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From the Publisher

ABOUT THIS PUBLICATION

The authenticated pdf of the Administrative Register (A.A.R.) posted on the Arizona Secretary of State’s website is the official published version for 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 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 notices of rules terminated by the agency and rules that have expired.

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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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

New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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 authenticated pdf of Code chapters posted on the Arizona Secretary of State’s website are the official published version of rules in the A.A.C. 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.
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

START HERE

Agency opens a docket.
Agency files a Notice of Rulemaking Docket Opening; it is published in the Register. Often an agency will file the docket with the proposed rulemaking.

Agency drafts proposed rule and Economic Impact Statement (EIS); informal public review/comment.

Agency files Notice of Proposed Rulemaking.
Notice is published in the Register.
Notice of meetings may be published in Register or included in Preamble of Proposed Rulemaking.

Agency opens comment period.

Oral proceeding and close of record. Comment period must last at least 30 days after publication of notice. Oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing.

Substantial change?
If no change then

Rule must be submitted for review or terminated within 120 days after the close of the record.

A final rulemaking package is submitted to G.R.R.C. or A.G. for review. Contains final preamble, rules, and Economic Impact Statement.

G.R.R.C. has 90 days to review and approve or return the rule package, in whole or in part; A.G. has 60 days.

After approval by G.R.R.C. or A.G., the rule becomes effective 60 days after filing with the Secretary of State (unless otherwise indicated).

Final rule is published in the Register and the quarterly Code Supplement.
Definitions


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

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

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

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


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

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

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

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

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

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

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

Acronyms

A.A.C. – Arizona Administrative Code
A.A.R. – Arizona Administrative Register
APA – Administrative Procedure Act
A.R.S. – Arizona Revised Statutes
CFR – Code of Federal Regulations
EIS – Economic, Small Business, and Consumer Impact Statement
FR – Federal Register
G.R.R.C. – Governor’s Regulatory Review Council

About Preambles

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

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

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.
# NOTICES OF PROPOSED RULEMAKING

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

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

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

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

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

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## NOTICE OF PROPOSED RULEMAKING

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 1. BOARD OF ACCOUNTANCY**

[**[R21-137]**](#)

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## PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**
   - R4-1-101
   - R4-1-104
   - R4-1-115.03
   - R4-1-345
   - R4-1-453
   - R4-1-454
   - R4-1-455

2. **Rulemaking Action**
   - Amend
   - Amend
   - Amend
   - Amend
   - Amend
   - Amend
   - Amend

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

- **Authorizing statute:** A.R.S. § 32-703(B)(7) and (13)
- **Implementing statute:** A.R.S. § 32-703(B)(8)

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## 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: 27 A.A.R. 1542, September 24, 2021 (*in this issue*)

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

- **Name:** Monica L. Petersen, Executive Director
- **Address:** Board of Accountancy
  - 100 N. 15th Ave., Suite 165
  - Phoenix, AZ 85007
- **Telephone:** (602) 364-0870
- **Fax:** (602) 364-0903
- **Email:** mpetersen@azaccountancy.gov
- **Website:** [www.azaccountancy.gov](http://www.azaccountancy.gov)

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

- **R4-1-101.** At the request of the Board, Laws 2018, Ch. 268 (SB 1443) moved the definition of principal place of business from Arizona Revised Statutes (A.R.S.) § 32-701 to A.R.S. § 32-725 regarding limited reciprocity privilege (mobility) because A.R.S. § 32-725 was the only section of law that referenced the defined term. Subsequently, effective February 4, 2019, the Board’s rules provided for CPE reciprocity wherein a non-Arizona resident CPA seeking renewal of their Arizona CPA certificate can meet the CPE requirements for Arizona if they have met the CPE requirements in the jurisdiction¹ in which the CPA’s principal place of business is located.

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¹ Pursuant to A.R.S. § 32-701(18), “Jurisdiction” means, for the purposes of examination, certification, firm registration or limited reciprocity privilege, the fifty states of the United States, the District of Columbia, the United States Virgin Islands, Guam, the Commonwealth of the northern Mariana Islands or the Commonwealth of Puerto Rico.

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*September 24, 2021 | Published by the Arizona Secretary of State | Vol. 27, Issue 39*
From time to time, registrants requesting CPE reciprocity are confused about what “principal place of business” means. While a definition of “principal place of business” exists in A.R.S. § 32-725, it is restricted to that statute only. Accordingly, the Board would like to modify Arizona Administrative Code (A.A.C.) R4-1-101 to include the same definition in rule for CPE reciprocity.

**R4-1-104.** The Board also seeks to modify R4-1-104(A)(1) to change “C.P.A.” to “CPA” as “CPA” is used more commonly in the Board’s legal framework.

**R4-1-115.03.** Pursuant to A.R.S. § 32-703(B)(8) and A.A.C. R4-1-454, the Board requires CPA firms to comply with peer review standards. Specifically, if CPA firms perform attest services and compilation services, they are to undergo and complete a peer review. When peer reviews are received and have pass ratings, they are reviewed by Board staff and approved via delegated authority (A.R.S. § 32-703(B)(14)(h)). If peer reviews have pass with deficiencies or fails, they are reviewed by PROAC, and either subsequently approved via the aforementioned delegated authority or sent to the Board with an advisory recommendation.

A.A.C. R4-1-115.03 currently provides that PROAC can make a recommendation to the Board to direct and authorized committee to conduct an initial analysis pursuant to A.R.S. § 32-742.01. Pursuant to A.R.S. § 32-749, a file in initial analysis is considered confidential. As such, rather than having the PROAC make a recommendation to the Board to conduct an initial analysis specifically, the preference is to simply state that the PROAC can make advisory recommendations to the Board so a firm’s confidentiality can be maintained. Additionally, the language regarding advisory recommendations supports the work that the PROAC has always done when it accepts a firm’s peer review submission and deems the firm compliant with peer review requirements. The Board seeks to clarify the authority of its PROAC.

**R4-1-345.** Effective April 5, 2021, the Board introduced a temporary biennial registration fee reduction, which reduced the biennial registration fee from $300.00 to $275.00 for registrations due during the period from July 1, 2020 to June 30, 2022. As a result of this temporary fee reduction, 4,784 CPAs with registrations due from July 1, 2020 through June 30, 2021 have saved a combined $119,600. We expect a similar amount of savings for the current fiscal year. The temporary fee reduction is limited to CPA biennial registrations due during the period from July 1, 2020 to June 30, 2022. The Board would like to modify A.A.C. R4-1-345 to extend this temporary fee reduction to June 30, 2024 to further reduce its fund balance.

**R4-1-453.** A.A.C. R4-1-453(C)(7) currently does not allow registrants to reuse CPE hours that were used to vacate a suspension for nonregistration or suspension for noncompliance with CPE requirements for a subsequent registration period. A.A.C. R4-1-453(C)(6) is reworded to include the provisions of (C)(7) and adds that CPE taken to comply with a granted CPE extension cannot be used for a subsequent registration period.

**R4-1-454.** and **R4-1-455.** The Board seeks to update the incorporations by reference found in A.A.C. R4-1-454 and R4-1-455. A.R.S. § 41-1028(B) requires that a reference in rule fully identify an incorporated matter by location, date and state that the rule does not include any later amendments or editions of the incorporated matter.

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

Not applicable

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

Not applicable

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

Amendments to R4-1-101 are expected to positively affect the Board and the regulated community by having a definition of “principal place of business” enumerated in its rule. This will provide clarity to the regulated community if they request CPE reciprocity. Amendments to R4-1-104 are not expected to have any economic, small business, or consumer impact.

Amendments to R4-1-115.03 are expected to positively affect the Board and its Peer Review Oversight Advisory Committee by clarifying the Committee’s authority to make advisory recommendations to the Board concerning peer review and monitor the peer review program and report to the Board on its effectiveness.

Amendments to R4-1-345 are expected to affect the Board and the regulated community. Continuing the temporary biennial registration fee reduction, which reduced the biennial registration fee from $300.00 to $275.00, is expected to reduce Board revenues and its fund balance. CPAs submitting biennial renewals will benefit from the reduction as well. Extending the temporary biennial registration fee reduction is expected to save the regulated community approximately $239,200.00 for fiscal years 2023 and 2024. Amendments to R4-1-453 are expected to affect the Board, public, and the regulated community. Clarifying that registrants are unable to include CPE taken to comply with a granted CPE extension in a subsequent registration period positively affects the Board in its mission to protect the public from incompetent and unqualified CPAs, which in turn benefits the public. It also ensures equity across all CPAs in that all CPAs must adhere to the same CPE requirement whether or not they were suspended for non-registration or non-compliance with CPE or granted an extension of time to complete CPE. CPAs that attempt to use their CPE twice may be negatively impacted by this amendment if subjected to a CPA audit.

Amendments to R4-1-454 and R4-1-455 are expected to affect the Board, consumers, and the regulated community. The Board will benefit from being able to hold registrants accountable to the most current versions of the peer review standards and the American Institute of Certified Public Accountants’ Code of Professional Conduct, which directly ties to the Board’s mission to protect the public. As this update will assist the Board in better fulfilling its mission, the public will also benefit from the more effective
9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:
   Name: Monica L. Petersen, Executive Director
   Address: Board of Accountancy
             100 N. 15th Ave., Suite 165
             Phoenix, AZ 85007
   Telephone: (602) 364-0870
   Fax: (602) 364-0903
   Email: mpetersen@azaccountancy.gov
   Website: www.azaccountancy.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:
    An oral proceeding regarding the proposed rules will be held as follows:
    Date: November 8, 2021
    Time: 9:00 a.m.
    Location: Board of Accountancy
              100 N. 15th Ave., Suite 165
              Phoenix, AZ 85007
    The rulemaking record will close on Monday, November 8, 2021 at 5:00 p.m.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
    a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:
       The rules do not require a permit.
    b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:
       There is no federal law regarding CPAs or any other subjects of the rules.
    c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:
       No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:
    R-1-454(A) – Standards for Performing and Reporting on Peer Reviews
              https://www.aicpa.org/content/dam/aicpa/research/standards/peerreview/downloadeddocuments/peerreviewstandards.pdf
    R4-1-455(A) – Code of Professional Conduct

13. The full text of the rules follows:

   TITLE 4. PROFESSIONS AND OCCUPATIONS
   CHAPTER 1. BOARD OF ACCOUNTANCY

   ARTICLE 1. GENERAL

   Section
   R4-1-101. Definitions
   R4-1-104. Board Records; Public Access; Copying Fees
   R4-1-115.03. Peer Review Oversight Advisory Committee

   ARTICLE 3. CERTIFICATION AND REGISTRATION

   Section
   R4-1-345. Registration; Fees

   ARTICLE 4. REGULATION

   Section
   R4-1-453. Continuing Professional Education
   R4-1-454. Peer Review
   R4-1-455. Professional Conduct and Standards
R4-1-101. Definitions
A. The definitions in A.R.S. § 32-701 apply to this chapter.
B. In this chapter, unless the context otherwise requires:
   1. “Contested case” means any proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
   2. “CPE” or “continuing professional education” means attending classes, writing articles, conducting or teaching courses, and taking self-study courses to maintain and improving of professional competence in accounting.
   3. “Facilitated State Board Access (FSBA)” means the sponsoring organization’s process for providing the Board access to peer review results via a secured website.
   4. “Party” means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
   5. “Peer review” means an assessment, conducted according to R4-1-454(A), of one or more aspects of the professional work of a firm.
   6. “Peer review program” means the sponsoring organization’s entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.
   7. “Person” may include any individual, and any form of corporation, partnership, or professional limited liability company.
   8. “Principal place of business” means the office designated by the individual as the principal location for the individual’s practice of accounting.
   9. “Sponsoring organization” means a Board-approved professional society, or other organization approved by the Board responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.
10. “Upper level course” means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principles of accounting or similar introductory accounting courses.

