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Arizona Administrative REGISTER

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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.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

Arizona Administrative REGISTER

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

ADMINISTRATIVE CODE
A price list for the *Arizona Administrative Code* is available online at www.azsos.gov.

PUBLICATION DEADLINES
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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Participate in the Process

Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

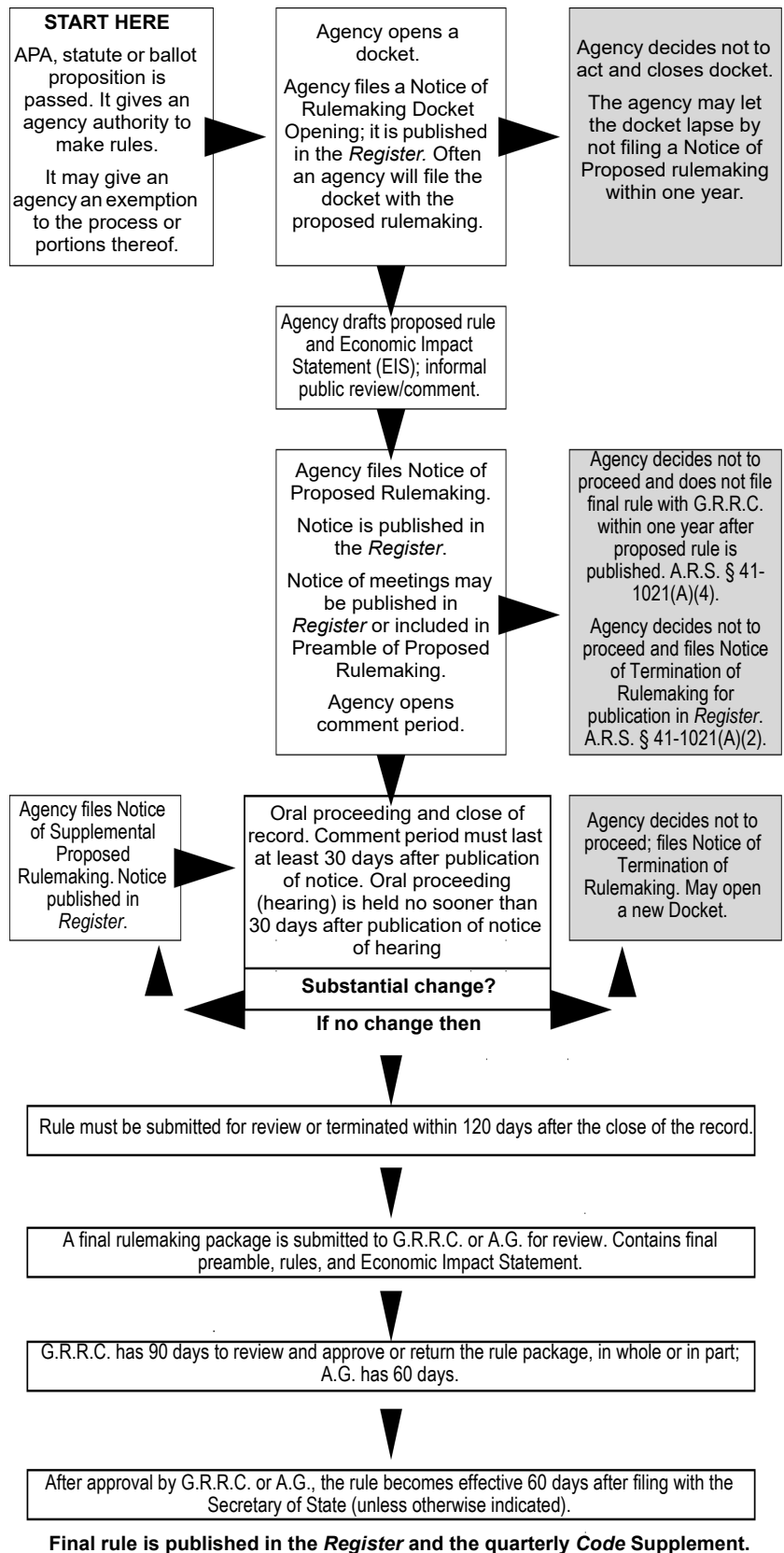
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Arizona Regular Rulemaking Process



Definitions

Arizona Administrative Code (A.A.C.): Official rules codified and published by the Secretary of State's Office. Available online at www.azsos.gov.

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

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

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

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

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

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

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

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

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

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

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

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

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

Acronyms

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

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

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

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

FR – *Federal Register*

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

U.S.C. – *United States Code*

About Preambles

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

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

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



NOTICES OF PROPOSED RULEMAKING

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

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

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

Under the APA, an agency must allow at least 30 days

to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

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

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. DEPARTMENT OF FINANCIAL INSTITUTIONS REAL ESTATE APPRAISAL DIVISION

[R21-224]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R4-46-101	Amend
R4-46-102	Amend
R4-46-106	Amend
R4-46-107	Amend
R4-46-201	Amend
R4-46-201.01	Amend
R4-46-202.01	Amend
R4-46-203	Amend
R4-46-204	Amend
R4-46-209	Amend
R4-46-301	Amend
Article 3.1	Amend
R4-46-301.01	Amend
R4-46-302.01	Amend
R4-46-303.01	Amend
R4-46-304.01	Amend
R4-46-305.01	Amend
R4-46-306.01	Amend
R4-46-307.01	Amend
R4-46-401	Amend
R4-46-402	Amend
R4-46-403	Amend
R4-46-404	Amend
R4-46-405	Amend
R4-46-406	Amend
R4-46-408	Amend
R4-46-501	Amend
R4-46-502	Amend
R4-46-503	Amend
R4-46-504	Amend
R4-46-505	Amend
R4-46-506	Amend
R4-46-507	Amend
R4-46-508	Amend
R4-46-509	Amend



R4-46-510	Amend
R4-46-511	Amend
R4-46-601	Amend

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

Authorizing statute: A.R.S. § 32-3605(A)

Implementing statute: A.R.S. §§ 32-3605(B), 32-3625, 32-3631(A), and 32-3680

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. 2923, December 17, 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
 Website: <https://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:

The Arizona Department of Insurance and Financial Institutions, Division of Financial Institutions ("Department") seeks to update the rules in Title 4, Chapter 46, A.A.C. R4-46-101 through and R4-46-601. Laws 2017, Chap. 334 (SB 1197) consolidated the former Board of Appraisal into the Arizona Department of Financial Institutions ("DFI"). In 2018 and 2019, the Department engaged in rulemaking that attempted to address changes in SB 1197. The rulemaking removed many redundant and inapplicable rules from Title 4, Chapter 46 (25 A.A.R. 1139, May 3, 2019); however, the changes created unanticipated regulatory issues for the DFI's enforcement of laws that apply to appraisers, appraisal management companies, education course providers, and property tax agents.

In July 2020, the DFI merged with the Arizona Department of Insurance. As a result, the former agencies became divisions of the Department.

In 2021, the Department ran legislation to bring the statutory sections governing real estate appraisal in line with the Department's new structure which eliminated the position of Superintendent. (Laws 2021, Chap. 356 (SB 1463)). This rulemaking attempts to synchronize the rules with the governing statutes and the Department's regulatory functions with regard to appraisers, appraisal management companies, education course providers and property tax agents. No changes are proposed for Section R4-46-407.

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 primary goal of this rulemaking is not to change any conduct of appraisers, appraisal management companies, course providers or property tax agents. Instead, it is designed to bring the current rules in line with the revised statutory sections and agency structure.
- The rulemaking does however add a requirement for appraisal management companies to comply with the National Registry requirements including the payment of fees. Additional reporting requirements have been added to bring these licensees in line with other licensees regulated by the Department: Appraisers and property tax agents are now required to report criminal convictions and civil judgments based on fraud, misrepresentation, or deceit in the making of any appraisal; and appraisal management companies are required to report adverse judgments by any state regulatory agency, or any professional or occupational credentialing authority against the regulated entity, the responsible person, any controlling person, or any person who owns 10% or more of the regulated entity.

Pursuant to A.R.S. § 41-1055(A)(2):

- No additional costs are anticipated to be imposed on appraisers or appraisal management companies in association with the National Registry reporting and fees because those requirements are already in statute.
- The costs incurred by the additional reporting requirements for appraisers and appraisal management companies are unknown at this time and licensees are encourage to submit this information to the Department during the public comment period. The Department believes these costs will be minimal because the reporting requirement is only triggered by the occurrence of specific, rare events.

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 "Appraisal" in the subject line of the e-mail.

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:

No other matters prescribed by statute are applicable to the Division or to any specific rule or class of rules.

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. The issuance of a general permit is not technically feasible and would not meet the applicable statutory requirements.

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

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("Appraisal Subcommittee") monitors the requirements established by the Department for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions and for the registration and supervision of the operations and activities of appraisal management companies. 12 U.S.C. § 3332(a)(1). The Appraisal Subcommittee also maintains a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions and a national registry of appraisal management companies that are registered with and subject to supervision of a State appraiser certifying and licensing agency. 12 U.S.C. §§ 3332(a)(2) and (6).

Accordingly, the Department is required to transmit to the Appraisal Subcommittee an annual roster of individuals who have received a state certification or license to perform appraisals in federally related transactions, report on the issuance and renewal of licenses and certifications, sanctions, and disciplinary actions (including license or certification revocations and suspensions). The Department is also required to transmit reports of supervisory activities involving appraisal management companies, including investigations resulting in disciplinary action being taken. It also collects and transmits the fees established by the Appraisal Subcommittee. 12 U.S.C. § 3338(a).

The rule comports with these federal requirements and is not more stringent than the 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 of 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:

Section R4-46-201(B) incorporates the classification-specific qualification criteria established and updated January 1, 2022 by the Appraisal Qualifications Board ("AQB").

13. The full text of the rule follows:



TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 46. DEPARTMENT OF FINANCIAL INSTITUTIONS
REAL ESTATE APPRAISAL DIVISION

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-46-101.	Definitions
R4-46-102.	Powers of Superintendent <u>Director</u>
R4-46-106.	Fees
R4-46-107.	Procedures for Processing Applications

ARTICLE 2. REGISTRATION, LICENSURE, AND CERTIFICATION AS AN APPRAISER

Section	
R4-46-201.	Appraiser Qualification Criteria
R4-46-201.01.	Application for Designation as a Supervisory Appraiser; Supervision of a Registered Trainee Appraiser
R4-46-202.01.	Application for Licensure or Certification by Reciprocity
R4-46-203.	Application for Non-resident Temporary Licensure or Certification
R4-46-204.	Licensure and Certification Examinations
R4-46-209.	Registration, License, or Certificate; Name Change; <u>Conviction and Judgment Disclosure</u>

ARTICLE 3. COMPLAINT INVESTIGATIONS

Section	
R4-46-301.	Complaints and Investigations; Complaint Resolution

ARTICLE 3.1. RULES OF PRACTICE AND PROCEDURE BEFORE THE ~~SUPERINTENDENT~~ DIRECTOR

Section	
R4-46-301.01.	Scope of Article
R4-46-302.01.	Commencement of Proceedings; Notice of Hearing
R4-46-303.01.	Answer to Notice of Hearing
R4-46-304.01.	Filing; Service
R4-46-305.01.	Stays
R4-46-306.01.	Rehearing
R4-46-307.01.	Settlement

ARTICLE 4. APPRAISAL MANAGEMENT COMPANIES

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R4-46-402.	Bond Required
R4-46-403.	Change in Controlling Person or Agent for Service of Process; <u>Notice of Adverse Action</u>
R4-46-404.	Application for Renewal Registration
R4-46-405.	Certifications; <u>National Registry Reporting</u>
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R4-46-408.	Voluntarily Relinquishing Registration

ARTICLE 5. COURSE APPROVAL

Section	
R4-46-501.	Course Approval Required; <u>Definitions</u>
R4-46-502.	Approval of Distance-education Delivery Mechanism
R4-46-503.	Course Owners
R4-46-504.	Application for Course Approval
R4-46-505.	Course Approval without Application
R4-46-506.	Minimum Standards for Course Approval
R4-46-507.	Secondary Providers
R4-46-508.	Compliance Audit of Approved Courses
R4-46-509.	Changes to an Approved Course
R4-46-510.	Renewal of Course Approval
R4-46-511.	Transfer of an Approved Course

ARTICLE 6. PROPERTY TAX AGENTS

Section	
R4-46-601.	Standards of Practice

**ARTICLE 1. GENERAL PROVISIONS****R4-46-101. Definitions**

The definitions in A.R.S. §§ 32-3601, 32-3651, and 32-3661 apply to this Chapter. Additionally, unless the context otherwise requires, in this Chapter:

“Accredited” means approved by an accrediting agency recognized by the Council for Higher Education Accreditation or the U.S. Secretary of Education.

“Administrative law judge” has the meaning stated at A.R.S. § 41-1092(1).

“AMC” means appraisal management company as defined at A.R.S. § 32-3661.

“Appealable agency action” has the meaning stated at A.R.S. § 41-1092(3).

“Appraisal practice” means valuation services performed by an individual acting as an appraiser, including but not limited to an appraisal or appraisal review.

“Appraiser” means an individual, other than a property tax agent as defined at A.R.S. § 32-3651, registered, licensed, or certified by the ~~Superintendent~~ Department to complete valuation assignments regarding real estate competently in a manner that is independent, impartial, and objective.

“AQB” means the Appraisal Qualifications Board as defined at A.R.S. § 32-3601.

“Assignment” means the valuation service that an appraiser provides as a consequence of an agreement between the appraiser and a client.

“Classroom education” means appraisal education delivered in a setting where there is no geographical separation between the instructor and student.

