	February 9, 2018	March 12, 2018
January 26, 2018	February 16, 2018	March 19, 2018
February 2, 2018	February 23, 2018	March 26, 2018
February 9, 2018	March 2, 2018	April 2, 2018
February 16, 2018	March 9, 2018	April 9, 2018
February 23, 2018	March 16, 2018	April 16, 2018
March 2, 2018	March 23, 2018	April 23, 2018
March 9, 2018	March 30, 2018	April 30, 2018
March 16, 2018	April 6, 2018	May 7, 2018
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



### 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.