R4-1-104. Board Records; Public Access; Copying Fees
A. The Board shall maintain all records, subject to A.R.S. Title 39, Chapter 1, reasonably necessary or appropriate to maintain an accurate knowledge of the Board’s official activities including, but not limited to:
   1. Applications for C.P.A. CPA certificates and supporting documentation and correspondence;
   2. Applications to take the Uniform Certified Public Accountant Examination;
   3. Registration for registrants;
   4. Documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; and;
   5. Investigative reports, staff memorandum; and general correspondence between any person and the Board, members of the Board, or staff members.
B. Any person desiring to inspect or obtain copies of records of the Board available to the public under this section shall make a request to the Board's Executive Director or the Director’s designee. The Executive Director or the director’s designee shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director or the director’s designee is unsure whether a record may be made available for public inspection and copying, the Executive Director or the director’s designee shall refer the matter to the Board for final determination.
C. A person shall not remove original records of the Board from the office of the Board unless the records are in the custody and control of a board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director or the director’s designee may designate a staff member to observe and monitor any examination of Board records.
D. The Board shall provide copies of all records available for public inspection and copying shall be provided according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.
E. Any person aggrieved by a decision of the Executive Director or the director’s designee denying access to records of the Board may request a hearing before the Board to review the action of the Executive Director or the director’s designee by filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person requires immediate access to Board records, the person may request and may be granted an earlier hearing, if the person sets forth sufficient grounds for immediate access.

R4-1-115.03. Peer Review Oversight Advisory Committee
A. The Board may appoint an advisory committee to monitor and conduct the peer review program. Upon appointment the committee shall:
   1. Advise the Board on matters relating to the peer review program; Make advisory recommendations to the Board concerning peer review, and
   2. Report to the Board on effectiveness of the peer review program; Monitor the peer review program and report to the Board on its effectiveness.
   3. Make a recommendation to the Board to direct an authorized committee to conduct an initial analysis.
B. The Board may accept, reject, or modify recommendations of the Peer Review Oversight Advisory Committee.

ARTICLE 3. CERTIFICATION AND REGISTRATION
A. Initial registration: After the Board approves an applicant’s request for certification or firm registration, the registrant shall file a registration in a format prescribed by the Board and pay a registration fee under subsection (C).
B. Renewal registration: A registrant shall file an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board’s
office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:

1. Individual registrant: An individual registrant shall renew registration at the following times:
   a. A registrant born in an even-numbered year shall renew registration during the month of birth in each even-numbered year.
   b. A registrant born in an odd-numbered year shall renew registration during the month of birth in each odd-numbered year.

2. Firm registrant: A firm shall renew registration at the following times:
   a. A business organization firm that initially registered with the Board in an even-numbered year shall renew registration during the board-approved month of the initial registration in each even-numbered year.
   b. A business organization firm that initially registered with the Board in an odd-numbered year shall renew registration during the board-approved month of the initial registration in each odd-numbered year.
   c. An individual or a sole proprietorship firm shall renew its registration pursuant to paragraph (B)(1).

C. Registration fees:

1. Initial Registration Fee –
   a. Certification – $300 and, if applicable, a late fee of $50.
   b. The registration fee shall be prorated by month for an initial registration period of less than two years.

2. Biennial Registration Fee –
   a. Certification – $300 and, if applicable, a late fee of $50.
   i. For registrations due during the period from July 1, 2020 to June 30, 2024, the biennial registration fee will be reduced temporarily to $275.
   ii. For registrations due beginning July 1, 2024, the biennial registration fee will revert to $300.
   b. Firm Registration – $300 and, if applicable, a late fee of $50. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.

ARTICLE 4. REGULATION

R4-1-453. Continuing Professional Education

A. Measurement Standards. The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.

1. CPE credit shall be given in one-fifth or one-half increments for periods of not less than one class hour except as noted in paragraph 8. The computation of CPE credit shall be measured as follows:
   a. A class hour shall consist of a minimum of 50 continuous minutes of instruction.
   b. A half-class hour shall consist of a minimum of 25 continuous minutes of instruction.
   c. A one-fifth class hour shall consist of a minimum of 10 continuous minutes of instruction.

2. Courses taken at colleges and universities apply toward the CPE requirement as follows:
   a. Each semester - system credit hour is worth 15 CPE credit hours.
   b. Each quarter - system credit hour is worth 10 CPE credit hours, and
   c. Each noncredit class hour is worth one CPE credit hour.

3. Each correspondence program hour is worth one CPE credit hour.

4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and shall allow CPE credit for preparation time that is less than or equal to the presentation hours. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.

5. The following may be counted for a maximum of 20 hours of CPE credit during each renewal period.
   a. Credit may be earned for writing and publishing articles or books that contribute to the accounting profession and is published by a recognized third-party publisher of accounting material or a sponsor as long as it is not used in conjunction with a seminar.
   b. Credit may be earned for the writing or development of online course curriculum for undergraduate, graduate, or doctoral education that contribute to the accounting profession.
   c. Two credit hours will be given for each 3,000 words of original material written or developed into curriculum. Materials must be at least 3,000 words in length. Multiple authors may share credit for material written or developed into curriculum.

6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (A)(4) and (5) above during each renewal period.

7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as consulting services pursuant to subsection (C).

8. A registrant may earn a maximum of 4 hours of CPE during each renewal period by completing nano-learning courses. A nano-learning program is a tutorial program designed to permit a participant to learn a given subject in a ten-minute time-frame through the use of electronic media and without interaction with a real time instructor.

9. CPE credit shall be given in one-fifth or one-half hour increments if the CPE is a segment of a continuing series related to a specific subject as long as the segments are connected by an overarching course that is a minimum of one hour and taken within the same CPE reporting period.

10. Credit shall not be allowed for repeat participation in any seminar or course during the registration period.

B. Programs that Qualify. CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.

1. The Board shall accept a CPE course as qualified if it:
   a. Is developed by persons knowledgeable and experienced in the subject matter,
b. Provides written outlines or full text,
c. Is administered by an instructor or organization knowledgeable in the program, and
d. Uses teaching methods consistent with the study program.
2. The Board shall accept a correspondence program which includes online or computer based programs if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
3. An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection (C)(4).

C. Hour Requirement. As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-732(A), a registrant shall complete the CPE requirements during the two-year period immediately before registration or application respectively as specified under subsections (C)(1) through (C)(5). For registration periods of less than two years CPE may be prorated by quarter, with the exception of ethics.
1. A registrant whose last registration period was for two years shall complete 80 hours of CPE.
2. A registrant shall complete a minimum of 40 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation.
3. A registrant shall complete a minimum of 16 of the required hours:
   a. In a classroom setting,
   b. Through an interactive live webinar, or
   c. By acting as a lecturer or discussion leader in a CPE program, including college courses.
4. A registrant shall complete four hours of CPE in the subject area of ethics. The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
   a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants, and
   b. Board statutes and administrative rules.
5. A registrant shall report, at a minimum, the CPE hours required for the registration period.
6. Hours that exceed the number required for the current registration period may not be carried forward to a subsequent registration period; CPE hours completed for a registration period may not be used for a subsequent registration period in any of the following instances:
   a. To vacate a suspension for nonregistration,
   b. To vacate a suspension for noncompliance with CPE requirements, or
   c. To comply with a granted CPE extension.
7. Any CPE hours completed to vacate a suspension for nonregistration or for noncompliance with CPE requirements may not be used to meet CPE requirements for the registration period.
8. As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, a registrant or an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated by quarter, with the exception of ethics.
   a. A registrant or an applicant shall complete a minimum of 80 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
   b. A registrant or an applicant shall complete a minimum of 32 hours of the required hours:
      i. In a classroom setting,
      ii. Through an interactive live webinar, or
      iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.
   c. A registrant or an applicant shall complete CPE in the subject area of ethics. Four hours of ethics CPE shall be required if 1 – 24 months have passed since the last registration due date for which CPE was completed. Eight hours of ethics CPE shall be required if 25 – 48 months have passed since the last registration due date for which CPE was completed. The hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:
      i. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and
      ii. Board statutes and administrative rules.

D. Reporting: A registrant or an applicant for reactivation or reinstatement, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE:
1. Sponsoring organization,
2. Number of CPE credit hours,
3. Title of program or description of content,
4. Dates attended,
5. Subject, and

E. In addition to the information required under subsection (D), a registrant or an applicant for reactivation or reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to subsection (G) shall provide the Board the following CPE records at its request: copies of transcripts, course outlines, and certificates of completion that include registrant’s name, course provider or sponsor, course title, credit hours, and date of completion.

F. CPE Record Retention: A registrant shall maintain CPE records for three years from the date the registration was dated as received by the Board. The following documents for all CPE completed for the registration period, even if not reported on the registration: transcripts, course outlines, and certificates of completion that include registrant’s name, course provider or sponsor, course title, credit hours, and date of completion.
G. CPE audits: The Board, at its discretion, may conduct audits of a registrant’s CPE and require that the registrant provide the CPE records that the registrant is required to maintain under subsection (F) to verify compliance with CPE requirements.

H. The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.

I. A non-resident registrant seeking renewal of a certificate in this state shall be determined to have met the CPE requirements of this rule by meeting the CPE requirements for renewal of a certificate in the jurisdiction in which the registrant’s principal place of business is located.

1. Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the jurisdiction in which the registrant’s principal place of business is located by signing a statement to that effect on the renewal application of this state.

2. If a non-resident registrant’s principal place of business jurisdiction has no CPE requirements for renewal of a certificate or license, the non-resident registrant must comply with all CPE requirements for renewal of a certificate in this state.

R4-1-454. Peer Review

A. Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, issued April 2019 and published June 1, 2020 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 (www.aicpa.org), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board’s office.

B. A firm must allow the sponsoring organization to make the following documents accessible to the Board via the FSBA process:

1. Peer review report which has been accepted by the sponsoring organization,

2. Firm’s letter of response accepted by the sponsoring organization, if applicable,

3. Completion letter from the sponsoring organization,

4. Letter(s) Letter or letters accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the sponsoring organization, if applicable, and

5. Letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.

C. Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.

D. Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this Section. If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

R4-1-455. Professional Conduct and Standards

A. It is the Board’s policy that the rules governing registrants be consistent with the rules governing the accounting profession generally. Except as otherwise set forth in these regulations, registrants shall conform their conduct to the Code of Professional Conduct, published June 1, 2020 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 (www.aicpa.org), available from the AICPA.

B. The AICPA Code of Professional Conduct, and any interpretations and ethical rulings by the issuing body, shall apply to all registrants, including those who are not members of the AICPA. The version specified above, including any interpretations and ethical rulings in effect shall apply. Any later amendments, additions, interpretations, or ethical rulings shall not apply.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS**

**INSURANCE DIVISION**

[R21-138]

**PREAMBLE**

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

R20-6-2201 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. § 20-143

Implementing statute: A.R.S. §§ 20-106, 20-142

**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 27 A.A.R. 1544, September 24, 2021 (in this issue)

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

Name: Mary E. Kosinski

Address: Department of Insurance and Financial Institutions

100 N. 15th Ave., Suite 261

Phoenix, AZ 85007-2630

Telephone: (602) 364-3476

Email: mary.kosinski@difi.az.gov
5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

This rulemaking sets forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive, or unfair. This rulemaking applies only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member.