“Complaint” means a written allegation against a party.

“Conditional dismissal” means an agreement ~~between the Superintendent and the respondent~~, which allows the ~~Superintendent~~ Director to dismiss the complaint upon the respondent’s completion of a Department specified continuing education course.

“Contested case” has the meaning stated at A.R.S. § 41-1001(5).

“Conviction” means a judgment by any state or federal court of competent jurisdiction in a criminal case, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.

“Course owner” means a person or a combination of persons that own the proprietary rights to a course. A course owner may have developed the course or may have purchased the proprietary rights to the course.

“Department” has the meaning stated at A.R.S. § 6-101(5).

“Director” has the meaning stated at A.R.S. § 6-101(7).

“Disciplinary action” means any regulatory sanction imposed by the ~~Superintendent~~, Director, ~~other than remedial action imposed through a letter of remedial action, and may including include corrective education, a civil money penalty, restriction on the nature and scope of the respondent’s practice, consent agreement, monitoring, probation, mentorship, suspension, revocation, or an acceptance of surrender of a license or certificate: or a combination of the above.~~

“Distance education” means appraisal education delivered in a setting in which the learner and instructor are geographically separated.

“Federally Regulated Appraisal Management Company” has the meaning stated at A.R.S. § 32-3661(9).

“Investigation” means a fact-finding process and review that is initiated when the Department receives a complaint.

“Investigator” means an individual who is a Department employee or operates under a contract with the Department to carry out investigations of alleged violations.

“Jurisdictional criteria” means the statutory standards of A.R.S. §§ 6-123, 6-124, and A.R.S. Title 32, Chapter 36, used by the Department to determine whether a complaint falls within ~~the Superintendent’s~~ its jurisdiction.

“Letter of concern” means a non-disciplinary advisory letter to notify a respondent that the finding of the ~~Superintendent~~ Director does not warrant disciplinary action, but is nonetheless cause for concern ~~on the part of the Superintendent~~ and that its continuation may result in disciplinary action.



“Letter of remedial action” means a non-disciplinary letter that requires a respondent to take remedial action when any minor violation of A.R.S. Title 32, Chapter 36 or this Chapter is found.

“Mentor” means a certified appraiser authorized by the Department to supervise the work product of an appraiser who is subject to disciplinary action by the ~~Superintendent~~ Director.

“Party” means each person or agency named or admitted as a party or properly seeking and entitled to participate in any proceeding.

“Person” means a natural person or any legal or commercial entity including a corporation, business trust, estate, trust, partnership, limited partnership, joint venture, association, limited liability company, limited liability partnership, or limited liability limited partnership.

“Probation” means a term of oversight by the Department, imposed upon a respondent as part of a disciplinary action, which may include submission of logs, working under the supervision of a mentor, or other conditions intended to protect the public and educate the respondent.

“Property Tax Agent” has the meaning stated at A.R.S. § 32-3651(3).

“Remedial action” means any corrective remedy that is designed to assist the respondent in improving the respondent’s professional practice.

“Respondent” means an appraiser, course owner, property tax agent, or appraisal management company against whom a complaint has been filed or any other party responding to an investigation, an action, a motion or a proceeding before the ~~Superintendent~~ Director.

“Secondary provider” means a person that purchases or otherwise lawfully acquires the right to provide a course independently of the course owner that retains proprietary rights to the course.

~~“Superintendent” means the Superintendent of the Department of Financial Institutions.~~

“USPAP” means the Uniform Standards of Professional Appraisal Practice, issued and updated by The Appraisal Foundation and made state law under A.R.S. § 32-3610.

“Work file” means the documentation necessary to support the analysis, opinions, and conclusions of an appraisal assignment or tax appeal.

R4-46-102. Powers of ~~Superintendent~~ Director

- A. The ~~Superintendent~~ Director may appoint advisory committees the ~~Superintendent~~ Director deems appropriate. The committees shall make advisory recommendations ~~to the Superintendent. The Superintendent, in its discretion, may accept, reject, or modify the advisory recommendations, which may be accepted, rejected, or modified at the Director’s discretion.~~
- B. Under the authority provided by A.R.S. § 32-3605(B), the ~~Superintendent~~ Director may designate, train, and supervise volunteer licensees to conduct compliance audits of approved courses under Section R4-46-508.

R4-46-106. Fees

- A. Under the specific authority provided by A.R.S. §§ 32-3607, 3619, and 3667, the ~~Superintendent~~ Director establishes and shall collect the following fees:
 1. Application for original license or certificate: \$400.
 2. Application for registration as a trainee appraiser: \$300.
 3. Examination: The amount established by the AQB-approved examination provider.
 4. Biennial renewal of a license or certificate: \$425.
 5. Renewal of registration as a trainee appraiser: \$300.
 6. Delinquent renewal (in addition to the renewal fee): \$25.
 7. National Registry: The amount established by the Appraisal Subcommittee.
 8. Application for license or certificate by reciprocity: \$400.
 9. Application for non-resident temporary license or certificate: \$150.
 10. Course approval:
 - a. Core-curriculum qualifying education
 - i. Initial course approval: \$200.
 - ii. Renewal of course approval: \$200.
 - b. Continuing education
 - i. Initial course approval: \$200.
 - ii. Renewal of course approval: \$200.
 11. Application for initial registration as an appraisal management company: \$2,500.
 12. Biennial renewal of registration as an appraisal management company: \$2,500.
- B. The fees established in subsection (A) and those specified in A.R.S. § 32-3652 are not refundable unless the provisions of A.R.S. § 41-1077 apply.



- C. A person shall pay fees by cash or credit or debit card, or by certified or cashier's check or money order payable to the ~~Department of Financial Institutions~~ Department of Insurance and Financial Institutions.

R4-46-107. Procedures for Processing Applications

- A. To comply with A.R.S. Title 41, Chapter 6, Article 7.1, ~~the Superintendent establishes~~ the following ~~timeframes~~ time-frames ~~established~~ for processing applications for registration, licensure, certification, and designation, including renewal applications, and applications for course approval:
1. The Department shall notify the applicant within ~~45~~ 60 days after receipt of the application that it is either administratively complete or incomplete. If the application is incomplete, the Department shall specify in the notice what information is missing.
 2. ~~The Superintendent shall render a~~ final decision shall be rendered not later than ~~45~~ 60 days after the applicant successfully completes all requirements in statute or this Chapter.
 3. The overall ~~timeframe~~ time-frame for action is ~~90~~ 120 days, ~~45~~ 60 days for administrative completeness review and ~~45~~ 60 days for substantive review.
- B. An applicant whose application is incomplete shall supply the missing information within ~~30~~ 60 days after the date of the notice unless the ~~time-frame~~ time-frame is extended by mutual agreement. The administrative completeness review ~~time-frame~~ time-frame stops running on the date of the Department's written notice of an incomplete application; and resumes when the Department receives a complete application. If the applicant fails to submit a complete application within the specified time limit, the Department may reject the application and close the file. An applicant may reapply.
- C. If the ~~Superintendent~~ Director denies registration, licensure, certification, designation, or course approval to an applicant, the Department shall send the applicant written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a hearing to appeal the denial; and
 3. The time for appealing the denial.

ARTICLE 2. REGISTRATION, LICENSURE, AND CERTIFICATION AS AN APPRAISER

R4-46-201. Appraiser Qualification Criteria

- A. Classifications. As specified in A.R.S. § 32-3612, Arizona recognizes five classifications of appraisers. These classifications are:
1. Registered trainee appraiser,
 2. State licensed real estate appraiser,
 3. State certified residential real estate appraiser,
 4. State certified general real estate appraiser, and
 5. Designated supervisory appraiser.
- B. Qualification criteria. Except as provided elsewhere in this ~~Chapter~~, Article, an applicant for an original or renewal of a registration, licensure, certification, or designation shall meet the classification-specific qualification criteria established and updated ~~May 1, 2018~~ January 1, 2022 by the AQB, which ~~the Superintendent incorporates~~ is incorporated by reference. A copy of the incorporated materials is on file with the Department and may be obtained from the Department or the Appraisal Foundation. This rule does not incorporate any later date or edition of this material.
- C. Regardless of whether a transaction is federally related:
1. A state licensed residential appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(3), and
 2. A state certified residential appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(2).
- D. ~~If the Superintendent determines that~~ an applicant for registration, licensure, or certification meets the qualification criteria prescribed in A.R.S. Title 32, Chapter 36 and this ~~Chapter~~, Article, including evidence that the applicant has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and has submitted the application and the biennial National Registry fees specified in Section R4-46-106, the Superintendent shall issue a registration, license, or certificate that entitles the applicant to practice within the appropriate scope specified in A.R.S. § 32-3612 for the term specified in A.R.S. § 32-3616; shall be issued.

R4-46-201.01. Application for Designation as a Supervisory Appraiser; Supervision of a Registered Trainee Appraiser

- A. An individual who wishes to act as a supervisory appraiser for a registered trainee appraiser shall:
1. Apply for and obtain designation ~~from the Superintendent~~ as a supervisory appraiser before providing supervision to a registered trainee appraiser,
 2. Have been state certified for at least three years, and
 3. Apply for designation under A.R.S. § 32-3614.02.
- B. To apply for designation as a supervisory appraiser, a certified appraiser shall submit to the ~~Superintendent~~ Department:
1. An application for designation;
 2. A statement whether the applicant for designation has been disciplined in any jurisdiction in the last three years in a manner that affects the applicant's eligibility to engage in appraisal practice and if so, the name of the jurisdiction, date of the discipline, circumstances leading to the discipline, and date when the discipline was completed;
 3. Evidence that the applicant for designation completed a training course that complies with the course content established by the AQB and that is specifically oriented to the requirements and responsibilities of supervisory and trainee appraisers;
 4. A signed affirmation that the applicant for designation will comply with the USPAP Competency Rule for the property type and geographic location in which the supervision will be provided; and
 5. Any other information and documentation that is necessary to meet the qualification criteria established and updated by the AQB.
- C. Supervision requirements:
1. A registered trainee appraiser may have more than one designated supervisory appraiser.
 2. A designated supervisory appraiser shall not supervise more than three registered trainee appraisers at any one time.



3. A registered trainee appraiser shall maintain a separate appraisal log for each designated supervisory appraiser and, at a minimum, include the following in each log for each appraisal:
 - a. Type of property,
 - b. Date of report,
 - c. Address of appraised property,
 - d. Description of work performed by the registered trainee appraiser,
 - e. Scope of review and supervision provided by the designated supervisory appraiser,
 - f. Number of actual work hours worked by the registered trainee appraiser on the assignment, and
 - g. Signature and state certificate number of the designated supervisory appraiser.
4. A designated supervisory appraiser shall provide to the Superintendent Department in writing the name and address of each registered trainee appraiser within 10 days of engagement and notify the Superintendent Department in writing immediately within 10 days when the engagement ends.
5. If a registered trainee appraiser or designated supervisory appraiser fails to comply with the applicable requirements of this Section:
 - a. The registered trainee appraiser or the designated supervisory appraiser may be subject to disciplinary action under A.R.S. § 32-3631(A)(8), and
 - b. The registered trainee appraiser shall not receive experience credit for hours logged during the period that the registered trainee appraiser or designated supervisory appraiser failed to comply with the applicable requirements of this Section.

R4-46-202.01. Application for Licensure or Certification by Reciprocity

- A.** ~~The Superintendent shall~~ To be eligible to obtain a license or certify an individual certificate by reciprocity in the same classification, as specified in Section R4-46-201(A), in which the an individual is currently licensed or certified, if the individual-~~shall submit:~~
 1. ~~Is Evidence that the applicant is licensed or certified in a state that meets the standards established at A.R.S. § 32-3618;~~
 2. ~~Submits a~~ A completed application form;
 3. ~~Submits documentation of citizenship or alien status, specified under A.R.S. § 41-1080(A), indicating the individual's presence in the U.S. is authorized under federal law;~~ Disclosure of the state(s) in which the individual is currently licensed or certified;
 4. ~~Has the state in which the individual is currently licensed or certified send a verification of credential directly to the Superintendent that provides the following information:~~
 - a. ~~License or certification number;~~
 - b. ~~Classification, as specified in R4-46-201(A), in which the individual is currently licensed or certified;~~
 - c. ~~Statement of whether the license or certificate is in good standing; and~~
 - d. ~~Statement of whether disciplinary proceedings are pending against the individual;~~
 5. ~~Submits evidence that the individual has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and The application and biennial National Registry fees specified under Section R4-46-106.~~ Evidence that the individual has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and
 6. ~~Submits the application and biennial National Registry fees specified in R4-46-106.~~
- B.** ~~The Department shall verify the following information:~~
 1. ~~License or certification number;~~
 2. ~~Classification, as specified in Section R4-46-201(A), in which the individual is currently licensed or certified; and~~
 3. ~~Whether the license or certificate is in good standing.~~

R4-46-203. Application for Non-resident Temporary Licensure or Certification

- A.** To be eligible to obtain a non-resident temporary license or certificate, an individual shall:
 1. Be licensed or certified as an appraiser in a state other than Arizona;
 2. Not be licensed or certified as an appraiser in Arizona; and
 3. Have a dated and signed letter from a client that names the individual and indicates the client has engaged the individual to conduct an appraisal in Arizona, identifies the property or properties to be appraised, and specifies a date certain for completion of the assignment that is no more than one year from the date on which the Superintendent Director issues a non-resident temporary license or certificate.
- B.** To apply for a non-resident temporary license or certificate, an individual who meets the pre-requisites in subsection (A) shall submit:
 1. A completed application form;
 2. An irrevocable consent to service of process;
 3. ~~Documentation of citizenship or alien status, specified under A.R.S. § 41-1080(A), indicating the applicant's presence in the U.S. is authorized under federal law;~~ Evidence that the applicant has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and
 4. ~~Evidence that the applicant has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and The application fee specified under Section R4-46-106.~~
 5. ~~The fee required under R4-46-106.~~
- C.** The Superintendent Director shall grant an extension of no more than 120 days to an individual to whom a non-resident temporary license or certificate has been issued if the individual provides written notice ~~to the Superintendent~~ before the date specified in subsection (A)(3) that more time is needed to complete the assignment described in subsection (A)(3).
- D.** An appraiser to whom ~~the Superintendent has previously issued~~ a non-resident temporary license or certificate has previously been issued may, if qualified under subsection (A), apply for another non-resident temporary license or certificate by complying with subsection (B), except the Superintendent shall not require the applicant is not required to comply again with subsection ~~(B)(4); (B)(3)~~ unless the card has expired, or is suspended or cancelled.