Previously, Arizona Administrative Code Section R20-6-2201 incorporated National Association of Insurance Commissioners Model Regulation 568: Military Sales Practices Model Regulation (“Model Regulation 568”) by reference. The Department seeks to replace the incorporation by reference with the full text of Model Regulation 568. The Department believes this action will make it easier for a consumer or regulated licensee to access the rule in the Administrative Code, rather than requiring the extra step of seeking out Model Regulation 568. Further, the new rule will make amendments to the model regulation to accommodate Arizona specifics.

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

The Division did not review and does not propose to rely on any study relevant to this rulemaking.

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

The rulemaking does not diminish a previous grant of authority granted to the Division.

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

Pursuant to A.R.S. § 41-1055(A)(1):
- The rulemaking is not designed to change any conduct of insurance producers. This rulemaking replaces the incorporated by reference materials with the language of the model regulation. The purpose of including the direct language as opposed to keeping the incorporation by reference is to allow easier access of the regulation to consumers and industry members examining the rule.

Pursuant to A.R.S. § 41-1055(A)(2):
- The costs incurred are non-existent because the rulemaking merely replaces the incorporation by reference with the actual language of the model regulation. The Department adopted the original rule in 2008 (13 A.A.R. 4215, January 5, 2008). No changes have been made to the model regulation since that time. Licensees have been subject to the rule since its adoption.

Pursuant to A.R.S. § 41-1055(A)(3):
- An economic, small business and consumer impact summary does not accompany this Proposed Rulemaking.

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

Name: Mary E. Kosinski
Address: Department of Insurance and Financial Institutions
100 N. 15th Ave., Suite 261
Phoenix, AZ 85007-2630
Telephone: (602) 364-3476
Email: mary.kosinski@difi.az.gov

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

No hearing is currently scheduled. Persons who wish to request an Oral Proceeding on this rulemaking should make a written request to the person listed in item 9. Requests must be received within 30 days of the publication of this Notice of Proposed Rulemaking, A.R.S. § 41-1023(C). If requested, the Oral Proceeding will be conducted at least 30 days after the receipt of any such request. The Division will publish a Notice of Oral Proceeding in the Arizona Register notifying parties of the date and time of the proceeding. All Oral Proceedings are currently being conducted virtually.

In lieu of an oral proceeding, interested parties may submit public comments to: public_comments@difi.az.gov

Please use the term “Military Sales” in the subject line of the email.

If no one requests an oral proceeding, the public comment period will close at 11:59 p.m. on the 30th day after the publication date of this Notice of Proposed Rulemaking. If anyone requests an oral proceeding, the public comment period will close at 11:59 p.m. on the date of the Oral Proceeding.

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

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:
   The rule does not require a permit. Instead, the rule governs insurance producer actions when dealing with military service members.

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:
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 formal analysis has been submitted to the Division that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states.

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

The rule does not incorporate any materials by reference.

13. The full text of the rule follows:

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**  
**CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS**  
**INSURANCE DIVISION**

**ARTICLE 22. MILITARY PERSONNEL**

Section R20-6-2201. Military Sales Practices

**ARTICLE 22. MILITARY PERSONNEL**

R20-6-2201. Military Sales Practices

A. The Department incorporates by reference the National Association of Insurance Commissioners (NAIC) Military Sales Practices Model Regulation June 2007 (Model Regulation), and no future editions or amendments, which is on file with the Department of Insurance, 2410 N. 44th St., Phoenix, AZ 85018 and available from the National Association of Insurance Commissioners, Publications Department, 2301 McGee St., Suite 800, Kansas City, MO 64108.

Definitions:
1. “Active duty” means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. “Active duty” does not include members of the reserve component who are performing active duty or active duty under military calls or orders specifying periods of less than 31 calendar days.
2. “Department of Defense (DoD) personnel” means all active duty service members and all civilian employees, including non-appropriated fund employees and special government employees, of the Department of Defense.
3. “Division” means the Division of Insurance of the Department of Insurance and Financial Institutions.
4. “Door-to-door” means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.
6. “Formal banking relationship” for purposes of subsection (D), means a relationship established between a service member and a depository institution which:
   a. Provides the service member with a deposit agreement and periodic statements and makes disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301, et seq. and its accompanying regulations; and
   b. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.
7. “General advertisement” means an advertisement having as its sole purpose the promotion of the reader’s or viewer’s interest in the concept of insurance, or the promotion of the insurer, or the promotion of the insurance producer.
8. “Insurer” means an insurance company required to be licensed under the laws of Arizona to provide life insurance products, including annuities.
9. “Insurance producer” means a person required to be licensed pursuant to A.R.S. § 20-282.
11. “Known” or “Knowingly” means the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known at the time of the act or practice complained of, that depending on its use in this Section, the person solicited was either a service member or was a service member with a pay grade of E-4 or below.
12. “Life insurance” has the meaning defined at A.R.S. § 20-254.
13. “Military installation” means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.
14. “MyPay” is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.
15. “Service member” means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.
17. “Side fund” means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement, or other mechanism which accumulates premium, or deposits with interest, or by other means. “Side fund” does not include:
   a. Accumulated value, or cash value, or secondary guarantees provided by an universal life insurance policy;
   b. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
   c. A premium deposit fund which:
      i. Contains only premiums paid in advance which accumulate at interest;
ii. Imposes no penalty for withdrawal;
iii. Does not permit funding beyond future required premiums;
iv. Is not marketed or intended as an investment; and
v. Does not carry a commission, either paid or calculated.

18. “Specific appointment” means a prearranged appointment agreed upon by both parties and definite as to place and time.


B. The Model Regulation is modified as follows:

1. In addition to the terms defined in the Model Regulation, the following definitions apply:
   a. “Commissioner” means the Director of the Arizona Department of Insurance.
   b. “Regulation” means Article 2.

2. Section 1 is modified to insert “A.R.S. § 20-106, 20-142 and 20-143” after “of.”

3. Section 7(E)(5)(b) is modified to insert “A.R.S. § 20-1241 et seq., R20-6-202, and R20-6-209” after “requirements of.”

4. Subsection 7(F)(5) of the Model Regulation is excluded from this Section.

Exemptions.

1. This Section shall not apply to solicitations or sales involving:
   a. Credit insurance;
   b. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
   c. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the Division; or, when a term conversion privilege is exercised among corporate affiliates;
   d. Individual stand-alone health policies, including disability income policies;
   e. Contracts offered by SGLI or VGLI, as authorized by 38 U.S.C. §§ 1965 et seq.;
   f. Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the IRC, and which are not underwritten by an insurer; or
   g. Contracts used to fund:
      i. An employee pension or welfare benefit plan that is covered by ERISA;
      ii. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the IRC, as amended, if established and maintained by an employer;
      iii. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;
      iv. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
      v. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
      vi. Prearranged funeral contracts.

2. Nothing in this Section shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the U.S. Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – Personal Commercial Solicitation on DoD Installations or any successor directive.

3. This purposes of this Section, the following do not constitute solicitation:
   a. General advertisements;
   b. Direct mail;
   c. Internet marketing; and
   d. Telephone marketing if the caller explicitly and conspicuously discloses that the product being marketed is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation.

4. Any in-person, face-to-face meeting resulting from an exempt type of solicitation listed in subsection (3) is not exempt and the insurer or insurance producer is subject to this Section.

5. The following subsections do not apply to individually issued annuities: (D)(3)(b), (D)(5)(c), (D)(5)(e), (D)(6)(a), (D)(6)(c) and (D)(6)(d).

C. Practices Declared False, Misleading, Deceptive, or Unfair on a Military Installation.

1. The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive, or unfair:
   a. Knowingly soliciting the purchase of any life insurance product door-to-door or without first establishing a specific appointment for each meeting with a prospective purchaser.
   b. Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary.
   c. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
   d. Making appointments with or soliciting service members in barracks, day rooms, unit areas, transient personnel housing, or other areas where the installation commander has prohibited solicitation.
   e. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee.
   f. Posting unauthorized bulletins, notices, or advertisements.
   g. Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to solicited service members or discouraging solicited service members from completing or submitting a DD Form 2885.
h. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the U.S. Armed Forces without first obtaining a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the DoD or any branch of the U.S. Armed Forces for the insurer’s files.

2. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences, or inducements and are declared to be false, misleading, deceptive, or unfair:
   a. Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity, with or without compensation, with respect to the solicitation or sale of life insurance to service members;
   b. Using an insurance producer to participate in any U.S. Armed Forces sponsored education or orientation program.

D. Practices declared false, misleading, deceptive, or unfair regardless of location.

1. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive, or unfair:
   a. Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the U.S. Armed Forces to direct a service member’s pay to a third party for the purchase of life insurance. This includes, but is not limited to, using or assisting in using the service member’s “MyPay” account or other similar internet or electronic medium. This subsection does not prohibit an insurer or insurance producer assisting a service member by providing the insurer or premium information necessary to complete any allotment form.
   b. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship.
   c. Employing any device or method or entering into any agreement where funds received from a service member by allotment for the payment of insurance premiums are identified on the service member’s “Leave and Earnings Statement” or equivalent or successor form as “Savings” or “Checking” and where the service member has no formal banking relationship.
   d. Entering into any agreement with a depository institution for the purposes of receiving funds from a service member where the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.
   e. Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity, with or without compensation, with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade or to their family members.
   f. Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation or sale of life insurance to a service member.
   g. Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for their attendance to any event where an application for life insurance is solicited.
   h. Advising a service member with a pay grade of E-4 or below to change their income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

2. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval, or affiliation and are declared to be false, misleading, deceptive, or unfair:
   a. Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliate, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. government, the U.S. Armed Forces, or any state, federal agency, or government entity. Examples of prohibited insurance producer titles include, but are not limited to, “Battalion Insurance Counselor,” “Unit Insurance Advisor,” “Servicemen’s Group Life Insurance Conversion Consultant,” or “Veteran’s Benefits Counselor.” An insurance producer may use a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning including, but not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Masters of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).
   b. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the U.S. Armed Forces in a manner that has a tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. government or the U.S. Armed Forces.
   c. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the U.S. Armed Forces with whom it has no formal banking relationship.

3. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs, or investment returns and are declared to be false, misleading, deceptive, or unfair:
   a. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.
   b. Misrepresenting the mortality costs of a life insurance product, including a statement or implication that the product costs nothing or is free.

4. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive, or unfair:
   a. Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading, or deceptive.
   b. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations of coverage of SGLI or VGLI to private insurers which is false, misleading, or deceptive.
   c. Suggesting, recommending, or encouraging a service member to cancel or terminate their SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member’s separation from the U.S. Armed Forces.
5. The following acts or practices by an insurer or insurance producer regarding disclosure are declared to be false, misleading, deceptive, or unfair:
   a. Deploying, using, or contracting for any lead-generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.
   b. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.
   c. Failing to clearly and conspicuously disclose that fact that the product being sold is life insurance.
   d. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290, p. 16, 10 U.S.C. § 992 note.
   e. When the sale is conducted in-person and face-to-face with an individual known to be a service member, failing at the time the application is taken to provide to the applicant:
      i. An explanation of any applicable free look period with instructions on how to cancel if a policy is issued; and
      ii. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of A.R.S. §§ 20-1241 through 20-1241.09, Section R20-6-202 and Section R20-6-209 shall be deemed sufficient to meet this requirement for a written disclosure.

6. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive, or unfair:
   a. Recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.
   b. Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant’s SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant’s insurable needs for life insurance.
      i. “Insurable needs” are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant’s estate and/or survivors or dependents.
      ii. “Other military survivor benefits” include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents’ Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.
   c. Offering for sale or selling any life insurance contract which includes a side fund:
      i. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;
      ii. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from year one to year ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and
      iii. Which by default diverts or transfers funds accumulated to the side fund to pay, reduce, or offset any premiums due.
   d. Offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.
NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 7. EDUCATION
CHAPTER 2. STATE BOARD OF EDUCATION

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
   R7-2-317 Amend

2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:
   Authorizing statute: A.R.S. §§ 15-203(A)(1)
   Implementing statute: A.R.S. § 15-258
   Exemption statute: A.R.S. § 41-1005(F)

3. The effective date of the rules and the agency’s reason it selected the effective date:
   August 27, 2021

4. A list of all notices published in the Register as specified in R1-1-409(A) that pertains to the record of the exempt rulemaking:
   Not applicable

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Alicia Williams, Executive Director
   Address: State Board of Education
            1700 W. Washington, Suite 300
            Phoenix, AZ 85007
   Telephone: (602) 542-5057
   Fax: (602) 542-3046
   Email: inbox@azsbe.az.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
   A.R.S. § 15-258 establishes the State Seal of Biliteracy Program to recognize students who graduate from a school with a high level of proficiency in one or more language in addition to English.
   SB 1404 strikes a requirement for students to pass a specific “end-of-course examination” and simply requires an examination in English language arts (ELA).
   The Board adopted rules to allow students to meet the ELA competency requirement by receiving a passing score on one of the following: 1) the statewide assessment or an assessment on the Menu of Assessments; 2) the ACT or SAT; 3) an ELA Advanced Placement exam or any other ELA exam that is accepted for credit or admission by a state university; or 4) an end-of-course exam administered as part of a dual enrollment or concurrent enrollment course.

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

8. A showing of good cause why the rule 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. The summary of the economic, small business and consumer impact, if applicable:
   The rules are not expected to have significant, if any, economic impact on small businesses.

10. A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):
    Not applicable
11. **A summary of the comments made regarding the rule and the agency response to them:**

   The Board opened rulemaking procedures at the May 24, 2021 meeting. A virtual public hearing was held on June 16, 2021 at noon. An update was provided to the Board at the June 28, 2021 meeting and the Board closed rulemaking procedures at the August 27, 2021 meeting. No public comments were received.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

   Not applicable

13. **Incorporations by reference and their location in the rules:**

   Not applicable

14. **Was this rule previously made as an emergency rule? If so, please indicate the Register citation:**

   Not applicable

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

   **TITLE 7. EDUCATION**

   **CHAPTER 2. STATE BOARD OF EDUCATION**

   **ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS**

   **ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS**

   **R7-2-317. State Seal of Biliteracy Program**

   **A. Definitions.** For purposes of this section, “foreign language” means any language other than English.

   **B. School districts and charter schools in this state may choose to participate in the State Seal of Biliteracy Program (Program) which recognizes students who have attained a high level of proficiency in one or more foreign languages, in addition to English. School districts and charter schools participating in the Program may award the State Seal of Biliteracy to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of subsection (B)(1) or (2), and subsection (B)(3).**

   1. **Assessment Method.** To demonstrate language proficiency through the assessment method, the student must attain the required score on a language assessment as adopted by the State Board of Education, upon recommendation by the Arizona Department of Education, for purposes of demonstrating language proficiency for the Program in the four domains of speaking, writing, listening, and reading.

   2. **Alternative evidence model.** A school district or charter school may choose to award the State Seal of Biliteracy through an alternative evidence method.

   a. An alternative evidence method may be used in any of the following circumstances:

      i. No standardized assessment exists for the targeted foreign language;

      ii. Evaluating the language proficiency of a student with disabilities for whom the standardized assessment is inappropriate as determined by the student’s Individualized Education Program team or a student on a 504 plan as determined by the student’s 504 plan committee; or

      iii. The standardized assessment for the targeted foreign language does not assess one or more of the four domains of speaking, writing, listening and reading.

   b. Any alternative evidence method used shall consist of a student portfolio that contains evidence of experience in the targeted foreign language, as well as work samples, test results and other accomplishments that demonstrate proficiency, as established in the guidelines developed by the Arizona Department of Education, in the targeted foreign language in the four domains of speaking, writing, listening and reading. Student portfolios shall comply with guidelines adopted by the Department.

   c. A school district or charter school that uses an alternative evidence model must notify the Arizona Department of Education.

   3. **To be eligible to be awarded the State Seal of Biliteracy, each student shall also demonstrate proficiency in English by meeting the following requirements:**

      a. The student must successfully complete all English Language Arts requirements for graduation, pursuant to A.A.C. R2-7-302, with an overall grade point average in those classes of 2.0 or higher on a 4.0 scale, or the equivalent; and

      b. The student receives a passing score in English Language Arts on the state assessment of the following:

         i. The statewide assessment adopted pursuant to A.R.S. § 15-741, an assessment approved by the Board pursuant to A.R.S. § 15-741.02, or another state’s statewide assessment;

         ii. A nationally recognized college entrance exam;

         iii. An exam that is accepted for credit or admission by at least one university under the jurisdiction of the Arizona Board of Regents; or

         iv. An End of Course Exam administered as part of a dual enrollment or concurrent enrollment course.

      c. If the student has a primary home language other than English, the student shall obtain a score of proficient based on the English language proficiency standards pursuant to A.R.S. § 15-756.

   C. **By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Biliteracy available to each school district and charter school participating in the Program. Each participating school district or charter school**
shall identify each student who has met the requirements of the Program, affix the State Seal of Biliteracy to the student’s diploma upon graduation, and shall note the receipt of the State Seal of Biliteracy on the transcript of the student.

D. The Arizona Department of Education shall post on its website by July 1 of each year, the list of acceptable language assessments and the score to be achieved on each, as approved by the Board, which qualifies the student as proficient in a foreign language. The Arizona Department of Education shall ensure that all approved assessments are aligned to the Arizona world and native languages standards adopted by the Board.

E. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:

1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education’s website.
2. Designate at least one individual to serve as coordinator of the Program and provide that individual’s name and contact information to the Arizona Department of Education.
3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Biliteracy, the number of seals for each targeted foreign language and the method used to determine proficiency in the foreign language.
4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.

F. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

[R21-140]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
R7-2-809 Amend
R7-2-810 Amend

2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:
    Implementing statute: A.R.S. §§ 15-157; 15-158
    Exemption statute: A.R.S. § 41-1005(F)

3. The effective date of the rules and the agency’s reason it selected the effective date:
   August 27, 2021

4. A list of all notices published in the Register as specified in R1-1-409(A) that pertains to the record of the exempt rulemaking:
   Not applicable

5. The agency's contact person who can answer questions about the rulemaking:
   Name: Alicia Williams, Executive Director
   Address: State Board of Education
            1700 W. Washington, Suite 300
            Phoenix, AZ 85007
   Telephone: (602) 542-5057
   Fax: (602) 542-3046
   Email: inbox@azsbe.az.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
   A.R.S. § 15-203(A)(39) and A.R.S. § 15-203(A)(40) requires the Board to adopt rules to allow trained school site personnel to administer auto-injectable epinephrine and inhalers to students. SB 1016 allows naturopaths, in addition to other medical professionals, to issue a standing order for epinephrine auto-injectors and inhalers. The Board updated rules to conform to SB 1016. The rules also allow training regarding epinephrine administration to be provided online and no longer require a school nurse to be one of the individuals trained.

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

8. A showing of good cause why the rule 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. The summary of the economic, small business and consumer impact, if applicable:
   The rules are not expected to have significant, if any, economic impact on small businesses.
10. A description of the changes between the proposed rules, including supplemental notices and final rules (if applicable):

Not applicable

11. A summary of the comments made regarding the rule and the agency response to them:

The Board opened rulemaking procedures at the May 24, 2021 meeting. A virtual public hearing was held on June 16, 2021 at noon. The Board received suggestions to no longer require that a school nurse be one of the individuals trained in epinephrine administration and to allow online trainings for epinephrine administration. The Board accepted these changes. A public comment was also submitted to allow schools to stock fewer than two juvenile doses and two adult doses of epinephrine auto-injectors. The Board did not make this change. Statute states: “Each school district and charter school may stock two or more juvenile doses and two or more adult doses or epinephrine auto-injectors at each school pursuant to a standing order.” The Board determined that if a school does choose to stock epinephrine auto-injectors, statute requires them to stock two adult doses and two juvenile doses.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:

Not applicable

15. The full text of the rule follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 8. COMPLIANCE

Section
R7-2-809. Emergency Administration of Auto-Injectable Epinephrine
R7-2-810. Emergency Administration of Inhalers

ARTICLE 8. COMPLIANCE

R7-2-809. Emergency Administration of Auto-Injectable Epinephrine

A. Applicability. This rule applies to:
1. Any school district or charter school that voluntarily chooses to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.
2. All school districts and charter schools when required to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.

B. Definitions. The following definitions are applicable to this rule:
1. “Anaphylactic shock” is a severe systemic allergic reaction, resulting from exposure to an allergen, which may result in death.
2. “Auto-injectable epinephrine” means a disposable drug delivery device that is easily transportable and contains a premeasured single dose of epinephrine used to treat anaphylactic shock.
3. “Standing order” means a prescription protocol or instructions issued by the chief medical officer of the department of health services, the chief medical officer of a county health department, a doctor of medicine licensed pursuant to Title 32, Chapter 13, a doctor of osteopathic medicine licensed pursuant to Title 32, Chapter 14, or a doctor of naturopathic medicine licensed pursuant to Title 32, Chapter 17, a nurse practitioner licensed pursuant to Title 32, Chapter 15 or a physician assistant licensed pursuant to Title 32, Chapter 25 for non-individual specific epinephrine.

C. Annual training in the administration of auto-injectable epinephrine:
1. Each school district and charter school shall designate at least two school personnel—in addition to any school nurse or athletic trainer, for each school site who shall be required to receive annual training in the proper administration of auto-injectable epinephrine in cases of anaphylactic shock pursuant to standing order. One or more of the trained personnel may be a school nurse or athletic trainer if they are employed by the school.
2. Training in the administration of auto-injectable epinephrine shall be conducted in accordance with minimum standards and curriculum developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education.
3. At a minimum, training shall include procedures to follow when responding to anaphylactic shock, including direction regarding summoning appropriate emergency care, and documenting, tracking and reporting of the event.
4. Training shall also include standards and procedures for acquiring a supply of at least two juvenile doses and two adult doses of auto-injectable epinephrine, restocking auto-injectable epinephrine upon use or expiration, and storing all auto-injectable epinephrine at room temperature and in secure, easily accessible locations on school sites.
5. Training shall be conducted via courses provided in collaboration with a public health organization or by a regulated health care professional, whose competencies include the administration of auto-injectable epinephrine, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.
6. School districts and charter schools shall maintain and make available upon request a list of those school personnel authorized and trained to administer auto-injectable epinephrine pursuant to a standing order.

D. Annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs:
1. Each school district and charter school shall require all school site personnel to receive an annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs.
2. Training shall be conducted in accordance with minimum training standards developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education and shall follow the most current guidelines issued by the American Academy of Pediatrics.

3. Training shall be conducted in collaboration with a public health organization by a regulated health care professional whose competencies include the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.

E. Procedures for annually requesting a standing order for auto-injectable epinephrine.

1. Each school district or charter school shall obtain a standing order from its designated district or charter school physician licensed pursuant to Title 32, Chapter 13, 14, 17, 15, or 25 and if no such physician is available to provide a standing order, from the chief medical officer of the Department of Health Services or the chief medical officer of a county health department.

2. Standing orders shall be renewed annually and upon the change of any designated school district or charter school physician.

3. Standing orders shall identify the appropriate dosage of auto-injectable epinephrine to administer based upon weight and the frequency at which auto-injectable epinephrine may be administered if symptoms persist or return.

F. Procedures for the administration of auto-injectable epinephrine in emergency situations.

1. All school districts and charter schools shall adopt procedures for the emergency administration of auto-injectable epinephrine by designated trained personnel.

2. Procedures shall address, at a minimum, the following requirements:
   a. Determining if symptoms indicate possible anaphylactic shock.
   b. Selecting the appropriate dosage of auto-injectable epinephrine to administer pursuant to a standing order.
   c. Injecting epinephrine via auto-injector pursuant to a standing order, noting the time and dose given.
   d. Calling 911 to advise that anaphylactic shock is suspected and epinephrine was administered.
   e. Keeping the person stable until emergency responders arrive.
   f. Advising school medical personnel and administration of the incident.
   g. Repeating dose pursuant to a standing order when symptoms persist and emergency responders have not arrived.
   h. Providing emergency responders with used epinephrine auto-injector labeled with name, date and time administered.
   i. Assuring that parents/guardians have been notified and advised to promptly alert student’s primary care physician of the incident.
   j. Completing written documentation of the incident, detailing who administered the injection, the rationale for administering the injection, the approximate time of the injection(s), injection or injections, and notifications made to school administration, emergency responders, the student’s parents/guardians, and the doctor or chief medical officer who issued the standing order.
   k. Ordering replacement dose(s).
   l. Reviewing any incident involving emergency administration of epinephrine to determine the adequacy of response.

G. All school districts and charter schools shall report to the Arizona Department of Health Services all incidents of use of auto-injectable epinephrine pursuant to this rule in the format prescribed by the Arizona Department of Health Services.
5. Annual training is required for all designated personnel of the school.
6. School districts and charter schools shall maintain and make available on request a list of school personnel who are authorized to administer inhalers pursuant to a standing order.

D. Procedures for annually requesting a standing order and the prescription for the inhaler and holding chamber

1. Each participating school district or charter school shall obtain a standing order and prescription for inhalers and spacers or holding chambers pursuant to A.R.S. § 15-158 from the chief medical officer of a county health department, a physician licensed pursuant to Title 32, Chapter 13, 14 or 17, or a nurse practitioner pursuant to Title 32, Chapter 15.
2. Standing orders and prescriptions shall be requested and renewed annually.

E. Procedures for the administration of inhalers in emergency situations:

1. School districts and charter schools that elect to administer inhalers shall:
   a. Prescribe and enforce policies and procedures for the emergency administration of inhalers by designated and trained medical and non-medical personnel.
   b. Designate at least two personnel at each school to be trained to recognize respiratory distress and administer inhalers.
   c. Require designated personnel to participate in annual training and provide a certificate of successful completion to the school.
   d. Designate personnel who have completed the required training to be responsible for the storage, maintenance, control and general oversight of the inhalers and spacers or holding chambers acquired by the school.
   e. Acquire and stock a supply of inhalers and spacers or holding chambers pursuant to a standing order prescription.
   f. Store medication in a secure, temperature appropriate location, unlocked and readily accessible to designated personnel.
2. Pursuant to a standing order, school district or charter school personnel who are trained in the administration of inhalers may administer or assist in the administration of an inhaler to a pupil or adult whom the personnel believes in good faith to be exhibiting symptoms of respiratory distress while at school or a school-sponsored activity.
3. Procedures adopted by school districts and charter schools shall address at a minimum, the following requirements:
   a. Determine if symptoms indicate possible respiratory distress or emergency and determine if the use of an inhaler will properly address the respiratory distress or emergency.
   b. Administer the correct dose of inhaler medication, as directed by the prescription protocol, regardless of whether the individual who is believed to be experiencing respiratory distress has a prescription for an inhaler and spacer or holding chamber or has been previously diagnosed with a condition requiring an inhaler.
   c. Restrict physical activity, encourage slow breaths and allow the individual to rest.
   d. Assure that trained personnel stay with the subject who has been administered inhaler medication until it is determined whether the medication alleviates symptoms.
   e. If applicable, instruct office staff to notify the school nurse if the inhaler is administered by a trained but non-licensed person.
   f. Instruct school staff to notify the parent or guardian.
   g. Call 911 if severe respiratory distress continues. Advise that inhaler medication was administered and stay with the person until emergency medical responders arrive.
   h. If the individual shows improvement, keep the individual under supervision until breathing returns to normal, with no more chest tightness or shortness of breath, and the individual can walk and talk easily.
   i. Allow a student to return to class if breathing has returned to normal and all symptoms have resolved.
   j. Notify a parent or guardian once the inhaler has been administered and the student has returned to class.
   k. Document the incident detailing who administered the inhaler, the approximate time of the incident, notifications made to the school administration, emergency responders, and parents/guardians.
   l. Retain the incident data on file at the school pursuant to the general records retention schedule regarding health records for school districts and charter schools established by the Arizona State Library, Archives and Public Records.
   m. Order replacement inhalers, spacers and holding chambers as needed.

4. A school district or charter school may accept monetary donations for or apply for grants for the purchase of inhalers and spacers or holding chamber or may accept donations of inhalers and spacers or holding chambers directly from the product manufacturers.

F. Immunity from civil liability is prescribed in A.R.S. § 15-158.
NOTICES OF RECODIFICATION

The Office of the Secretary of State will publish a Notice of Recodification in the Register when the Office finds it necessary to recodify a Chapter in order to maintain the integrity of the codification system or whenever an agency requests, in writing, that an entire Chapter or portion of a Chapter be recodified.

NOTICE OF RECODIFICATION

TITLE 18. ENVIRONMENTAL QUALITY
CHAPTER 18. DEPARTMENT OF ENVIRONMENTAL QUALITY
EMERGENCY PLANNING AND HAZARDOUS MATERIALS TRAINING

1. A list of the Subchapters, Articles, Parts, and Sections being recodified along with their respective headings:
   8 A.A.C. 4, Article 1. Emergency Planning and Community Right to Know
   R8-4-101. Definitions
   R8-4-102. General Provisions
   R8-4-103. Responsibilities of an LEPC
   R8-4-104. Emergency Planning and Preparedness
   R8-4-105. Local Emergency Response Plan
   R8-4-106. Reportable Release Notification
   R8-4-107. Extremely Hazardous Substance (EHS) or Hazardous Chemical Reporting
   R8-4-108. Compliance Procedures
   R8-4-109. Community Right-to-know Procedures
   R8-4-110. Grants

   8 A.A.C. 2, Article 6. Hazardous Materials Training Program, Student and Instructor Evidence of Completion
   R8-2-601. Definitions
   R8-2-602. Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Curriculum
   R8-2-603. Instructor Authorization and Renewal
   R8-2-604. Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Division Requirements
   R8-2-605. Hazmat First Responder Awareness Level Personnel and Hazmat First Responder Operations Level Operatives Evidence of Completion

2. A list of the Subchapters, Articles, Parts, and Sections as recodified along with their respective headings:
   18 A.A.C. 18, Article 1. Emergency Planning and Community Right to Know
   R18-18-101. Definitions
   R18-18-103. Responsibilities of an LEPC
   R18-18-104. Emergency Planning and Preparedness
   R18-18-105. Local Emergency Response Plan
   R18-18-107. Extremely Hazardous Substance (EHS) or Hazardous Chemical Reporting
   R18-18-108. Compliance Procedures
   R18-18-109. Community Right-to-know Procedures
   R18-18-110. Grants

   18 A.A.C. 18, Article 2. Hazardous Materials Training Program, Student and Instructor Evidence of Completion
   R18-18-201. Definitions
   R18-18-202. Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Curriculum
   R18-18-203. Instructor Authorization and Renewal
   R18-18-204. Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Department Requirements
   R18-18-205. Hazmat First Responder Awareness Level Personnel and Hazmat First Responder Operations Level Operatives Evidence of Completion
3. A conversion table between the two numbering schemes:

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<td>Title 18, Chapter 18, Emergency Planning and Community Right to Know</td>
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<td>8 A.A.C. 4, Article 1. Emergency Planning and Community Right to Know</td>
<td>18 A.A.C. 18, Article 1. Emergency Planning and Community Right to Know</td>
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4. The name and address of agency personnel with whom persons may communicate regarding the recodification:

Name: Mark Lewandowski
Address: Department of Environmental Quality
         Waste Programs Division
         1110 W. Washington St.
         Phoenix, AZ 85007
Telephone: (602) 771-2230
Fax: (602) 771-4272
Email: lewandowski.mark@azdeq.gov

5. Changes to Section References under A.A.C. R1-1-1001(C):
3. Ensure that newly appointed LEPC members participate in training provided by the Commission regarding the responsibilities of LEPC members; and
4. Ensure that LEPC members are aware of and have the opportunity to attend Commission-sponsored meetings regarding matters related to emergency planning and preparedness.

R8-4-104. R18-18-104. Emergency Planning and Preparedness
A. If a facility is required to comply with 40 CFR 355.30, the owner or operator of the facility shall also comply with the emergency planning and preparedness requirements in this Section.
B. If a facility is designated by the Commission under A.R.S. § 26-347(B), the owner or operator of the facility shall comply with the emergency planning and preparedness requirements in this Section and the reporting requirements of R8-4-107 R18-18-107.
C. No later than 60 days after a facility first becomes subject to the emergency planning and preparedness requirements of this Section, the owner or operator of the facility shall submit a facility emergency response plan according to A.R.S. § 26-347(D). The owner or operator of the facility may submit the facility emergency response plan by completing and submitting an Emergency Response Plan Questionnaire, which is available from the Commission.
D. The owner or operator of a facility that submits an Emergency Response Plan Questionnaire under subsection (C) may also submit a Hazard Analysis Worksheet for each extremely hazardous substance at the facility that equals or exceeds the TPQ.
E. On or before March 1 of each year, the owner or operator of a facility described in subsection (A) or (B) shall:
   1. Review and determine whether the facility emergency response plan submitted under subsection (C) is still accurate and, if changes are needed to ensure that the facility emergency response plan is accurate, submit information regarding the relevant changes. If information regarding relevant changes to the facility emergency response plan is submitted, the owner or operator of the facility may revise and submit the Hazard Analysis Worksheet previously submitted under subsection (D); and
   2. Comply with R8-4-107(C) R18-18-107(C).