- E. The ~~Superintendent~~ Director shall issue no more than 10 non-resident temporary licenses or certificates to an individual in any 12-month period.

R4-46-204. Licensure and Certification Examinations

- ~~A.~~ An applicant for licensure or certification may schedule an examination after the Department provides written notice to the applicant, to the extent written notice is required by the AQB. In such case, an applicant shall have ~~30~~ 90 days from the written notice to successfully complete the AQB-approved examination for the classification for which application is made unless the ~~time frame~~ time frame is extended by mutual agreement.
- ~~B.~~ ~~An applicant for licensure or certification who fails to pass the required examination or fails to appear for a scheduled examination may schedule another examination by providing written notice to the Superintendent and paying the examination fee specified in R4-46-106. The applicant remains subject to the specified time limit in subsection (A) or in R4-46-107, as applicable.~~

R4-46-209. Registration, License, or Certificate; Name Change; Conviction and Judgment Disclosure

- A. If the name of an appraiser is legally changed, the appraiser shall submit written notice of the change to the Department and provide documentation showing the circumstances under which the name change occurred. ~~The Superintendent shall issue the appraiser a~~ A new registration, license, or certificate with the correct name: shall be issued.
- B. Within 30 days after the filing date of a criminal conviction in any jurisdiction, an appraiser or property tax agent who has been convicted shall report the conviction to the Department. The report shall include a copy of the initial indictment, information or complaint filed, the final judgment entered by the court, and all other relevant legal documents.
- C. Within 30 days after the final disposition of a matter, an appraiser or property tax agent shall report to the Department any civil judgment based on fraud, misrepresentation, or deceit in the making of any appraisal entered against the appraiser or property tax agent.

ARTICLE 3. COMPLAINT INVESTIGATIONS

R4-46-301. Complaints and Investigations; Complaint Resolution

- A. Complaints and Investigations
- The Department shall investigate a complaint, if the complaint meets the minimum jurisdictional criteria.
 - The Department may notify the respondent of a complaint.
 - The Department may require that the respondent file a written response to the complaint and provide any one or more of the following:
 - Appraisal report,
 - Appraisal review,
 - Consulting assignment,
 - Property tax appeal at issue,
 - Work file, and
 - Any other relevant records.
 - The Department may assign or contract with an investigator.
 - Under A.R.S. §§ 6-123(3), 6-124, ~~and~~ 12-2212, and 32-3631(C), the ~~Superintendent~~ Director may compel testimony or document production, regardless of whether an investigation is in process.
- B. Complaint Resolution
- Without limiting any other remedy allowed by statute, if the ~~Superintendent~~ Director finds a violation of A.R.S. Title 32, Chapter 36, or this Chapter, the ~~Superintendent~~ Director may:
 - Dismiss the matter based upon mitigating factors;
 - Issue a letter of concern;
 - Issue an order, which may include disciplinary action and/or remedial action; or
 - Resolve the matter by settlement.
 - Any time after a complaint has been filed against a respondent, the matter may be resolved by a settlement in which the respondent agrees to accept disciplinary action and/or remedial action by consent. If the ~~Superintendent~~ Director determines that the proposed settlement will adequately protect the public, the ~~Department~~ Director may enter into a consent agreement or issue a letter of remedial action, or enter into another form of stipulation, agreed settlement, or consent with the respondent. The ~~Superintendent~~ Director may also allow for a conditional dismissal.

ARTICLE 3.1. RULES OF PRACTICE AND PROCEDURE BEFORE THE SUPERINTENDENT DIRECTOR

R4-46-301.01. Scope of Article

This Article governs procedures in all contested cases and appealable agency actions, including administrative appeals, filed with the Department. The Department shall use the authority of A.R.S. §§ 41-1092 through 41-1092.12, and the Office of Administrative Hearings' procedural rules to govern the initiation and conduct of proceedings. In a case or action, special procedural requirements in state statute or another Section in this Chapter shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Hearings' rules. This Article does not apply to rulemaking or to investigative proceedings before the ~~Superintendent~~ Director.

R4-46-302.01. Commencement of Proceedings; Notice of Hearing

A person may obtain a hearing under A.R.S. § 41-1092.03 (B) on any appealable agency action or contested case, including the following, unless otherwise provided by law:

- A letter or order granting or denying a license;
- A cease and desist order;
- An order to remedy unsafe or unsound conditions;
- An order assessing a fine;



5. Any other order or matter reviewable in a hearing either under the authority of these rules, a statute or an administrative rule enforced by the Superintendent, Director, or by the order's express terms.

R4-46-303.01. Answer to Notice of Hearing

- A. The Superintendent, Director may, in a notice of hearing, direct one or more parties to file an answer to the assertions in the notice of hearing. Any party to the proceeding may file an answer without being directed to do so.
- B. A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Superintendent, Director may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.
- C. An answer filed under this Section shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the assertions in the notice of hearing. An answering party that does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an assertion shall state that inability in its answer. That statement shall have the effect of a denial. A party admits each assertion that it does not deny. An answering party that intends to deny only a part or a qualification of an assertion, or to qualify an assertion, shall expressly admit as much of that assertion as is true and shall deny the remainder.
- D. A party that fails to file an answer required by this Section within the time allowed is in default. The Superintendent, Director may resolve the proceeding against a defaulting party. In doing so, the Superintendent, Director may regard any assertions in the notice of hearing as admitted by the defaulting party.
- E. An answering party waives all defenses not raised in its answer.

R4-46-304.01. Filing; Service

- A. A person shall either personally deliver all papers permitted or required to be filed with the Superintendent, Director or shall mail them by first class, certified, or express mail, or send them electronically to the Department, or shall serve them by any method permitted under R2-19-108. The Department considers papers filed when actually received at the Superintendent's, Director's address stated in this subsection.
- B. A party in a contested case or appeal from an agency action shall make any required or permitted service in the manner permitted under R2-19-108. A party shall make service upon each represented party's attorney unless the administrative law judge orders separate service on the actual party. A party shall make service upon each unrepresented party by service on the actual party.

R4-46-305.01. Stays

A person aggrieved by the Department's action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the Superintendent, Director stay an action or any part of an order that will become effective before the Department can hold a hearing. The Superintendent, Director may, in the Superintendent's, Director's discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person's request demonstrates that:

1. The person has a reasonable defense that might prevail on the merits at the hearing,
2. The person will suffer irreparable injury unless the Superintendent, Director grants the stay,
3. The stay would not substantially or irreparably harm other interested persons, and
4. The stay would not jeopardize the public interest or contravene public policy.

R4-46-306.01. Rehearing

- A. Except as provided in subsection (H), any party in a contested case who is aggrieved by a decision rendered in that case may file with the Superintendent, Director, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for rehearing.
- B. A party requesting rehearing under this Section may amend a motion for rehearing at any time before the Superintendent, Director rules on the motion. Any other party, or the Attorney General, may file a response to the motion for rehearing within 15 days after service of the motion for rehearing, or the amended motion for rehearing. The Superintendent, Director may require a written brief of the issues raised in the motion and may allow oral argument.
- C. The Superintendent, Director may grant a motion for rehearing for any of the following causes:
1. Irregularity in the proceedings before the Superintendent, Director, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Department, the administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary care;
 4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing;
 7. The decision is not justified by the evidence or is contrary to law.
- D. The Superintendent, Director may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (C). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.
- E. The Superintendent, Director, within the time for filing a motion for rehearing, may without a motion order a rehearing or review of a decision for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.
- F. After giving the parties notice and an opportunity to be heard on the matter, the Superintendent, Director may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.
- G. When a motion for rehearing is based on an affidavit, the moving party shall serve the affidavit with the motion. An opposing party or the Attorney General may serve opposing affidavits within 10 days after service of the motion for rehearing.
- H. The Superintendent, Director may issue a final decision, subject only to judicial review and without an opportunity for rehearing or administrative review, if the Superintendent, Director includes in the decision:



1. An express finding that the decision needs to be made immediately effective to preserve the public peace, health, and safety; and
2. An express finding that a rehearing or review is:
 - a. Impossible,
 - b. Unnecessary, or
 - c. Contrary to the public interest.

R4-46-307.01. Settlement

- A. The Department will enter into a settlement, either in litigation or in an administrative proceeding, only if the defendant or respondent admits to the allegations in the complaint, notice, or order relating to the jurisdiction of the ~~Superintendent~~ Director or the jurisdiction of the tribunal that will enter the judgment or order.
- B. The ~~Superintendent~~ Director has sole discretion to decide whether to resolve a matter by settlement. Nothing in Article 3 or Article 3.1 gives the ~~Superintendent~~ Director a duty to approve a settlement in any matter.

ARTICLE 4. APPRAISAL MANAGEMENT COMPANIES

R4-46-401. Application for Initial Registration

- A. Unless exempt under A.R.S. § 32-3663; or 12 USC § 3353(c), a person shall not engage in business as an AMC and shall not provide any appraisal management services unless registered with the Department.
- B. To register under subsection (A), a person shall submit:
 1. A registration application ~~form~~, which is available from the Department and on its website, and provide the information and certifications required under A.R.S. § 32-3662(B);
 2. The name and contact information of the controlling person who will be the main contact for all communication between the Department and the AMC;
 3. For the controlling person, each officer, and each individual who owns ~~40 percent~~ 10% or more of the AMC:
 - a. A copy of a fingerprint clearance card application under A.R.S. § 41-1758.03; and
 - b. The certification required under A.R.S. §§ 32-3668(B)(3) or 32-3669(B)(1), as applicable;
 4. Proof of the surety bond required under A.R.S. § 32-3667 and Section R4-46-402; and
 5. The application fee ~~required~~ specified under Section R4-46-106.
- C. If an AMC operates in Arizona under more than one name, other than a DBA, the controlling person of the AMC shall ensure that a complete application, as described in subsection (B), is submitted in each name under which the AMC will operate. However, if an individual previously submitted a copy of a valid fingerprint clearance card application under subsection (B), the individual is not required to ~~submit a copy of the~~ resubmit the fingerprint clearance card ~~again~~. unless the card has expired, or is suspended, or cancelled.

R4-46-402. Bond Required

- A. The surety bond required under A.R.S. § 32-3667 shall be in the amount of \$20,000 and shall be issued by a surety company authorized to do business in Arizona.
- B. The controlling person of a registered AMC shall ensure that the surety bond required under A.R.S. § 32-3667 requires the issuing surety company to provide written notice to the Department by registered or certified mail at least 30 days before the surety company cancels the bond and within 30 days after the surety company pays a loss under the bond.
- C. The surety bond required under A.R.S. § 32-3667 is to be used exclusively to ensure that a registered AMC pays:
 1. All amounts owed to persons that perform real estate appraisal services for the AMC, and
 2. All amounts adjudged against the AMC as a result of either negligent or improper real property appraisal services or appraisal management services or of a breach of contract in performing real property appraisal services or appraisal management services.
- D. The controlling person of a registered AMC shall ensure that the required surety bond is:
 1. Maintained in the amount of \$20,000;
 2. Funded to \$20,000 within seven days after being drawn down; and
 3. Maintained for at least one year after the AMC's registration expires, is revoked or surrendered, or otherwise ends.
- E. If the Department receives notice from the surety company of intent to cancel the required bond, the Department shall notify the controlling person of the AMC and require that the controlling person submit proof of a replacement bond before the existing bond is cancelled. Under A.R.S. § 32-3678, failure to maintain the required bond is grounds for disciplinary action.
- F. If a registered AMC operates in Arizona under more than one name, other than a DBA, the controlling person shall ensure that a separate surety bond in the amount of \$20,000 is maintained in each name.
- G. If the name of a registered AMC is changed, the controlling person of the registered AMC shall ensure that a surety bond in the amount of \$20,000 is:
 1. Maintained in the former name for one year after the name is changed, and
 2. Obtained in the registered AMC's new name.
- H. A person damaged by a registered AMC's failure to pay an obligation listed in subsection (C) has a right of action against the surety bond. The damaged person shall begin the action in a court of competent jurisdiction within one year after the AMC failed to pay the amount owed or the amount adjudged against the AMC.
- I. If the surety bond required under A.R.S. § 32-3667 is cancelled, liability of the issuing surety company is not limited or cancelled regarding any claim against the surety bond ~~started before cancellation of the bond~~. for actions by the AMC while the surety bond was in force.

R4-46-403. Change in Controlling Person or Agent for Service of Process; Notice of Adverse Action

- A. If any of the information submitted under Section R4-46-401(B)(2) changes, the controlling person of the registered AMC shall provide to the Department written notice of the change within 10 business days.