R8-4-105. R18-18-105. Local Emergency Response Plan
A. Within 12 months after the Commission designates a new emergency planning district and appoints members of an LEPC for the newly designated emergency planning district, the LEPC shall prepare an emergency response plan that complies with the requirements at A.R.S. § 26-345(E) and complies with NIMS.
B. On or before December 31 of each year and when there are changed circumstances in the community or at a facility, an LEPC shall review and update the emergency response plan for its emergency planning district.
C. An LEPC shall submit a copy of the emergency response plan prepared under subsection (A) or (B) to the Commission.
D. Within 60 days after the Commission receives a copy of an emergency response plan under subsection (C), the Commission shall:
   1. Review the emergency response plan and make recommendations for revisions necessary to ensure that the emergency response plan complies with law and coordinates with the emergency response plans of adjoining emergency planning districts; and
   2. Return the emergency response plan and recommendations to the LEPC.
E. An LEPC shall ensure that the emergency response plan prepared under subsection (B) and reviewed and amended under subsection (D) is incorporated into the county’s emergency operations plan in accordance with county procedures.
F. At least biennially and after providing at least 30 days notice to the Commission, an LEPC shall conduct an exercise of its emergency response plan.
G. On or before December 31 of each year, an LEPC shall survey its emergency planning district to determine how many copies of the U.S. Department of Transportation Emergency Response Guidebook are needed and forward the information regarding the number of copies needed to the Commission.

The owner or operator of a facility at which a reportable release occurs shall:
1. Comply with the notification requirements of A.R.S. § 26-348(A);
2. Submit the written follow-up emergency notice required under A.R.S. § 26-348(B); and
3. Update the notice provided under subsection (2) as required under A.R.S. § 26-348(C).

R8-4-107. R18-18-107. Extremely Hazardous Substance (EHS) or Hazardous Chemical Reporting
A. The owner or operator of a facility shall comply with the extremely hazardous substance and hazardous chemical reporting requirements of 40 CFR 370, Subpart B, July 1, 2007, which is incorporated by this reference, contains no later amendments or editions, and is available from the Commission and the U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250.
B. As required by A.R.S. § 26-350, an owner or operator described in subsection (A) shall submit a Tier Two Emergency and Hazardous Chemical Inventory Form, using a form available from the Commission, by March 1 of each year. All facilities subject to this reporting requirement shall be subject to the Tier II or Centralized Chemical Inventory Reporting fee schedule.
   1. Each owner or operator of a facility required to file a hazardous chemical inventory report(s) (Tier II Reports) under the provisions of 42 U.S.C. § 11022 will be assessed a report filing fee of seventy-five dollars ($75.00) for the first required facility report and an additional fee of twenty dollars ($20.00) for each additional required facility report up to a maximum limit of five hundred dollars ($500) per annual reporting period.
   2. Owners or operators of facilities meeting the following conditions are exempt from the reporting fee(s):
      a. Any business or other outlet that primarily reports or sells gasoline, diesel and other motor fuel only at retail to the public.
      b. Any business or other outlet that only files a Tier II report to claim lead acid batteries.
      c. Any business or other outlet that only files a Tier II report to claim diesel or gasoline.
      d. Any business or other outlet that resides on tribal lands or a tribal Nation and must report to a Tribal Emergency Response Commission (TERC) or Chemical-Tribal Emergency Response Commission (C-TERC).
   C. If a facility ceases to meet the minimum reporting thresholds of 40 CFR 370, Subpart B, for EHS and hazardous chemical reporting with regard to a specific EHS or hazardous chemical, the owner or operator of the facility may submit a notice to the Commission,
LEPC, and FD indicating that the specific EHS or hazardous chemical is no longer present in a quantity that meets the minimum reporting threshold.

**R8-4-108.** **R18-18-108.** **Compliance Procedures**

A. The Commission shall make information regarding the EPCRA available to the owner or operator of a facility.

B. The owner or operator of a facility may obtain guidance, but not legal advice, regarding complying with the EPCRA by contacting the Commission.

**R8-4-109.** **R18-18-109.** **Community Right-to-know Procedures**

A. To obtain information regarding a specific hazardous chemical or extremely hazardous substance at a specific facility, local emergency response plan, or notice regarding a reportable release, a person shall submit a written request to the Commission or LEPC. If a request is submitted to an LEPC, the LEPC may forward a copy of the request to the Commission so Commission staff can coordinate a response to the request. To obtain a copy of a Form R relating to toxic chemical releases, a person shall submit a written request to the Commission.

B. As required by 42 U.S.C. 11022, the Commission or LEPC shall respond to a written request for information. The response shall advise the person making the request of one of the following:
   1. The time and location at which the person may inspect and copy the requested information,
   2. That additional information is needed to process the request,
   3. That the requested information is not available but the Commission or LEPC will ask the owner or operator of the facility to provide the information, or
   4. That the request is denied because:
      a. The requested information does not exist,
      b. The owner or operator of the facility is not required to provide the information,
      c. The Commission or LEPC determined that disclosing the information will impair its ability to protect public health or safety and the public interest in nondisclosure outweighs the public interest in disclosure, or
      d. The information is exempt by law from disclosure.

C. Before releasing information, the Commission or LEPC shall advise the owner or operator of a facility of the request for information regarding the facility.

D. Under A.R.S. § 39-121, the Commission or LEPC shall charge the person making a request under this Section the cost of reproducing the information requested. The Commission shall deposit the funds received under this subsection in accordance with A.R.S. § 26-343(G).

**R8-4-110.** **R18-18-110.** **Grants**

A. On or before September 1 of each year, the Commission shall provide notice that is consistent with A.R.S. § 41-2702 to all LEPCs regarding grants that are available from the Commission.

B. To receive funds that are awarded on a non-competitive basis, an LEPC shall submit a “Certification and Request for Funding” form in which the LEPC certifies that it:
   1. Is in compliance with all applicable law, including NIMS;
   2. Will use the funds in the manner intended;
   3. Will keep separate funds from the Emergency Response Fund and funds from other sources; and
   4. Will submit all required reports.

C. To receive grant funds that are awarded on a competitive basis, an LEPC shall submit to the Commission a proposal that specifies:
   1. The goal that the LEPC intends to accomplish with any grant funds received,
   2. Where the grant funds will be spent,
   3. The amount of grant funds needed to accomplish the goal,
   4. The time needed to accomplish the goal, and
   5. Other information that the Commission requests to assist the Commission to evaluate the grant proposal.

D. On behalf of the Commission, Commission staff shall meet at least annually with members of the LEPCs to establish the criteria used to evaluate a grant proposal. Commission staff, on behalf of the Commission, shall evaluate each proposal that is timely received using the criteria established. The Commission shall ensure that the criteria used include consideration of both the qualification of and need for an LEPC to receive a grant.

1. The criteria regarding qualification of an LEPC to receive a grant may include:
   a. The extent to which the LEPC fulfilled the responsibilities listed in R8-4-103 R18-18-103;
   b. Whether the LEPC complied with all provisions of R8-4-104 R18-18-104;
   c. Whether the LEPC submitted all reports required for grant funds previously received;
   d. Whether previously received grant funds were used in a manner that achieved the goal established;
   e. Attendance by LEPC members at Commission-sponsored meetings; and
   f. The number of training sessions provided by LEPC members to emergency responders in the emergency planning district;

2. The criteria regarding need for an LEPC to receive a grant may include:
   a. The number of facilities required to report to the LEPC under this Chapter;
   b. The population represented by the LEPC; and
   c. The number of reportable releases during the past year in the area represented by the LEPC.

E. Within 60 days after the grant-proposal deadline specified in the notice of grant availability, the Commission shall provide written notice to each LEPC that applies for grant funds regarding whether grant funds will be awarded and if so, the amount awarded.
F. An LEPC that receives grant funds shall submit progress reports to the Commission on dates prescribed by the Commission. The LEPC shall include in each progress report a summary of the work done to accomplish the goal stated in the grant proposal and a detailed accounting of the expended and remaining grant funds.

ARTICLE 6. HAZARDOUS MATERIALS TRAINING PROGRAM, STUDENT AND INSTRUCTOR EVIDENCE OF COMPLETION

R8-2-601. Definitions
The following definitions apply in this Article, unless the context requires otherwise:

1. “Authorized instructor” means an individual who the Division determines meets the criteria at R8-2-602 R18-18-202.
2. “Director” means the director of the Division.
3. “Division” means the Arizona Division of Emergency Management.
4. “Evidence of Completion” means a document issued by the Division to an individual who successfully completes a standardized course of instruction.
5. “Hazmat First Responder Awareness Level personnel” means individuals who are likely to witness or discover a hazardous material release and who are trained to initiate an emergency response sequence by notifying the proper authorities of the release.
6. “Hazmat First Responder Operations Level operatives” means individuals who are trained to respond in a defensive fashion without actually trying to stop a hazardous material release.
7. “Hazardous materials” means:
   a. Any material designated under the hazardous materials transportation act of 1974 (49 U.S.C. 1801);
   b. Any element, compound, mixture, solution, or substance designated under the comprehensive environmental response, compensation, and liability act of 1980 (42 U.S.C. 9602);
   d. Any substance designated in the water pollution control act (33 U.S.C. 1317(a) and 1321(b)(2)(A));
   e. Any hazardous waste having the characteristics identified under or listed under A.R.S. § 49-922;
   f. Any imminently hazardous chemical substance or mixture with respect to which action is taken under the toxic substances control act (15 U.S.C. 2666);
   g. Any material or substance determinable to be radioactive under the atomic energy act of 1954 (42 U.S.C. 2011);
   h. Any substance designated as a hazardous substance under A.R.S. § 49-201; and
   i. Any highly hazardous chemical or regulated substance as listed in the clean air act of 1963 (42 U.S.C. 7401-7671).
8. “Hazardous materials incident” means an uncontrolled, unpermitted release or potential release of hazardous materials that presents an imminent and substantial danger to the public health or welfare or to the environment.
9. “Hazardous materials response experience” means knowledge and skills gained by responding to hazardous materials incidents.
10. “Instructor requirements” means the criteria listed at R8-2-602 R18-18-202 for authorization as an instructor by the Division.
11. “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes:
   a. Release that results in exposure to persons solely within a workplace, with respect to a claim that the persons may assert against their employer;
   b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;
   c. Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to financial protection requirements established by the Nuclear Regulatory Commission under section 170 of the Act, or for the purposes of section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act or any other response action, any release of source, byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978; and
   d. Normal application of fertilizer.

R8-2-602. Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Curriculum

A. An authorized instructor shall conduct a Hazmat First Responder Awareness Level course or a Hazmat First Responder Operations Level course in accordance with the standardized curriculum maintained by the Division. The Division shall promptly notify all authorized instructors of any change in the curriculum.

B. Topics covered in the Hazmat First Responder Awareness Level course are:
   1. What hazardous materials are and the risks associated with a hazardous materials incident;
   2. Potential outcomes associated with an emergency created when hazardous materials are present;
   3. How to recognize the presence of hazardous materials in an emergency;
   4. How to identify different hazardous materials, and
   5. Role of a first responder awareness individual in an employer’s emergency response plan, including site security and control, and use of current resource materials.