- B. If an individual becomes the controlling person of a registered AMC and the information required under Section R4-46-401(B)(3) was not previously submitted for the individual, the new controlling person shall ensure that the required information is submitted to the Department within 10 business days after the change in controlling person.
- C. If a registered AMC is required under A.R.S. § 32-3662(B)(4) to provide the name and contact information for an agent for service of process in this state, the controlling person of the AMC shall provide the Department written notice of any change in the information within 10 business days.
- D. If the regulated entity, the responsible person, any controlling person, or any person who owns 10% or more of the firm has ever been, or is currently, the subject of any complaint, investigation, or disciplinary action against a license, certificate, registration, or membership by any state regulatory agency, or any professional or occupational credentialing authority that resulted in an adverse judgment against them, including any denial, or voluntary surrender, withdrawal, or resignation of a credential in lieu of disciplinary action, the controlling person of the AMC shall provide the Department with written notice of such action within 10 business days after such action has been finalized.

R4-46-404. Application for Renewal Registration

- A. Under A.R.S. § 32-3665, an initial registration for an AMC expires one year after the date of issuance. A renewal registration for an AMC expires two years after the date of issuance.
- B. To renew registration for an AMC, the controlling person of the registered AMC shall, at least within 60 days before expiration, submit:
 - 1. A renewal registration application, ~~form, which is available from the Department and on its website;~~
 - 2. The certifications required under A.R.S. § 32-3662(B);
 - 3. Proof of the surety bond required under A.R.S. § 32-3667 and Section R4-46-402; ~~and~~
 - 4. The renewal fee ~~specified in under Section R4-46-106;~~
 - 5. Evidence that each person who has at least a 10% ownership interest in the AMC and the controlling person have applied for a valid fingerprint clearance card unless a valid fingerprint clearance card is currently on file with the Department, and
 - 6. Disclose any changes to the percentage of ownership.
- C. If the controlling person of a registered AMC fails to comply with subsection (B) and the registration expires, the controlling person shall ensure that the AMC immediately ceases providing all appraisal management services. The Department may accept a renewal application after the expiration date if within 90 days of the date of expiration but shall assess a delinquent renewal fee in addition to the renewal fee.

R4-46-405. Certifications; National Registry Reporting

- A. Under A.R.S. § 32-3672, the controlling person of a registered AMC is required to make certain certifications to the ~~Superintendent~~ Department at the time the AMC's registration is renewed.
- B. To make the certifications required under A.R.S. § 32-3672, the controlling person of a registered AMC shall use a form that is available from the Department and on its website.
- C. The controlling person of a registered AMC shall make available to the Department, upon request, evidence that the certifications are true and that the systems, processes, and records certified are effective in protecting the public.
- D. ~~Under A.R.S. § 32-3678, failure to comply with this Section is grounds for disciplinary action. In accordance with the provisions contained in 12 U.S.C. § 3338, each authorized representative or controlling person of an AMC that is either registered with the state or federally regulated and operating in Arizona shall annually submit an AMC National Registry Report to the Department at least 15 days prior to March 1st of each year for the period from January 1 to December 31 of the previous year. The AMC National Registry Report shall include:~~
 - 1. Identifying information for the AMC;
 - 2. The number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in the state during the previous year, or from the commencement of business for AMCs not in existence for the entire previous year; and
 - 3. A signed affirmation by written declaration.
- E. The AMC shall pay, at the time it submits the National Registry Report to the Department, the fee required under 12 U.S.C. § 3338(a)(4).
- F. A registered AMC or federally regulated AMC operating in Arizona who fails to timely submit a National Registry Report to the Department and to remit the AMC National Registry fee shall not appear on the AMC National Registry.
- G. Under A.R.S. § 32-3678, failure to comply with this Section is grounds for disciplinary action.

R4-46-406. Appeal for Waiver

- A. Under A.R.S. §§ 32-3668 and 32-3669, an AMC for which registration is sought under Section R4-46-401 may not have an owner, controlling person, officer, or other individual with a ~~10 percent~~ 10% or greater financial interest in the AMC who has ever had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered in any state.
- B. The requirement in subsection (A) may be waived, at the discretion of the ~~Superintendent~~, Director, when an appeal is made by the individual who has had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered.
- C. To make an appeal for waiver under subsection (B), the individual who has had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered shall submit ~~to the Superintendent~~ an appeal for waiver form, which is available from the Department and on its website.
- D. In deciding whether to waive the requirement under subsection (A), the ~~Superintendent~~ Director shall consider the following factors:
 - 1. Whether the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was based on a finding of fraud, dishonesty, misrepresentation, or deceit on the part of the appellant;



2. The amount of time that has elapsed since the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate;
3. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was an isolated occurrence or part of a pattern of conduct;
4. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate appears to have been done for a self-serving purpose;
5. The harm caused to victims, if any;
6. Efforts at rehabilitation, if any, undertaken by the appellant and evidence regarding whether the rehabilitation efforts were successful;
7. Restitution made by the appellant to victims, if any; and
8. Other factors in mitigation or aggravation that the ~~Superintendent~~ Director determines are relevant.

R4-46-408. Voluntarily Relinquishing Registration

- A. The controlling person of a registered AMC may voluntarily relinquish the AMC's registration if:
 1. No complaint is currently pending against the AMC,
 2. All amounts owed under subsection R4-46-402(C) have been paid, and
 3. The AMC is in good standing with the Department.
- B. To voluntarily relinquish an AMC's registration, the controlling person of the AMC shall enter into an agreement with the ~~Superintendent~~ Director that provides the AMC shall:
 1. Cease engaging in business as an AMC and cease providing appraisal management services immediately, and
 2. Maintain the surety bond required under A.R.S. § 32-3667 for one year after the agreement is entered.

ARTICLE 5. COURSE APPROVAL

R4-46-501. Course Approval Required: Definitions

- A. Under A.R.S. §§ 32-3601(10) and 32-3625, a course must be approved by the ~~Superintendent, Director,~~ including a course presented by distance education, before the course is offered in Arizona. ~~The Superintendent shall approve a~~ A course shall be approved as either qualifying or continuing education.
- B. Prior to the approval of a course as either qualifying or continuing education, the Department shall determine whether the course satisfies the qualification criteria ~~in~~ under subsection R4-46-201(B).
- C. A course owner shall ensure that the course is not offered as either qualifying or continuing education until the course owner receives notice that the course has been approved ~~by the Superintendent~~ unless the course owner includes notice in the offering materials that course approval ~~by the Superintendent~~ is pending and no credit may be claimed for participating in the course until approval is received.
- D. The Department shall include in the notice of course approval referenced in subsection (C):
 1. An index number for the approved course,
 2. The maximum number of hours of instruction (including examination time if applicable) that may be claimed for participating in the approved course, and
 3. Whether the course is approved as qualifying or continuing education.
- E. A course owner shall ensure that the course is not advertised or represented as ~~Superintendent-approved~~ approved until after receipt of the notice referenced in subsection (D). After receiving notice of course approval, the course owner may represent in any materials that the course is ~~Superintendent-approved~~ approved.
- F. As used in this Article:
"Continuing education" means the basic education requirement for renewal of a license or certification within the meaning of A.R.S. § 32-3625.

"Qualifying education" means the basic education requirement to apply as a state-licensed appraiser under A.R.S. § 32-3613(B) or state-certified real estate appraiser under A.R.S. § 32-3614(C).

R4-46-502. Approval of Distance-education Delivery Mechanism

If a course is to be delivered by distance education, the course owner shall obtain approval of the course-delivery mechanism from one of the following sources: if required:

1. ~~An AQB-approved organization~~ An organization approved by the AQB that provides approval of course design and delivery;
2. An accredited institution of higher education that approves the content of the course and offers and awards academic credit for the distance-education course; or
3. An accredited institution of higher education that approves the content of the course and a distance-education approval organization that approves the course design and delivery, which includes interactivity.

R4-46-503. Course Owners

- A. ~~Superintendent approval~~ Approval of a course granted to the course owner extends to a secondary provider. However, for a course delivered by distance education:
 1. A course owner's approval of the course-delivery mechanism, as required under Section R4-46-502, does not extend to a secondary provider; and
 2. Both the course owner and secondary provider shall apply for and obtain approval of the course-delivery mechanism from a source listed in Section R4-46-502.
- B. If a course owner allows ~~a Superintendent-approved~~ an approved course to be offered by a secondary provider, the course owner shall ensure that the secondary provider:
 1. Uses the course owner's materials, including the same textbook and examination, if any;



2. Allows only the number of hours specified by the Department under subsection R4-46-501(D);
 3. Uses an instructor who is qualified under the standards specified in subsection R4-46-506(7); and
 4. Adheres to the course owner's policies regarding student attendance, course scheduling, and prerequisites, if any.
- C. ~~Before allowing a Superintendent approved an approved~~ course to be offered by a secondary provider using distance education, the course owner shall comply with subsection (B) and:
1. Ensure that the secondary provider has obtained approval of the course-delivery mechanism from a source listed in Section R4-46-502, and
 2. ~~Provide to the Superintendent evidence that the secondary provider has obtained approval of the course-delivery mechanism for the Superintendent approved approved~~ course.
- D. ~~The Superintendent shall hold a~~ A course owner shall be held responsible if a secondary provider, authorized by the course owner under subsection (B) or (C), violates any provision of this ~~Chapter Article~~.

R4-46-504. Application for Course Approval

Only a course owner may apply for course approval. To apply for course approval, a course owner shall submit to the Department:

1. An application for course approval, which is available from the Department and on its website;
2. Materials and other documents that demonstrate the course meets the minimum standards specified in Section R4-46-506;
3. If the course will be offered using distance education, evidence of approval of the course-delivery mechanism from a source listed in Section R4-46-502; and
4. The application fee specified under Section R4-46-106.

R4-46-505. Course Approval without Application

The ~~Superintendent~~ Director approves without application the following:

1. A course approved through the AQB's voluntary Course Approval Program;
2. The 15-Hour National USPAP Course or its ~~AQB approved equivalent, approved by the AQB, if the course is taught by at least one AQB-certified USPAP instructor who is also a state-certified appraiser in good standing who is certified by the AQB as an USPAP instructor;~~ and
3. The 7-Hour National USPAP Update Course or its ~~AQB approved equivalent, approved by the AQB, if the course is taught by at least one AQB-certified USPAP instructor who is also a state-certified appraiser in good standing certified by the AQB as an USPAP instructor.~~

R4-46-506. Minimum Standards for Course Approval

The ~~Superintendent~~ Director shall approve a course only if the course owner submits the following materials and documents with the application for approval required under Section R4-46-504 and demonstrates the course, including a course presented by distance education, meets the following minimum standards:

1. Course description. Clearly describe the subject matter content of the course.
2. Summary outline. Identify major topics and the number of classroom hours devoted to each.
3. Prerequisites. Specify necessary prerequisites for any course other than a course on:
 - a. Introductory real estate appraisal principles and practices, and
 - b. Appraisal standards and ethics.
4. Learning objectives. Specific learning objectives shall:
 - a. State clearly the specific knowledge and skills students are expected to acquire by completing the course;
 - b. Be consistent with the course description required under subsection (1);
 - c. Be consistent with the instructional materials described in subsection (5);
 - d. Be achievable in the number of hours allotted for the course;
 - e. If for qualifying education, specify the required core curriculum, module subtopic, and number of course hours; and
 - f. If for continuing education, specify the appraisal topic and number of course hours.
5. Instructional materials. Instructional materials used by students shall:
 - a. Cover the subject matter in sufficient depth to achieve the learning objectives specified in subsection (4);
 - b. Reflect current knowledge and practice in the field of appraisal;
 - c. Contain no significant errors;
 - d. Use correct grammar and spelling;
 - e. Be written in a clear, concise, and understandable manner;
 - f. Be in a format that facilitates learning; and
 - g. Be bound or packaged and produced in a quality manner.
6. Examinations for qualifying education courses. Qualifying education courses shall include a series of examinations; or a comprehensive final examination, or both. A course examination shall:
 - a. Contain enough questions to assess adequately whether a student acquired knowledge of the subject matter covered by the course;
 - b. Contain questions directed towards assessing whether students achieved the learning objectives specified in subsection (4);
 - c. Be allotted sufficient time for students to complete;
 - d. Contain questions on information adequately addressed in the instructional material required under subsection (5);
 - e. Contain questions that are written in a clear, accurate, and unambiguous manner;
 - f. Contain questions for which the intended answer is clearly the best answer choice;
 - g. Be proctored and closed-book; and
 - h. Have a criterion for passing that is announced before the examination is given.
7. Instructor qualifications policy. The course owner has a written policy that requires use of instructors who meet at least one of the following:



- a. Has a baccalaureate degree in any field and at least three years of experience directly related to the subject matter to be taught,
 - b. Has a master's degree in any field and one year of experience directly related to the subject matter to be taught,
 - c. Has a master's or higher degree in a field directly related to the subject matter to be taught,
 - d. Has at least five years of real estate appraisal teaching experience directly related to the subject matter to be taught, or
 - e. Has at least seven years of real estate appraisal experience directly related to the subject matter to be taught.
8. Required policies. The course owner shall have the following written policies:
- a. Attendance policy that ensures student attendance is verified.
 - i. Stipulate that to receive credit, a student must be present for the entire course;
 - ii. Include the instructor's name on the attendance record; and
 - iii. Maintain attendance records for five years;
 - b. Scheduling policy.
 - i. Provide that a student may participate in a maximum of eight hours of instruction in a day, and
 - ii. Provide that appropriate breaks are included during each class session, and
 - c. Completion certificate policy.
 - i. Require that a signed and dated completion certificate be issued promptly to all students who complete a course, and
 - ii. Require that a completion certificate contain all information required on the form of certification provided by the Department.

R4-46-507. Secondary Providers

The ~~Superintendent~~ Director shall hold a course owner responsible for the activities of a secondary provider who conducts the course owner's ~~Superintendent-approved~~ approved course in Arizona. To protect the integrity of the ~~Superintendent's~~ approval, a course owner shall have a written agreement with a secondary provider that requires the secondary provider to:

1. Use the materials required under subsection R4-46-506(5) and the examination required under subsection R4-46-506(6) without change;
2. Conduct the course in accordance with the policies required under subsections R4-46-506(7) and (8);
3. Clearly state in advertising materials that the course has been lawfully acquired from the course owner and that ~~Superintendent~~ approval was provided to the course owner and not to the secondary provider;
4. Cease using the materials and examination when the course approval expires under Section R4-46-510; and
5. If the course is to be delivered by distance learning, obtain approval of the course-delivery mechanism from a source listed in Section R4-46-502.

R4-46-508. Compliance Audit of Approved Courses

- A. To improve the quality of education available to appraisers in this state, the Department may regularly audit approved courses for compliance with this Chapter.
- B. The ~~Superintendent~~ Director shall identify approved courses for audit using the following to establish the priority of audits:
 1. Approved courses about which a complaint has been received,
 2. Approved courses of a course owner that is new to this state, and
 3. Approved courses that have not been audited in the last five years.
- C. On request from the ~~Superintendent, Director~~, the course owner of an approved course shall provide the dates, times, and locations at which the approved course will be taught and the name of the instructor who will teach each presentation of the approved course.
- D. The audit of an approved course may be conducted by a volunteer auditor trained by the Department.
- E. The course owner of an approved course shall allow an auditor described under subsection (D) to attend the approved course at no charge.
- F. The auditor shall be identified to the instructor before the approved course starts.
- G. On request from the auditor, the course owner shall allow the auditor to examine records, materials, and other documents relevant to the approved course audited.
- H. After review by the ~~Superintendent, Director~~, the Department shall provide a copy of the audit report to the course owner. If the audit identifies ways in which the approved course fails to comply with this ~~Chapter, Article~~, the Department shall:
 1. Work with the course owner to establish a correction plan to bring the course into compliance,
 2. Establish a time within which the course owner is required to complete the correction plan and bring the course into compliance, and
 3. Inform the course owner of the manner in which to report the approved course is in compliance with this ~~Chapter, Article~~.
- I. Failure of a course owner to comply with this ~~Chapter Article~~ may lead to revocation of course approval.

R4-46-509. Changes to an Approved Course

The ~~Superintendent~~ Director encourages revisions and updates that improve and keep an approved course current. However, if any of the information provided under subsections R4-46-506(1), (2), (4), or (5) changes so substantially as to alter the scope of the approved course as determined at the sole discretion of the ~~Superintendent, Director~~, the course owner of the approved course shall submit a new application for approval under Section R4-46-504.

R4-46-510. Renewal of Course Approval

- A. Course approval expires a maximum of two years after approval is granted. Approval of a distance education course expires in two years or, if applicable, when the distance education delivery-mechanism approval required under Section R4-46-502 or approval under Section R4-46-505 expires, whichever is less.
- B. The ~~Superintendent~~ Director may renew the approval of a course only if the information provided under subsections R4-46-506(1), (2), (4), and (5) has not changed substantially.



- C. If an approved course meets the standard in subsection (B), the course owner may apply for renewal of course approval ~~no later than 30~~ within 90 days before the course approval expires.
- D. To apply for renewal of course approval, a course owner shall submit a renewal application, which is available from the Department and on its website, and pay the renewal fee specified in subsection R4-46-106(A)(10).

R4-46-511. Transfer of an Approved Course

- A. A course owner that transfers the proprietary rights to ~~a Superintendent-approved~~ an approved course shall provide written notice of the transfer to the Department. The course owner shall include in the notice the name of and contact information for the new course owner and the date of the transfer.
- B. The new course owner to which the proprietary rights to ~~a Superintendent-approved~~ an approved course are transferred shall attach to the notice required under subsection (A) a certification, ~~using a form~~ available from the Department and on its website, that the new course owner:
 - 1. Will adhere to the requirements in this Article, and
 - 2. Will be responsible for the actions of all secondary providers who have an agreement under Section R4-46-507.
- C. If proprietary rights to ~~a Superintendent-approved~~ an approved course are transferred under this Section, the expiration date of the course approval does not change.

ARTICLE 6. PROPERTY TAX AGENTS

R4-46-601. Standards of Practice

The ~~Superintendent~~ Director may revoke or suspend a property tax agent's registration or otherwise discipline a property tax agent to the extent permitted by A.R.S. § 32-3654 for any of the following acts or omissions:

- 1. Engaging in an activity that leads to a conviction for a crime involving the tax profession;
- 2. Operating beyond the boundaries of an agreed relationship with an employer or a client;
- 3. Inferring or implying representation of a person or firm that the agent does not represent, or filing a document on behalf of a taxpayer without specific authorization of the taxpayer;
- 4. Violating the confidential nature of the property tax agent-client relationship, except as required by law;
- 5. Inappropriately offering or accepting anything of value with the intent of inducing or in return for a specific action;
- 6. Assigning, accepting, or performing a tax assignment that is contingent upon producing a predetermined analysis or conclusion;
- 7. Issuing an appraisal analysis or opinion, in the performance of a tax assignment, that fails to disclose bias or the accommodation of a personal interest;
- 8. Willfully furnishing inaccurate, deceitful, or misleading information, or willfully concealing material information in the performance of a tax assignment;
- 9. Preparing or using, in any manner, a resume or statement of professional qualifications that is misleading or false;
- 10. Promoting a tax agent practice or soliciting assignments by using misleading or false advertising;
- 11. Soliciting a tax assignment by assuring a specific result or by stating a conclusion regarding that assignment without analysis of the facts; or
- 12. Performing an appraisal, as defined by A.R.S. § 32-3601, unless licensed or certified by the ~~Superintendent~~ Director as an appraiser.



NOTICES OF FINAL RULEMAKING

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

The final published notice includes a preamble and text of the rules as filed by the agency. Economic Impact

Statements are not published but are filed by the agency with their final notice.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to item #5 to contact the person charged with the rulemaking.

The codified version of these rules will be published in the *Arizona Administrative Code*.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

[R21-231]

PREAMBLE

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

	<u>Rulemaking Action</u>
R4-16-201	Amend
R4-16-201.1	Amend
R4-16-301	Amend
R4-16-302	Amend
R4-16-303	Amend
R4-16-304	Amend
R4-16-305	Amend
2. **Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 32-1404(D)
 Implementing statute: A.R.S. §§ 32-1401(9), 32-1422, 32-1430, and 32-1491
3. **The effective date for the rules:**
 February 6, 2022
 - a. **If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 Not applicable
 - b. **If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
 Not applicable
4. **Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
 Notice of Rulemaking Docket Opening: 27 A.A.R. 1390, September 3, 2021
 Notice of Proposed Rulemaking: 27 A.A.R. 1355, September 3, 2021
5. **The agency's contact person who can answer questions about the rulemaking:**
 Name: Patricia McSorley, Executive Director
 Address: Arizona Medical Board
 1740 W. Adams St., Suite 4000
 Phoenix, AZ 85007
 Telephone: (480) 551-2700
 Fax: (480) 551-2704
 Email: patricia.mcsorley@azmd.gov
 Website: www.azmd.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:**
 In 5YRRs completed in 2015 and 2020, the Board indicated it intended to amend the rules in Article 3 to address issues dealing with lack of clarity, incorrect cross references, and inconsistencies with statute. However, higher priority work, turnover of staff, and scarce state resources prevented the Board from completing the plan rulemaking. This rulemaking addresses the issues identi-



fied in the previous 5YRRs.

A 5YRR of Article 2 was approved by the Council on February 2, 2021. This rulemaking addresses issues identified in that rulemaking.

Additionally, under Laws 2018, Chapter 1, the legislature amended A.R.S. § 32-1491(B) regarding dispensing a Schedule II controlled substance that is an opioid. R4-16-301 has been amended to reference that change.

Exemptions for this rulemaking from Executive Order 2021-02 were provided by Gabee Lepore of the Governor's Office by e-mails dated July 29, 2021. Authorization to submit the rulemaking to the Council was provided by Trista Guzman Glover of the Governor's Office by an e-mail dated October 18, 2021.

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

The Board reviewed and was informed by the following report on a study: *Physician, Heal Thy Double Stigma—Doctors with Mental Illness and Structural Barriers to Disclosure*, by Omar S. Haque, M.D., PhD., Michael A. Stein, J.D. Ph.D., and Amelia Marvit, *New England Journal of Medicine*, March 11, 2021. The article can be accessed at: <https://www.nejm.org/doi/full/10.1056/NEJMp2031013>

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

Not applicable

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

The Board believes that improving clarity and correcting references will have a minimal, positive economic impact on those required to comply with the rules. The amendments to R4-16-201 and R4-16-201.1 will benefit physicians who might be reluctant to obtain needed help for medical conditions that potentially impair practice.

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

The Board made no changes between the proposed and final rulemakings

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

The Board received written comments from eight individuals: Sara Gibson, Mark Carroll, and Aaron Goldman of Health Choice AZ; Teresa Bertsch of The Guidance Center, Inc; Bharat Magu of the Yuma Regional Medical Center; Libby McDannell, Jasleen Chhatwal, and Miriam Anand of the Arizona Psychiatric Society and the Arizona Medical Association. All wrote in support of the application amendments regarding medical conditions that impair an applicant's ability to practice.

Dr. Chhatwal appeared and reiterated her position at the oral proceeding on October 6, 2021.

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

None

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

The license, renewal, and registration addressed in this rulemaking are not general permits because the Board is required by statute (See A.R.S. §§ 32-1422, 32-1430, and 32-1491) to issue licenses and registrations only to individuals who meet criteria specified in statute and rule.

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:

None of the rules is more stringent than federal law. There are numerous federal laws relating to the provision of health care but none is directly applicable to this rulemaking.

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

No analysis was submitted.

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

None

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

No rule in the rulemaking was previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD



ARTICLE 2. LICENSURE

Section

- R4-16-201. Application for Licensure by Examination or Endorsement
- R4-16-201.1. Application for Renewal of License

ARTICLE 3. DISPENSING OF DRUGS

Section

- R4-16-301. Registration and Renewal
- R4-16-302. Packaging and Inventory; Exception
- R4-16-303. Prescribing and Dispensing Requirements
- R4-16-304. Recordkeeping and Reporting Shortages
- R4-16-305. Inspections; Denial and Revocation

ARTICLE 2. LICENSURE

R4-16-201. Application for Licensure by Examination or Endorsement

- A. For purposes of this Article, unless otherwise specified:
 - 1. “ABMS” means American Board of Medical Specialties.
 - 2. “ECFMG” means Educational Commission for Foreign Medical Graduates.
 - 3. “FCVS” means Federation Credentials Verification Service.
 - 4. “FLEX” means Federation Licensing Examination.
 - 5. “LMCC” means Licentiate of the Medical Council of Canada.
 - 6. “NBME” means National Board of Medical Examiners.
 - 7. “Primary source” means the original source or an approved agent of the original source of a specific credential that can verify the accuracy of a qualification reported by an applicant.
 - 8. “SPEX” means Special Purposes Examination.
 - 9. “USMLE” means United States Medical Licensing Examination.
- B. An applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall submit the following information on an application form available on request from the Board and on the Board’s web site:
 - 1. Applicant’s full name, Social Security number, business and home addresses, primary e-mail address, business and home telephone numbers, and date and place of birth;
 - 2. Name of the school of medicine from which the applicant graduated and date of graduation;
 - 3. A complete list of the applicant’s internship, residency, and fellowship training;
 - 4. List of all licensing examinations taken;
 - 5. Names of the states, U.S. territories, or provinces in which the applicant has applied for or been granted a license or registration to practice medicine, including license number, date issued, and current status of the license;
 - 6. A statement of whether the applicant:
 - a. Has had an application for medical licensure denied or rejected by another state or province licensing board, and if so, an explanation;
 - b. Has ever had any disciplinary or rehabilitative action taken against the applicant by another licensing board, including other health professions, and if so, an explanation;
 - c. Has had any disciplinary actions, restrictions, or limitations taken against the applicant while participating in any type of training program or by any health care provider, and if so, an explanation;
 - d. Has been found in violation of a statute, rule, or regulation of any domestic or foreign governmental agency, and if so, an explanation;
 - e. Is currently under investigation by any medical board or peer review body, and if so, an explanation;
 - f. Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
 - g. Has had hospital privileges revoked, denied, suspended, or restricted, and if so, an explanation;
 - h. Has been named as a defendant in a malpractice matter currently pending or that resulted in a settlement or judgment against the applicant, and if so, an explanation;
 - i. Has been subjected to any regulatory disciplinary action, including censure, practice restriction, suspension, sanction, or removal from practice, imposed by any agency of the federal or state government, and if so, an explanation;
 - j. Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action, and if so, an explanation;
 - k. Has been found guilty or entered into a plea of no contest to a felony, a misdemeanor involving moral turpitude in any state, and if so, an explanation;
 - 7. Whether the applicant is currently certified by any of the American Board of Medical Specialties;
 - 8. The applicant’s intended specialty;
 - 9. Consistent with the Board’s authority at A.R.S. § 32-1422(B), other information the Board may deem necessary to evaluate the applicant fully;
 - 10. Whether the applicant completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter;
 - 11. In addition to the answers provided under subsections (B)(1) through (B)(10), the applicant shall answer the following confidential question:



- a. Whether the applicant currently has ~~received treatment within the last five years for use of alcohol or a controlled substance, prescription only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or a medical condition that currently affects~~ impairs the applicant's ability to exercise the judgment and skills of a medical practice ~~medicine in a competent, ethical, and professional manner;~~
 - b. If the answer to subsection (B)(11)(a) is yes:
 - i. ~~A detailed description of the use, disorder, or condition~~ Provide an explanation of the medical condition; and
 - ii. ~~An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating~~ If currently practicing under a monitoring agreement with a licensing board in another state, attach a copy of the monitoring agreement to the application; and
 - e. ~~A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution within the last five years, if applicable; and~~
12. A notarized statement, signed by the applicant, verifying the truthfulness of the information provided, and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules, and authorizing release of any required records or documents to complete application review.
- C. In addition to the application form required under subsection (B), an applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall submit the following:
1. ~~A notarized~~ copy of the applicant's birth certificate or passport that is:
 - a. Notarized, or
 - b. Certified by a governmental agency.
 2. Evidence of legal name change if the applicant's legal name is different from that shown on the document submitted under subsection (C)(1);
 3. Documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
 4. Complete list of all ~~hospital affiliations and~~ medical employment for the five years before the date of application;
 5. Verification of any medical malpractice matter currently pending or resulting in a settlement or judgment against the applicant, including a copy of the complaint and either the agreed terms of settlement or the judgment and a narrative statement specifying the nature of the occurrence resulting in the medical malpractice action. An applicant who is unable to obtain a document required under this subsection may apply under subsection (E) a waiver of the requirement;
 6. A full set of fingerprints and the processing charge specified in R4-16-205;
 7. A paper or digital headshot photograph of the applicant taken no more than 60 days before the date of application; and
 8. The fee authorized under A.R.S. § 32-1436 and specified in R4-16-205.
- D. In addition to the requirements of subsections (B) and (C), an applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall have the following submitted to the Board, electronically or in hard copy, by the primary source, ECFMG, Veridoc, or FCVS:
1. Official transcript or other authentication of graduation from a school of medicine;
 2. Verification of completion of postgraduate training;
 3. Verification of ECFMG certification if the applicant graduated from an unapproved school of medicine;
 4. Examination and Board history report scores for USMLE, FLEX, NBME, and SPEX;
 5. Verification of LMCC exam score or state written exam score;
 6. Verification of licensure from every state in which the applicant has ever held a medical license;
 7. Verification of all hospital affiliations during the five years before the date of application. Under A.R.S. § 32-1422(A)(11)(b), this verification is required to be on the hospital's official letterhead or the electronic equivalent; and
 8. Verification of all medical employment during the five years before the date of application. Under A.R.S. § 32-1422(A)(11)(b), this verification may be submitted by the employer.
- E. As provided under A.R.S. § 32-1422(F), the Board may waive a documentation requirement specified under subsections (C)(5) and (D).
1. To obtain a waiver under this subsection, an applicant shall submit a written request that includes the following information:
 - a. Applicant's name;
 - b. Date of request;
 - c. Document required under subsection (C)(5) or (D) for which waiver is requested;
 - d. Detailed description of efforts made by the applicant to provide the document as required under subsection (C)(5) or (D);
 - e. Reason the applicant's inability to provide the document as required under subsection (C)(5) or (D) is due to no fault of the applicant; and
 - f. If applicable, documents that support the request for waiver.
 2. The Board shall consider the request for waiver at its next regularly scheduled meeting.
 3. In determining whether to grant the request for waiver, the Board shall consider whether the applicant:
 - a. Made appropriate and sufficient effort to satisfy the requirement under subsection (C)(5) or (D); and
 - b. Demonstrated that compliance with the requirement under subsection (C)(5) or (D) is not possible because:
 - i. The entity responsible for issuing the required document no longer exists;
 - ii. The original of the required document was destroyed by accident or natural disaster;
 - iii. The entity responsible for issuing the required document is unable to provide verification because of armed conflict or political strife; or
 - iv. Another valid reason beyond the applicant's control prevents compliance with the requirement under subsection (C)(5) or (D).
 4. In determining whether to grant the request for waiver, the Board shall:



- a. Consider whether it is possible for the Board to obtain the required document from other source; and
- b. Request the applicant to obtain and provide additional information the Board believes will facilitate the Board's decision.
5. If the Board determines the applicant is unable to comply with a requirement under subsection (C)(5) or (D) in spite of the applicant's best effort and for a reason beyond the applicant's control, the Board may grant the request for waiver and include the decision in the Board's official record for the applicant.
6. The Board shall provide the applicant with written notice of its decision regarding the request for waiver. The Board's decision is not subject to review or appeal.
- F. As provided under A.R.S. § 32-1426(B), the Board may require an applicant for licensure by endorsement who passed an examination specified in A.R.S. § 32-1426(A) more than ten years before the date of application to provide evidence the applicant is able to engage safely in the practice of medicine. The Board may consider one or more of the following to determine whether the applicant is able to engage safely in the practice of medicine:
 1. ~~If an~~ Whether the applicant is board certified by one of the specialties recognized by the ABMS; ~~If the applicant holds a current ABMS certification, this criteria criterion~~ is considered met.
 2. ~~If an~~ Whether the applicant ~~obtains a passing score on a~~ takes and passes the SPEX examination; ~~If the applicant obtains a passing score on the SPEX examination, this criteria criterion~~ is considered met.
 3. The Board may also consider any combination of the following:
 - a. The applicant's records,
 - b. The applicant's practice history, and
 - c. A physical or psychological assessment of the applicant.

R4-16-201.1. Application for Renewal of License

- A. Under A.R.S. § 32-1430(A), an individual licensed under A.R.S. Title 32, Chapter 13, shall renew the license every other year on or before the licensee's birthday.
- B. To renew a license, a licensee shall submit the following information on an application form available on request from the Board and on the Board's web site:
 1. The licensee's full name, license number, business and home addresses, primary e-mail address, and business and home telephone numbers;
 2. Identification of changes to medical specialties and fields of practice;
 3. A statement of whether, since the time of last license issuance, the licensee:
 - a. Has had an application for medical licensure denied or rejected by another state or province licensing board and if so, an explanation;
 - b. Has had any disciplinary or rehabilitative action taken against the licensee by another licensing board, including other health professions and if so, an explanation;
 - c. Has had any disciplinary action, restriction, or limitation taken against the licensee by any program or health care provider and if so, an explanation;
 - d. Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during an investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
 - e. Has had hospital privileges revoked, denied, suspended, or restricted and if so, an explanation (do not report if the licensee's hospital privileges were suspended due to failure to complete hospital records and reinstated after no more than 90 days);
 - f. Has been subjected to disciplinary action including censure, practice restriction, suspension, sanction, or removal from practice by an agency of the state or federal government and if so, an explanation;
 - g. Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action and if so, an explanation;
 - h. Has been found guilty or entered into a plea of no contest to a felony, a misdemeanor involving moral turpitude, or an alcohol or drug-related offense in any state and if so, an explanation; and
 - i. Has failed the SPEX;
 4. A statement of whether the licensee understands and complies with the medical records and recordkeeping requirements in A.R.S. §§ 32-3211 and 12-2297;
 5. A statement of whether the licensee has completed at least 40 hours of CME as required under A.R.S. § 32-1434 and R4-16-102, including the hour of CME required under R4-16-102(A)(1);
 6. A statement of whether the licensee requests that the license be inactivated or cancelled; and
 7. A statement of whether the licensee completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter.
- C. Additionally, the licensee shall answer the following confidential question:
 1. ~~Whether the applicant licensee currently has received treatment since the last renewal for use of alcohol or a controlled substance, prescription only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or a medical condition that currently affects~~ impairs the applicant's licensee's ability to exercise the judgment and skills of a medical practice medicine in a competent, ethical, and professional manner;
 2. If the answer to subsection (C)(1) is yes:
 - a. ~~A detailed description of the use, disorder, or condition~~ Provide an explanation of the medical condition; and
 - b. ~~An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating~~ If currently practicing under a monitoring agreement with a licensing board in another state, attach a copy of the monitoring agreement to the application; and



3. ~~A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution since the last renewal, if applicable.~~
- D. To renew a license, a licensee shall submit the following with the required application form:
1. If the document submitted under R4-16-201(C)(3) was a limited form of work authorization issued by the federal government, evidence that the licensee's presence in the U.S. continues to be authorized under federal law;
 2. The renewal fee specified under R4-16-205 and, if applicable, the penalty fee for late renewal; and
 3. An attestation that all information submitted is correct.

ARTICLE 3. DISPENSING OF DRUGS

R4-16-301. Registration and Renewal

- A. A physician who wishes to dispense a controlled substance, ~~as defined in A.R.S. § 32-1901(12)~~ restricted under A.R.S. § 32-1491(B), ~~a~~ prescription-only drug ~~as defined in A.R.S. § 32-1901(65)~~, or ~~a~~ prescription-only device, ~~as defined in at A.R.S. § 32-1901(64)~~, shall be currently licensed to practice medicine in Arizona and shall ~~register with the Board by provide~~ providing the following to the Board ~~the following~~:
1. A completed registration form, ~~which is available on the Board's web site and that~~ includes the following information:
 - a. The physician's name, license number, and field of practice;
 - b. A list of the types of drugs and devices the physician will dispense; and
 - c. The location or locations where the physician will dispense a controlled substance, ~~a~~ prescription-only drug, or ~~a~~ prescription-only device;
 2. A copy of the physician's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the physician will dispense a controlled substance; ~~and~~
 3. The ~~fee~~ fee required ~~in A.R.S. § 32-1436~~ under R4-16-205 unless the physician is exempt under A.R.S. § 32-1921(E) from ~~paying the fee~~.
- B. A physician shall renew a registration to dispense a controlled substance, ~~as restricted under A.R.S. § 32-1491(B)~~, ~~a~~ prescription-only drug, or ~~a~~ prescription-only device by complying with the requirements in subsection (A) on or before June 30 of each year. If a physician ~~has made~~ makes timely and complete application for the renewal of a registration, the physician may continue to dispense until the Board approves or denies the renewal application.
- C. ~~If the completed annual renewal form, all required documentation, and the fee are not received in the Board's office on or before June 30 a physician fails to comply with subsection (B), the physician shall not dispense any controlled substances, prescription-only drugs, or prescription-only devices until re-registered the physician complies fully with subsection (A) and receives notice the Board approves the registration. The physician shall re-register by filing for initial registration under subsection (A) and shall not dispense a controlled substance, a prescription-only drug, or a prescription-only device until receipt of the re-registration.~~

R4-16-302. Packaging and Inventory; Exception

- A. A physician shall dispense all controlled substances and prescription-only drugs in prepackaged containers or in light-resistant containers with consumer safety caps; that comply with standards specified in the official compendium, ~~as defined in A.R.S. § 32-1901(49)~~, and state and federal law, unless a patient or ~~a~~ the patient's representative requests a non-safety cap.
- B. ~~All~~ A physician shall ensure ~~a controlled substance and substance or prescription-only drug~~ a controlled substance or prescription-only drug dispensed ~~shall be~~ is labeled with the following information:
1. The physician's name, address, and telephone number;
 2. The date the controlled substance ~~and or~~ prescription-only drug is dispensed;
 3. The patient's name ~~and date of birth~~;
 4. The controlled substance ~~and or~~ prescription-only drug name, strength, ~~and~~ dosage, form, name of manufacturer, the quantity dispensed, directions for use, and any cautionary statement necessary for the safe and effective use of the controlled substance ~~and or~~ prescription-only drug; and
 5. A ~~beyond-use date~~ beyond-use date not to exceed one year from the date of dispensing or the manufacturer's expiration date if less than one year.
- C. A physician shall secure all controlled substances in a locked cabinet or room and ~~shall~~ control access to the cabinet or room by a written procedure that includes, at a minimum, designation of the persons who have access to the cabinet or room and procedures for recording requests for access to the cabinet or room. ~~This~~ The physician shall make the written procedure ~~shall be made~~ available on demand to the Board or its authorized representatives for inspection or copying.
- ~~D.~~ ~~Prescription only~~ A physician shall store prescription-only drugs ~~shall be stored so as not to be~~ the prescription-only drugs are not accessible to patients.
- ~~D.E.~~ ~~Controlled~~ A physician shall store controlled substances and prescription-only drugs not requiring refrigeration ~~shall be maintained~~ in an area where the temperature does not exceed 85° F.
- ~~E.F.~~ A physician shall maintain an ongoing dispensing log for all controlled substances and the prescription-only drug nalbuphine hydrochloride (Nubain) dispensed by the physician. The dispensing log shall include the following:
1. A separate inventory sheet for each controlled substance and prescription-only drug;
 2. The date the drug is dispensed;
 3. The patient's name ~~and date of birth~~;
 4. The ~~dosage~~, controlled substance ~~and or~~ prescription-only drug name, strength, dosage, form, and name of the manufacturer;
 5. The number of dosage units dispensed;
 6. A running total of each controlled substance and prescription-only drug dispensed; and
 7. The signature of the physician written next to each entry.
- ~~F.G.~~ A physician may use a computer to maintain the dispensing log required in subsection ~~(E)~~ (F) if the ~~dispensing log is~~ password protected ~~and~~ quickly accessible through either on-screen viewing or printing ~~of a copy~~.



~~G.H.~~ This Section does not apply to a prepackaged manufacturer sample of a controlled substance ~~and~~ or prescription-only drug, unless otherwise provided by federal law.