C. Topics covered in the Hazmat First Responder Operations Level course are:
   1. Basic hazard and risk assessment techniques;
   2. How to select and use proper protective equipment;
   3. Basic hazardous materials terms;
   4. How to perform basic control, containment, or confinement operations with the resources and personal protective equipment available;
   5. How to implement basic decontaminating procedures; and

September 24, 2021 | Published by the Arizona Secretary of State | Vol. 27, Issue 39 1539


A. Instructor authorization:
1. An instructor authorized by the Division shall teach each Hazmat First Responder Awareness Level and Hazmat First Responder Operations Level course.
2. To be authorized as an instructor, an individual shall submit the following to the Division:
   a. A “Participant Application” form obtained from the Division, located at the Department of Emergency and Military Affairs, 5636 E. McDowell Road, Bldg. 101, Phoenix, Arizona 85008. The applicant shall provide the following information to take an instructor workshop:
      i. Course number;
      ii. Course date;
      iii. Course title;
      iv. Applicant’s name;
      v. SSN;
      vi. Applicant’s employer;
      vii. Applicant’s position or title;
      viii. Phone number;
      ix. Fax number, if any;
      x. Work mailing address, city, state, zip code, and county;
      xi. Electronic mail address, if any;
      xii. Brief description of current duties and how training as an instructor will be used;
      xiii. Applicant’s signature and date; and
      xiv. Supervisor’s signature, if applicable, and date;
   b. Evidence of two years’ experience in hazardous materials incident response;
   c. Evidence of Completion of at least 80 hours for Awareness Level or at least 240 hours for Operations Level of hazardous materials training, and a signed copy of attendance and performance records;
   d. A letter of recommendation to take instructor training from the applicant’s employer, local emergency planning committee chair, county emergency management director, or coordinator;
   e. A brief summary of the applicant’s experience in hazardous materials response and as an instructor of adult-level courses.
3. After an applicant submits to the Division the documentation described in subsection (A)(2)(a), the applicant shall:
   a. Attend the instructor workshop,
   b. Attain a score of at least 90% on the written exam, and
   c. Successfully complete a teach back to demonstrate appropriate educational methodology and instructional techniques during an oral presentation.
4. The Division shall issue Evidence of Completion to an individual who successfully completes the instructor workshop.
5. The Division shall maintain records of instructor authorization.
6. Instructor authorization is valid for two calendar years.

B. To renew instructor authorization obtained from the Division, an authorized instructor shall:
1. Submit a “Participant Application” form as described in subsection (A) to take an instructor refresher workshop;
2. Attend an instructor refresher workshop sponsored by the Division before expiration of the current instructor authorization; and
3. Provide evidence of having taught either a Hazmat First Responder Awareness Level course or refresher, or a Hazmat First Responder Operations Level course or refresher, two times in the current authorization period.

C. An instructor who fails to comply with subsection (B), may obtain instructor authorization by applying and meeting the requirements as a new instructor under subsection (A).

**R8-2-604. R18-18-204. Hazmat First Responder Awareness Level Course and Hazmat First Responder Operations Level Course Division Requirements**

A. An instructor authorized by the Division shall teach each Hazmat First Responder Awareness Level course and Hazmat First Responder Operations Level course. An instructor shall notify the Division at least 30 days before course delivery by submitting a “Course Request Form” obtained from the Division, located at the Department of Emergency and Military Affairs, 5636 E. McDowell Road, Bldg. 101, Phoenix, Arizona 85008. The instructor shall provide the following information:
1. Name of requestor;
2. Date;
3. Agency of requestor;
4. Mailing address, city, state, zip code and county;
5. Phone number;
6. Fax number, if any;
7. Name of agency head;
8. Applicant signature;
9. Electronic mail address;
10. Type of course;
11. Course name;
12. Course number;
13. Date course is offered;
14. Training site address and county;
15. Intended audience;
16. Estimated number of participants;
17. Name and signature of requestor; and
18. County emergency management director or local emergency planning committee chairperson endorsement: name, signature, title, and date,

B. Within two weeks following completion of either the Hazmat First Responder Awareness Level course or refresher, or the Hazmat First Responder Operations Level course or refresher, the instructor shall provide the Division with all course records, including student application forms, course roster, completed pre- and post-exam answer sheets, and instructor and course evaluations. In addition, the instructor shall return all unused course materials to the Division.

R8-2-605.R18-18-205 Hazmat First Responder Awareness Level Personnel and Hazmat First Responder Operations Level Operators Evidence of Completion

A. To receive Evidence of Completion as Hazmat First Responder Awareness Level personnel or as Hazmat First Responder Operations Level operative, an individual shall:
   1. Submit a “Participant Application” form as described in R8-2-603(A) R18-18-203(A) for Division-sponsored courses. For non-Division-sponsored courses, the individual shall submit the course application contained in the student manual:
      a. Course number: U100 (First Responder Awareness Course) or U200 (First Responder Operations Level Course);
      b. Course date;
      c. Course name: First Responder Awareness Course or First Responder Operations Level Course;
      d. Applicant’s name;
      e. SSN;
      f. Title;
      g. Phone number;
      h. Fax number, if any;
      i. Organization;
      j. Electronic address; and
      k. Work mailing address, city, state, zip and county; and
   2. Successfully complete the Hazmat First Responder Awareness Level course, or the Hazmat First Responder Operations Level course, and attain a score of at least 75% on the written exam.

B. The Division shall issue Evidence of Completion to an individual who successfully completes the Hazmat First Responder Awareness Level course or the Hazmat First Responder Operations Level course. The employer of an individual issued Evidence of Completion shall maintain evidence of the individual’s competency under 29 CFR 1910.120(Q)(6) and (Q)(8)(ii), published by the United States Government Printing Office and revised July 1, 2001, with no later editions or amendments. This regulation is incorporated by reference and on file with the Division and the Office of the Secretary of State.
NOTICES OF RULEMAKING DOCKET OPENING

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

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

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

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

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

NOTICE OF RULEMAKING DOCKET OPENING
BOARD OF ACCOUNTANCY

[R21-142]

1. Title and its heading:
   4. Professions and Occupations
      Chapter and its heading:
      1. Board of Accountancy
         Article and its heading:
         1. General
         3. Certification and Registration
         4. Regulation

Section numbers:
R4-1-101, R4-1-104, R4-1-115.03, R4-1-345, R4-1-453, R4-1-454, R4-1-455

2. The subject matter of the proposed rule:

R4-1-101. At the request of the Board, Laws 2018, Ch. 268 (SB 1443) moved the definition of principal place of business from Arizona Revised Statutes (A.R.S.) § 32-701 to A.R.S. § 32-725 regarding limited reciprocity privilege (mobility) because A.R.S. § 32-725 was the only section of law that referenced the defined term. Subsequently, effective February 4, 2019, the Board’s rules provided for CPE reciprocity wherein a non-Arizona resident CPA seeking renewal of their Arizona CPA certificate can meet the CPE requirements for Arizona if they have met the CPE requirements in the jurisdiction in which the CPA’s principal place of business is located.

From time to time, registrants requesting CPE reciprocity are confused about what “principal place of business” means. While a definition of “principal place of business” exists in A.R.S. § 32-725, it is restricted to that statute only. Accordingly, the Board would like to modify Arizona Administrative Code (A.A.C.) R4-1-101 to include the same definition in rule for CPE reciprocity.

R4-1-104. The Board also seeks to modify R4-1-104(A)(1) to change “C.P.A.” to “CPA” as “CPA” is used more commonly in the Board’s legal framework.

R4-1-115.03. Pursuant to A.R.S. § 32-703(B)(8) and A.A.C. R4-1-454, the Board requires CPA firms to comply with peer review standards. Specifically, if CPA firms perform attest services and compilation services, they are to undergo and complete a peer review. When peer reviews are received and have pass ratings, they are reviewed by Board staff and approved via delegated authority (A.R.S. § 32-703(B)(14)(h)). If peer reviews have pass with deficiencies or fails, they are reviewed by PROAC, and either subsequently approved via the aforementioned delegated authority or sent to the Board with an advisory recommendation. A.A.C. R4-1-115.03 currently provides that PROAC can make a recommendation to the Board to direct and authorized committee to conduct an initial analysis pursuant to A.R.S. § 32-742.01. Pursuant to A.R.S. § 32-749, a file in initial analysis is considered confidential. As such, rather than having the PROAC make a recommendation to the Board to conduct an initial analysis specifically, the preference is to simply state that the PROAC can make advisory recommendations to the Board so a firm’s confidentiality can be maintained. Additionally, the language regarding advisory recommendations supports the work that the PROAC has always done when it accepts a firm’s peer review submission and deems the firm compliant with peer review requirements. The Board seeks to clarify the authority of its PROAC.

R4-1-345. Effective April 5, 2021, the Board introduced a temporary biennial registration fee reduction, which reduced the biennial registration fee from $300.00 to $275.00 for registrations due during the period from July 1, 2020 to June 30, 2022. As a result of this temporary fee reduction, 4,784 CPAs with registrations due from July 1, 2020 through June 30, 2021 have saved a combined $119,600. We expect a similar amount of savings for the current fiscal year. The temporary fee reduction is limited to CPA biennial registrations due during the period from July 1, 2020 to June 30, 2022. The Board would like to modify A.A.C. R4-1-345 to extend this temporary fee reduction to June 30, 2024 to further reduce its fund balance.

R4-1-453. A.A.C. R4-1-453(C)(7) currently does not allow registrants to reuse CPE hours that were used to vacate a suspension for nonregistration or suspension for noncompliance with CPE requirements for a subsequent registration period. A.A.C. R4-1-453(C)(6) is reworded to include the provisions of (C)(7) and adds that CPE taken to comply with a granted CPE extension cannot be used for a subsequent registration period.

Pursuant to A.R.S. § 32-701(18), “Jurisdiction” means, for the purposes of examination, certification, firm registration or limited reciprocity privilege, the fifty states of the United States, the District of Columbia, the United States Virgin Islands, Guam, the Commonwealth of the northern Mariana Islands or the Commonwealth of Puerto Rico.
R4-1-454 and R4-1-455. The Board seeks to update the incorporations by reference found in A.A.C. R4-1-454 and R4-1-455. A.R.S. § 41-1028(B) requires that a reference in rule fully identify an incorporated matter by location, date and state that the rule does not include any later amendments or editions of the incorporated matter.

3. A citation to all published notices relating to the proceeding:
   Notice of Proposed Rulemaking: 27 A.A.R. 1517, September 24, 2021 (in this issue)

4. The name and address of agency personnel with whom persons may communicate regarding the rule:
   Name: Monica L. Petersen, Executive Director
   Address: Board of Accountancy
   100 N. 15th Ave., Suite 165
   Phoenix, AZ 85007
   Telephone: (602) 364-0870
   Fax: (602) 364-0903
   Email: mpetersen@azaccountancy.gov
   Website: www.azaccountancy.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:
   An oral proceeding regarding the proposed rules will be held as follows:
   Date: November 8, 2021
   Time: 9:00 a.m.
   Location: Board of Accountancy
   100 N. 15th Ave., Suite 165
   Phoenix, AZ 85007
   The rulemaking record will close on Monday, November 8, 2021 at 5:00 p.m.

6. A timetable for agency decisions or other action on the proceeding, if known:
   A timetable is not known at this time.

NOTICE OF RULEMAKING DOCKET OPENING
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL

1. Title and its heading: 18, Environmental Quality
   Chapter and its heading: 9, Department of Environmental Quality - Water Pollution Control
   Article and its heading: 1, Aquifer Protection Permits - General Provisions
   Article and its heading: 3, Aquifer Protection Permits - General Permits
   Section numbers: R18-9-101, R18-9-110, R18-9-A308 through R18-9-A315, R18-9-E302 through R18-9-E323, and Table 1 (As a part of this rulemaking, the Department may add, delete, or modify additional sections as necessary.)

2. The subject matter of the proposed rule:
   The Arizona Department of Environmental Quality (ADEQ) intends to propose to amend 18 A.A.C. 9, Articles 1 and 3 in order to make necessary clarifications, simple technical corrections, and limited rule updates to ADEQ’s onsite wastewater treatment facility general permit program. ADEQ last revised these rules in November of 2005.