R4-16-303. Prescribing and Dispensing Requirements

- A. A physician shall record on the patient's medical record the name, strength, dosage, and form, of ~~the~~ a controlled substance, prescription-only drug, or prescription-only device dispensed, the quantity or volume dispensed, the date the controlled substance, prescription-only drug, or prescription-only device is dispensed, the ~~medical reasons~~ therapeutic reason for dispensing the controlled substance, prescription-only drug, or prescription-only device, and the number of refills authorized.
- B. Before dispensing a controlled substance, prescription-only drug, or prescription-only device to a patient, a physician shall review the prepared controlled substance, prescription-only drug, or prescription-only device to ensure ~~that~~:
 - 1. The container label and contents comply with the prescription order, and
 - 2. The patient is informed of the name of the controlled substance, prescription-only drug, or prescription-only device, directions for use, precautions, and storage requirements.
- C. A physician shall purchase all dispensed controlled substances, prescription-only drugs, or prescription-only devices from a manufacturer or distributor approved by the United States Food and Drug Administration; or a pharmacy holding a current permit from the Arizona Board of Pharmacy.
- D. The person who prepares a controlled substance, prescription-only drug, or prescription-only device for dispensing shall countersign and date the original prescription ~~form~~ order for the controlled substance, prescription-only drug, or prescription-only device.
- ~~E. For purposes of this Article, "dispensing" means the delivery of a controlled substance, a prescription-only drug, or a prescription-only device to a patient for use outside the physician's office.~~

R4-16-304. Recordkeeping and Reporting Shortages

- A. A physician who dispenses a controlled substance or prescription-only drug shall ensure ~~that~~ an original prescription order for the controlled substance or prescription-only drug dispensed from the physician's office is dated, consecutively numbered in the order in which it is originally dispensed, and filed separately from patient medical records. ~~A~~ The physician shall ensure ~~that an~~ original prescription orders are ~~be~~ maintained in three separate files, as follows:
 - 1. Schedule II controlled substances;
 - 2. Schedule III, IV, and V controlled substances; and
 - 3. Prescription-only drugs.
- B. A physician shall ensure ~~that~~ purchase orders and invoices are maintained for all controlled substances and prescription-only drugs dispensed, ~~whether~~ for profit ~~and~~ or not for profit, for three years from the date of the purchase order or invoice. Purchase orders and invoices shall be maintained in three separate files as follows:
 - 1. Schedule II controlled substances only;
 - 2. Schedule III, IV, and V controlled substances and nalbuphine; and
 - 3. All other prescription-only drugs.
- C. A physician who discovers a theft or loss of a controlled substance or ~~a~~ dangerous drug, as defined in A.R.S. § 13-3401, from the physician's office shall:
 - 1. Immediately notify the local law enforcement agency,
 - 2. Provide ~~that~~ the local law enforcement agency with a written report, and
 - 3. Send a copy of the report provided under subsection (C)(2) to the Drug Enforcement Administration and ~~the~~ Board within seven days of the discovery.
- D. For purposes of this Section, controlled substances are identified, defined, or listed in A.R.S. Title 36, Chapter 27.

R4-16-305. Inspections; Denial and Revocation

- A. A physician shall cooperate with and allow access to the physician's office and records for periodic inspection of dispensing practices by the Board or its authorized representative. Failure to cooperate or allow access ~~shall be~~ constitutes grounds for revocation of a physician's registration to dispense a controlled substance, prescription-only drug, or prescription-only device or denial of renewal of the physician's dispensing registration.
- B. Failure to comply with A.R.S. § 32-1491 or this Article constitutes grounds for denial or revocation of dispensing registration.
- C. The Board shall revoke a physician's registration to dispense a controlled substance, prescription-only drug, or prescription-only device ~~upon occurrence~~ if any of the following occur:
 - 1. Suspending, revoking, surrendering, or canceling the physician's license;
 - 2. Placing the physician's license on inactive status;
 - 3. Failing to ~~timely~~ renew the physician's license timely; or
 - 4. Restricting the physician's ability to prescribe or administer medication, including loss or expiration of the physician's Drug Enforcement Administration Certificate of Registration.
- D. ~~As specified under R4-16-103, if the Board denies a physician's physician who is denied a~~ dispensing registration, ~~the physician~~ may appeal the decision by filing a request, in writing, with the Board, no later than 30 days after receipt of the notice denying the registration.



NOTICES OF FINAL EXEMPT RULEMAKING

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

It is common for an agency to be exempt from some of the steps outlined in the rulemaking process as specified in Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10, otherwise known as the Arizona Administrative Procedure Act (APA). An agency's exemption is written in laws - under the APA, or by the Arizona State Legislature in statute, or under a referendum or initiative passed into law by Arizona voters.

The Office makes a distinction when publishing certain

exempt rulemakings, as provided in these laws, on a case-by-case basis, as determined by an agency's exemption. Other rule exemption types are published elsewhere in the *Register*.

Notices of Final Exempt Rulemaking were originally proposed with specific conditions, such as requiring the notice to be published in the *Register*, or requiring public input, or a public hearing on the rule.

Notices of Final Exempt Rulemaking include *Register* publication dates where the original Notice of Proposed Exempt Rulemaking was published.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

[R21-230]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**
Table 1
- Rulemaking Action**
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. § 15-182(E)(5)
Implementing statute: A.R.S. §§ 15-182(E)(1) and 15-183(R)
Statute or session law authorizing the exemption: A.R.S. § 41-1005(G)
3. **The effective date of the rule and the agency's reason it selected the effective date:**
November 22, 2021
4. **A list of all notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
Notice of Final Exempt Rulemaking: 27 A.A.R. 1423, September 10, 2021
5. **The agency's contact person who can answer questions about the rulemaking:**
Name: Ashley Berg, Executive Director
Address: State Board for Charter Schools
1616 W. Adams St., Suite 170
Phoenix, AZ 85007
or
P.O. Box 18328, Phoenix, AZ 85005
Telephone: (602) 364-3080
Email: Ashley.Berg@asbcs.az.gov
Website: <https://asbcs.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. § 15-183(R) requires the Board, as a sponsoring entity of a charter school, to ground its actions in evidence of the charter holder's performance in accordance with the Board's performance framework and requires the Board's performance framework to include the financial expectations of the charter school. In August 2021, the Board approved changes to its Financial Performance Framework rules, including the addition of two tables to R7-5-402. Recently, Board staff has determined information contained in the second footnote of Table 1 does not accurately capture the average daily membership ("ADM") criteria approved by the Board at its April 12, 2021, meeting. The Board is amending its rules to correct the second footnote to accurately identify which year is considered "year 1" in Table 1's "Percent Loss of Total ADM" calculation.
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.
8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable



9. The summary of the economic, small business, and consumer impact, if applicable:

The footnote correction to Table 1, which only applies to charter holders placed “On Probation,” is expected to have no economic impact as Board staff obtains the “year 1” ADM data used in the Table 1 calculation from the Arizona Department of Education’s website and not from the “On Probation” charter holder.

10. A description of any changes between the proposed rules, including any supplemental proposed rules, and the final rules (if applicable):

No changes were made.

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

The rules were open for the first opportunity for public comment from October 21, 2021 through November 9, 2021. During the public comment period, no public comments were received on the rules. The second opportunity for public comment occurred at the Board’s November 22, 2021 meeting with no public comments on the rules received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

None

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

Not applicable

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

Not applicable

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

No analysis was submitted.

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

None of the rules in this rulemaking was made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

ARTICLE 4. MINIMUM PERFORMANCE EXPECTATIONS

Section
Table 1. ADM Category Criteria

ARTICLE 4. MINIMUM PERFORMANCE EXPECTATIONS

Table 1. ADM Category Criteria

Small and Medium Charter Holders (Less than 600 ADM)			
ADM Category	Estimated ADM Measure Performance ¹		Percent Loss of Total ADM ²
Low Risk	Greater than 0 to negative 4.99%	or	0 to 9.99% decline
Moderate Risk	Negative 5% to negative 14.99%	or	10% to 19.99% decline
High Risk	Negative 15% or more	or	20% or more decline
Large Charter Holders (600 or more ADM)			
ADM Category	Estimated ADM Measure Performance ¹		Percent Loss of Total ADM ²
Low Risk	Greater than 0 to negative 2.99%	or	0 to 7.99% decline
Moderate Risk	Negative 3% to negative 9.99%	or	8% to 14.99% decline
High Risk	Negative 10% or more	or	15% or more decline



¹The “Estimated ADM Measure Performance” considers the charter holder’s estimated performance on the Average Daily Membership measure for the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504.

²The “Percent Loss of Total ADM” considers the percent change in the charter holder’s ADM from the oldest year (year 3) to the most recent year (year 1) in a three-year period. To align with the year references used in the average daily membership calculation, the “oldest year” or year 3 is considered the fiscal year of the prior to the most recent audit conducted under R7-5-504 (year 3) and the “most recent year” or year 1 is the most recently completed fiscal year to the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504 (year 1). For example, this means for a charter holder identified as “On Probation” following the review of the fiscal year 2021 audit year 3 would be fiscal year 2020 and year 1 would be fiscal year 2022.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R21-233]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**
R12-4-102 Amend
2. **Citations to the agency’s statutory authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-333 and 41-1005
3. **The effective date of the rule and the agency’s reason it selected the effective date:**
February 7, 2022
 - a. **If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
Not applicable
 - b. **If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):**
Not applicable
4. **A list of all previous notices published in the Register as specified in R1-4-409(A) that pertain to the record of the exempt rulemaking:**
Not applicable
5. **The agency’s contact person who can answer questions about the rulemaking:**
Name: Celeste Cook, Rules and Policy Manager
Address: Arizona Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086
Telephone: (623) 236-7390
Email: CCook@azgfd.gov
Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda, five-year review reports, and learn about other agency rulemaking matters.
6. **An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
An exemption from Executive Order 2019-01 was provided for the special license fee rulemaking request by Hunter Moore, Natural Resource Policy Advisor, Governor’s Office, in an email dated September 23, 2019.
An exemption from Executive Order 2019-01 was provided for the new permit-tag and fee rulemaking request by Charles Podolak, Natural Resource Policy Advisor, Governor’s Office, in an email dated May 19, 2020.
During the First Regular Session of the 51st Arizona State Legislature, the Legislature amended A.R.S. § 41-1005 to transfer the authority to establish the license structure and fees to the Arizona Game and Fish Commission and allow the Commission to give the Department the ability to operate more like a business. The Legislature also authorized the Commission to establish licenses and fees through exempt rulemaking.
The Commission’s objectives for the exempt rulemaking is to establish the Nonresident Raptor Capture Permit-tag for permit-tags issued over-the-counter. This proposed amendment was omitted from the exempt rulemaking approved by the Commission on January 22, 2022.
Commission Order 25 authorizes the take of three Northern goshawks and 40 Harris Hawks state-wide. The capture of Northern goshawks and Harris hawks is managed by quota; once harvest objectives are met the season is closed. For all other raptors (Amer-



ican Kestrel, great horned owl, western screech owl, Cooper's hawk, prairie falcon, red-tailed hawk, sharp-shinned hawk), no permit is required. Regardless of the raptors being pursued, a falconer may only capture two raptors from the wild per year.

The Department established the Raptor Management Program to identify population status, trends, and threats, and to implement management activities to help ensure that raptor populations remain healthy and prevent listing under the Endangered Species Act. Monitoring, research, and management help biologists: 1) determine the status of raptor populations, 2) study and identify issues that may be limiting raptor abundance or distribution, and 3) fix those problems. With the help of federal, state, and local agencies, Native American Tribes, and private organizations, the Raptor Management Program is committed to keeping common raptor species common, and to improve the status of those species experiencing low population numbers. Currently, there is no reporting mechanism in place that documents the harvest of those species by nonresident falconers. The proposed Nonresident Raptor Capture Permit-tag would provide a mechanism to track the level of nonresident harvest on those raptor species and enable the Department to monitor total harvest rates and identify when over-harvest of a species may be of concern. The proposed fee for the Nonresident Raptor Capture Permit-tag is \$175. The fee will be required for permit-tags issued over-the-counter at any Department office and hunt permit-tags issued through the computer draw. In establishing the fee, the Department bench-marked with other states that are within the Pacific and Central Flyways (California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming); this fee is consistent with fees charged by those states.

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

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

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

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

The rulemaking establishes a new permit-tag and prescribes its associated fee, as authorized under A.R.S. § 17-333. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring into other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states. The Department receives no appropriations from the general fund and operates primarily with the revenue it generates.

The Commission anticipates the new permit-tag fee will most significantly affect members of the regulated community (nonresident falconers). It is important to note, the Department's customers are a voluntary constituency who determine if, and at what levels, they choose to participate. They are not required to participate and have the ultimate vote with their hard-earned dollars. Applying for a special license is voluntary and only a person who chooses to apply for a special license will incur costs associated with the license. Given this reality and the fact that the Department is not a general fund (tax-funded) agency, the Commission and Department need to be responsive to constituent desires and concerns regarding opportunities and products. For an agency to operate like a business, it must have the ability to react to customer needs or changing conditions in a timely manner.

The Commission anticipates the rulemaking will benefit the Department from the additional revenue that may be generated. The Commission anticipates the new fee will generate revenue to assist the Department in carrying out its duties effectively in managing the state's wildlife resources and providing quality recreational wildlife opportunities and access for the regulated community.

The Commission anticipates the rulemaking will not impose increased monetary or regulatory costs on other state agencies and political subdivisions of this State.

The Commission anticipates the rulemaking may impact individuals and businesses, both large and small; however, the Commission has determined that the impact will not be significant enough to negatively impact business revenues or payroll expenditures.

The Commission anticipates the rulemaking in general will benefit persons regulated by the rule by creating more opportunities for the use of wildlife resources, with few costs, and maintaining resident hunting opportunity. Although nonresident fees are higher than resident fees, the Commission holds that it is in its best interest to maintain opportunities for the resident community not only to generate revenue, but to instill a sense of ownership in the local wildlife resource and to maintain consistently available participation in the management of that resource.