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

4. The name and address of agency personnel with whom persons may communicate regarding the rule:
   Name: Matthew Ivers
   Address: Arizona Department of Environmental Quality
   Water Quality Division
   1110 W. Washington St.
   Phoenix, AZ 85007
   Telephone: (602) 771-6723
   Email: onsitewastewater@azdeq.gov
   Website: https://azdeq.gov/path-forward-and-rulemaking
   https://azdeq.gov/onsitewastewater

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:
   Comments may be submitted to the agency via the information provided in item #4 above. A formal written comment period, the method to submit formal written comments, and an oral proceeding will be announced in the Notice of Proposed Rulemaking in the Arizona Administrative Register at a later date.
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
At this time, ADEQ intends to have a draft proposed rule for stakeholder input this fall, and intends to file a Notice of Proposed Rulemaking by the end of 2021.

**NOTICE OF RULEMAKING DOCKET OPENING**

**DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS**

**INSURANCE DIVISION**

[R21-144]

1. **Title and its heading:** 20, Commerce, Financial Institutions, and Insurance  
**Chapter and its heading:** 6, Department of Insurance and Financial Institutions - Insurance Division  
**Article and its heading:** 22, Military Personnel  
**Section number:** R20-6-2201

2. **The subject matter of the proposed rule:**  
This rulemaking sets forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive, or unfair.

3. **A citation to all published notices relating to the proceeding:** Notice of Proposed Rulemaking: 27 A.A.R. 1523, September 24, 2021 *(in this issue)*

4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**  
**Name:** Mary Kosinski  
**Address:** Arizona Department of Insurance and Financial Institutions  
100 N. 15th Ave., Suite 261  
Phoenix, AZ 85007-2630  
**Telephone:** (602) 364-3476  
**Email:** mary.kosinski@difi.az.gov

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

6. **A timetable for agency decisions or other action on the proceeding, if known:**  
To be determined.
The Administrative Procedure Act requires the publication of Notices of Agency Ombudsman. Agencies shall publish annually in the Register the name or names of those employees who are designated by the agency to assist members of the public or regulated community in seeking information or assistance from the agency. (A.R.S. § 41-1006)

NOTICE OF AGENCY OMBUDSMAN

STATE RETIREMENT SYSTEM BOARD

1. **The agency name:** Arizona State Retirement System

2. **The ombudsman's:**
   a. **Name:** Ryan Guerra
   b. **Title:** MSD Member Advocate
   c. **Agency Division:** Member Services Division

3. **The ombudsman’s office address to include city, state, and zip code:**
   Arizona State Retirement System
   3300 N. Central Ave.
   Phoenix, AZ 85012

4. **The ombudsman's area code and telephone number, fax number, and email address, if available:**
   Telephone: (602) 240-2122
   Email: memberadvocate@azasrs.gov
EXECUTIVE ORDER 2021-02
Moratorium on Rulemaking to Promote Job Creation and Economic Development; Internal Review of Administrative Rules

WHEREAS, government regulations should be as limited as possible; and
WHEREAS, burdensome regulations inhibit job growth and economic development; and
WHEREAS, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order, and renewed the moratorium in 2016, 2017, 2018, 2019 and 2020; and
WHEREAS, the State of Arizona eliminated or improved 462 burdensome regulations in 2020 and for a total of 2,751 needless regulations eliminated or improved since 2015; and
WHEREAS, estimates show these eliminations saved job creators $14.7 million in operating costs in 2020 and for a total of over $148.9 million in savings since 2015; and
WHEREAS, in 2020, for every one new necessary rule added to the Administrative Code, four have been repealed or improved; and
WHEREAS, COVID-19 has been hard on small businesses and the economy, and administrative barriers should be removed for their sake; and
WHEREAS, all government agencies of the State of Arizona should continue to promote customer service oriented principles for the people that it serves; and
WHEREAS, each State agency shall continue to conduct a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay and legal uncertainty associated with government regulation while protecting the health, peace and safety of residents; and
WHEREAS, each State agency should continue to evaluate its administrative rules using any available and reliable data and performance metrics; and
WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor.

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

1. A State agency subject to this Order shall not conduct any rulemaking, including regular, expedited, emergency and exempt, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justifications for the rulemaking:
   a. To fulfill an objective related to job creation, economic development or economic expansion in this State.
   b. To reduce or ameliorate a regulatory burden on the public, while achieving the same regulatory objective.
   c. To prevent a significant threat to public health, peace or safety.
   d. To avoid violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action.
   e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
   f. To comply with a new state statutory requirement.
   g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor’s Office of Strategic Planning and Budgeting.
   h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
   i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent or abusive activities perpetrated against an agency.
   j. To eliminate rules which are antiquated, redundant or otherwise no longer necessary for the operation of state government.
2. After the public comment period and the close of the rulemaking record, a State agency subject to this Order shall not submit the proposed rules to the Governor’s Regulatory Review Council without a written final approval from the Office of the Governor.
Before considering the rules submitted by a State agency, the Governor’s Regulatory Review Council must obtain from the State agency the initial approval, referenced in Section 1, and the final approval from the Office of the Governor.

3. A State agency that submits a rulemaking request pursuant to this Order shall recommend for consideration by the Governor’s Office at least \textbf{three} existing rules to eliminate for every \textbf{one} additional rule requested by the agency.

4. All State agencies shall conduct a comprehensive review of any rules that were suspended during the Public Health State of Emergency for COVID-19 to determine if those rules should be permanently suspended and send a report on their findings no later than June 1, 2021.

5. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by the Arizona Revised Statutes or Arizona Administrative Code. Any material that is not specifically authorized must be removed immediately.

6. A State agency that issues occupational or professional licenses shall prominently post on the agency’s website landing page all current state policies that ease licensing burdens and the exact steps applicants must complete to receive their license using these policies. State agencies should provide information that applies to all applicants, but have a designated area on the landing page that includes licensing information specifically for military spouses, active duty service members and veterans and all policies that make it easier for these applicant groups to receive their license. Examples of reduced licensing burdens include “universal recognition” of out-of-state licenses, availability of temporary licenses, fee waivers, exam exemptions and/or allowing an applicant to substitute military education or experience for licensing requirements. A landing page feature may link to an internal agency web page with more information, if necessary. All information must be easy to locate and written in clear and concise language.

7. A State agency that issues occupational or professional licenses must track veteran and military spouse status of applicants immediately and report that information to the Governor’s Office on an annual basis, starting July 1, 2021.

8. All State agencies that are required to issue occupational or professional licenses by “universal recognition” (established by A.R.S. § 32-4302) must track all applications received for this license type immediately and report that information to the Governor’s Office on an annual basis, starting July 1, 2021. Before any agency denies a professional or occupational license applied for under A.R.S. § 32-4302, the agency shall submit the application and justification for denial to the Office of the Governor for review before any official action is taken by the agency. The Governor’s Office should be notified of any required timeframes, whether in statute or rule, for approval or denial of the license by the agency.

9. For the purposes of this Order, the term “State agencies” includes, without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official; (b) the Corporation Commission; and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those state agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.

10. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule” and “rulemaking” have the same meanings prescribed in section 41-1001, Arizona Revised Statutes.

11. This Executive Order supersedes Executive Order 2019-01 and Executive Order 2020-02.

\textbf{IN WITNESS THEREOF}, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

\textbf{Douglas A. Ducey}  
\textbf{GOVERNOR}  

\textbf{DONE} at the Capitol in Phoenix on this twelfth day of February in the Year Two Thousand and Twenty-One and of the Independence of the United States of America the Year Two Hundred and Forty-Fifth.

\textbf{ATTEST}:  
\textbf{Katie Hobbs}  
\textbf{SECRETARY OF STATE}
REGISTER INDEXES

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

Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**
- PN = Proposed new Section
- PM = Proposed amended Section
- PR = Proposed repealed Section
- P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**
- SPN = Supplemental proposed new Section
- SPM = Supplemental proposed amended Section
- SPR = Supplemental proposed repealed Section
- SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**
- FN = Final new Section
- FM = Final amended Section
- FR = Final repealed Section
- F# = Final renumbered Section

**SUMMARY RULEMAKING**

**PROPOSED SUMMARY**
- PSMN = Proposed Summary new Section
- PSMM = Proposed Summary amended Section
- PSMR = Proposed Summary repealed Section
- PSM# = Proposed Summary renumbered Section

**FINAL SUMMARY**
- FSMN = Final Summary new Section
- FSMM = Final Summary amended Section
- FSMR = Final Summary repealed Section
- FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING**

**PROPOSED EXPEDITED**
- PEN = Proposed Expedited new Section
- PEM = Proposed Expedited amended Section
- PER = Proposed Expedited repealed Section
- PE# = Proposed Expedited renumbered Section

**SUPPLEMENTAL EXPEDITED**
- SPEN = Supplemental Proposed Expedited new Section
- SPEM = Supplemental Proposed Expedited amended Section
- SPER = Supplemental Proposed Expedited repealed Section
- SPE# = Supplemental Proposed Expedited renumbered Section

**FINAL EXPEDITED**
- FEN = Final Expedited new Section
- FEM = Final Expedited amended Section
- FER = Final Expedited repealed Section
- FE# = Final Expedited renumbered Section

**EXEMPT RULEMAKING**

**EXEMPT**
- XN = Exempt new Section
- XM = Exempt amended Section
- XR = Exempt repealed Section
- X# = Exempt renumbered Section

**EXEMPT PROPOSED**
- PXN = Proposed Exempt new Section
- PXM = Proposed Exempt amended Section
- PXR = Proposed Exempt repealed Section
- PX# = Proposed Exempt renumbered Section

**EXEMPT SUPPLEMENTAL PROPOSED**
- SPXN = Supplemental Proposed Exempt new Section
- SPXR = Supplemental Proposed Exempt repealed Section
- SPXM = Supplemental Proposed Exempt amended Section
- SPX# = Supplemental Proposed Exempt renumbered Section

**FINAL EXEMPT RULEMAKING**
- FXN = Final Exempt new Section
- FXM = Final Exempt amended Section
- FXR = Final Exempt repealed Section
- FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**
- EN = Emergency new Section
- EM = Emergency amended Section
- ER = Emergency repealed Section
- E# = Emergency renumbered Section
- EEXP = Emergency expired

**RECODIFICATION OF RULES**
- RC = Recodified

**REJECTION OF RULES**
- RJ = Rejected by the Attorney General

**TERMINATION OF RULES**
- TN = Terminated proposed new Sections
- TM = Terminated proposed amended Section
- TR = Terminated proposed repealed Section
- T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**
- EXP = Rules have expired

*See also “emergency expired” under emergency rulemaking*

**CORRECTIONS**
- C = Corrections to Published Rules
## RULEMAKING ACTIVITY INDEX

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

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**REGISTER PUBLISHING DEADLINES**

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

<table>
<thead>
<tr>
<th>Deadline Date (paper only)</th>
<th>Register Publication Date</th>
<th>Oral Proceeding may be scheduled on or after</th>
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**GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2021**

(Meeting dates are subject to change)

<table>
<thead>
<tr>
<th>DEADLINE FOR PLACEMENT ON AGENDA*</th>
<th>FINAL MATERIALS SUBMITTED TO COUNCIL</th>
<th>DATE OF COUNCIL STUDY SESSION</th>
<th>DATE OF COUNCIL MEETING</th>
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* 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.