The Commission anticipates the proposed fee will not significantly affect a person's ability to practice an activity or have a significant impact on a person's income, revenue, or employment in this state related to that activity.

The Commission anticipates the rulemaking will not impact public or private employment.

The Commission anticipates the rulemaking will not have a significant impact on State revenues and no impact on the general fund.

The Commission has determined that there are no alternative methods of achieving the objectives of the proposed exempt rulemaking and that the benefits of the proposed exempt rulemaking outweigh the costs.

10. A description of the changes between the proposed rules, including supplemental notices, and the final rulemaking package (if applicable):

No changes were made.

11. A summary of the public stakeholder comments made about the rulemaking and the agency response to the comments, (if applicable):

The Commission approved the Notice of Draft Exempt Rulemaking at the September 25, 2020 Commission Meeting. While a public comment period is not required under A.R.S. § 41-1005, the Department posts the Notice of Draft Exempt Rulemaking to its web site and notifies the public via eNews and email to encourage public participation in the exempt rulemaking process. The public comment period ran from September 28, 2020 through October 28, 2020; of the four comments received, one was submitted in



response to the proposed Nonresident Raptor Capture Permit-tag (only the relevant portion of that comment is included in this final exempt rulemaking, see 27 A.A.R. 404, March 5, 2021 to read the comment in its entirety).

Written Comment: October 27, 2020. Our overarching comment is that the Arizona Falconers Association (AFA) supports the license fee increase (with reservations detailed below), supports the nonresident raptor capture permit (with reservations detailed below), and vigorously applauds the Commission for voting to remove the resident raptor capture permit from the proposal. The Department proposes to establish a raptor capture permit tag fee to be sold over the counter at regional offices, only. The fee will not apply to lottery permit tags (peregrines for residents; Harris's hawks, peregrines, and goshawks for nonresidents). This makes no sense. Nonresident falconers rarely travel to Arizona to harvest species commonly available in their own states. Unless the nonresident lottery permit tags for peregrines, Harris's hawks, and goshawks requires the proposed fee of \$175, the nonresident raptor capture permit will generate essentially no revenue, resulting in a net loss (revenue generated by the sale of nonresident raptor capture permits will likely be less than the cost incurred by administering a nonresident raptor capture permit system). There is no point in having a nonresident raptor capture permit if the \$175 fee does not apply to the only three species regularly harvested by nonresidents.

Agency Response: Thank you for taking the time to review and comment on the proposed Raptor Capture Permit-tag and Sport Falconry License fees. The Department will charge nonresident licensed falconers a \$175 fee for raptor capture permit-tags issued over-the-counter at any Department office and hunt permit-tags issued through the computer draw.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. Additional matters include but are not limited to:

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

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:
Federal law is not directly applicable to the subject of the rules. The rules are based on state law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:
The Department did not receive any analyses.

13. A list of any incorporated material and its location in the rule:
Not applicable

14. Whether the rule was previously made, amended, repealed, or renumbered as an emergency rule? If so, shall state where the text changed between the emergency and exempt rulemaking packages:
Not applicable

15. The full text of the rules follows:

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

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

R12-4-102. License, Permit, Stamp, and Tag Fees

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-102. License, Permit, Stamp, and Tag Fees

- A. A person who purchases a license, tag, stamp, or permit listed in this Section shall pay at the time of purchase all applicable fees prescribed under this Section or the fees the Director authorizes under R12-4-115.
- B. A person who applies to purchase a hunt permit-tag shall submit with the application all applicable fees using acceptable forms of payment as required under R12-4-104(F) and (G).
- C. As authorized under A.R.S. § 17-345, the license fees in this section include a \$3 surcharge, except Youth and High Achievement Scout licenses.
- D. A person desiring a replacement of a Migratory Bird Stamp shall repurchase the stamp.

Hunting and Fishing License Fees

	Resident	Nonresident
General Fishing License	\$37	\$55
Community Fishing License	\$24	\$24
General Hunting License	\$37	Not available
Combination Hunting and Fishing License	\$57	\$160
Youth Combination Hunting and Fishing License, fee applies until the applicant's 18th birthday.	\$5	\$5
High Achievement Scout License, as authorized under A.R.S. § 17-336(B). Fee applies until the applicant's 21st birthday.	\$5	Not available
Short-term Combination Hunting and Fishing License	\$15	\$20



Youth Group Two-day Fishing License	\$25	Not available
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Hunt Permit-tag Fees

	Resident	Nonresident
Bear	\$25	\$150
Bighorn Sheep	\$300	\$1,800
Bison		
Adult Bulls or Any Bison	\$1,100	\$5,400
Adult Cows	\$650	\$3,250
Yearling	\$350	\$1,750
Cow or Yearling	\$650	\$3,250
Deer and Archery Deer	\$45	\$300
Youth	\$25	\$25
Elk	\$135	\$650
Youth	\$50	\$50
Javelina	\$25	\$100
Youth	\$15	\$15
Pheasant non-archery, non-falconry	Application fee only	Application fee only
Pronghorn	\$90	\$550
Raptor	Not applicable	\$175
Sandhill Crane	\$10	\$10
Turkey and Archery Turkey	\$25	\$90
Youth	\$10	\$10

Nonpermit-tag and Restricted Nonpermit-tag Fees

	Resident	Nonresident
Bear	\$25	\$150
Bison		
Adult Bulls or Any Bison	\$1,100	\$5,400
Adult Cows	\$650	\$3,250
Yearling	\$350	\$1,750
Cow or Yearling	\$650	\$3,250
Deer	\$45	\$300
Youth	\$25	\$25
Elk	\$135	\$650
Youth	\$50	\$50
Javelina	\$25	\$100
Youth	\$15	\$15
Mountain Lion	\$15	\$75
Pronghorn	\$90	\$550
Sandhill Crane	\$10	\$10
<u>Raptor</u>	<u>Not applicable</u>	<u>\$175</u>
Turkey	\$25	\$90
Youth	\$10	\$10

Stamps and Special Use Fees

	Resident	Nonresident
Bobcat Seal	\$3	\$3
Limited-entry Permit	Application fee only	Application fee only
State Migratory Bird Stamp	\$5	\$5

Other License Fees

	Resident	Nonresident
Challenged Hunter Access/Mobility Permit (CHAMP)	Application fee only	Application fee only
Crossbow Permit	Application fee only	Application fee only
Fur Dealer's License	\$115	\$115
Guide License	\$300	\$300
License Dealer's License	\$100	\$100
License Dealer's Outlet License	\$25	\$25
Pursuit-only Permit	\$20	\$100
Taxidermist License	\$150	\$150
Trapping License	\$30	\$275



Youth

\$10

\$10

Administrative Fees

Duplicate License Fee, in the event the Department is unable to verify the expiration date of the original license, the duplicate license shall expire on December 31 of the current year.

Resident

\$8

Nonresident

\$8

Application Fee

\$13

\$15

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

[R21-235]

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

R20-5-1401

R20-5-1402

R20-5-1403

R20-5-1404

Rulemaking Action

New Section

New Section

New Section

New Section

2. Citations to agency's statutory rulemaking authority to include the authorizing statute and the implementing statutes:

Authorizing statute: A.R.S. §§ 23-107(A)(1)

Implementing statute: A.R.S. § 23-1702(E); Laws 2021, Ch. 411, Senate Bill 1827, § 13(A)

Note: An initial exemption from the moratorium on rulemaking, Executive Order 2021-02, was provided for this rulemaking by Grace Appelbe, Policy Advisor in the Office of the Arizona Governor, by e-mail dated October 7, 2021. A second exemption from the moratorium on rulemaking, Executive Order 21-02, was provided for this rulemaking by Christina Corieri, Senior Policy Advisor in the office of the Arizona Governor, by email dated November 30, 2021.

3. The effective date of the rules:

January 1, 2022

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

January 1, 2022. In accordance with A.R.S. § 41-1032(A)(2), the Commission requests an early effective date to avoid a violation of A.R.S. § 23-1702(E) which requires the Commission to adopt rules on or before January 1, 2022.

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

Not applicable

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 27 A.A.R. 2536

Notice of Proposed Exempt Rulemaking: 27 A.A.R. 2531

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

Name: Gaetano Testini, Chief Counsel

Address: Industrial Commission of Arizona
800 W. Washington St., Suite 303
Phoenix, AZ 85007

Telephone: (602) 542-5905

Fax: (602) 542-6783

Email: Gaetano.Testini@azica.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:

Pursuant to A.R.S. § 23-1702(E), the Industrial Commission of Arizona (the "Commission") is required to adopt rules necessary to carry out Title 23, Chapter 11, Article 1 (Municipal Firefighter Cancer Reimbursement). The proposed rules address: (1) the establishment of a Municipal Firefighter Cancer Reimbursement Form approved by the Commission; (2) the process by which a Municipal Payor can seek reimbursement from the Municipal Firefighter Cancer Reimbursement Fund (the "Fund"); (3) required attestations that must be made in connection with a reimbursement claim; (4) the timeline for a Municipal Payor to submit a reimbursement claim; (5) the consequence of a Municipal Payer failing to file a timely reimbursement claim or not including all eligible amounts in a reimbursement claim; (6) the deadline by which the Commission will process reimbursement claims and



payments; (7) recordkeeping and record inspection requirements pertaining to reimbursement claims; and (8) requirements pertaining to overpayments by the Fund.

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

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

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

Not applicable

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

A.R.S. Title 23, Chapter 11, Article 1 (Municipal Firefighter Cancer Reimbursement) – signed into law in 2021 – established the Fund, requires Arizona cities and towns to pay annual assessments into the Fund, and authorizes Municipal Payors (as defined in A.R.S. § 23-1701) to seek reimbursement from the Fund for eligible compensation and benefits paid by Municipal Payors to municipal firefighters and municipal fire investigators under A.R.S. § 23-901.09. The Commission is statutorily tasked with administering the Fund.

The Commission anticipates that the proposed rules will reduce regulatory burden on Municipal Payors (self-insured cities and towns, self-insurance pools used by cities or towns, and workers' compensation insurers used by cities or towns) by providing a streamlined process and timeline for seeking reimbursement from the Fund. The proposed rules will serve to accelerate the efficient processing of reimbursement claims. The Commission anticipates that the proposed rules will benefit Municipal Payors who have reimbursement claims under A.R.S. Title 23, Chapter 11, Article 1 and Commission staff that will be tasked with administering the Fund. The Commission does not anticipate that the proposed rules will have an adverse economic impact on small businesses or consumers.

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

No changes were made to the proposed rulemaking.

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

No written or oral comments were received by the Commission.

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

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

The proposed rules do not require issuance of a regulatory permit or license.

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

There is no federal law directly applicable to the subject of the proposed rulemaking.

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

An analysis was not submitted.

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

Not applicable

- 14. The full text of the rules follows:**

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 14. MUNICIPAL FIREFIGHTER CANCER REIMBURSEMENT FUND AND FIREFIGHTER AND FIRE INVESTIGATOR CANCER CLAIM REPORTING

Section

<u>R20-5-1401.</u>	<u>Application of the Article and Definitions</u>
<u>R20-5-1402.</u>	<u>Reimbursement Claims</u>
<u>R20-5-1403.</u>	<u>Recordkeeping and Record Inspections</u>
<u>R20-5-1404.</u>	<u>Fund Overpayments</u>

ARTICLE 14. MUNICIPAL FIREFIGHTER CANCER REIMBURSEMENT FUND AND FIREFIGHTER AND FIRE INVESTIGATOR CANCER CLAIM REPORTING

R20-5-1401. Application of the Article and Definitions

- A. This Article applies to reimbursement claims submitted to the Municipal Firefighter Cancer Reimbursement Fund under Arizona Revised Statutes ("A.R.S."), Title 23, Chapter 11.**



- B.** The definitions in A.R.S. § 23-1701 apply in this Article.
- C.** “Fiscal year” shall mean the 12-month cycle that begins on July 1 and ends on June 30.

R20-5-1402. Reimbursement Claims

- A.** A Municipal Payor seeking reimbursement from the Fund shall submit a reimbursement claim in writing on the Municipal Firefighter Cancer Reimbursement Form approved by the Commission.
- B.** The Municipal Firefighter Cancer Reimbursement Form shall include the following attestations, which shall be made by an authorized representative of a Municipal Payor seeking reimbursement from the Fund:
 - 1. The reimbursement request includes only eligible compensation and benefits paid under A.R.S. § 23-1702(A) on municipal firefighter or municipal fire investigator workers’ compensation claims accepted under A.R.S. § 23-901.09.
 - 2. The reimbursement request only includes amounts actually paid by the Municipal Payor for compensation and benefits under A.R.S. § 23-1702(A) during the immediately preceding fiscal year.
 - 3. The reimbursement request does not include amounts paid for expenses relating to case management, vocational rehabilitation, or similar nonmedical costs.
 - 4. The information included in, or submitted with, the Municipal Firefighter Cancer Reimbursement Form is true and correct.
- C.** The Municipal Firefighter Cancer Reimbursement Form shall not be changed, amended, or otherwise altered without the prior written approval of the Commission.
- D.** A Municipal Payor seeking reimbursement from the Fund for compensation and benefits paid during a fiscal year shall submit a reimbursement claim to the Commission between July 1 and August 31 immediately following the applicable fiscal year.
- E.** Failure to timely submit a reimbursement claim for compensation and benefits paid during a fiscal year before the claim submission deadline in subsection D will be deemed a waiver of the right of the Municipal Payor to request reimbursement for amounts paid during the applicable fiscal year. Failure to include all eligible compensation or benefits in a reimbursement claim before the claim submission deadline in subsection D will be deemed a waiver of the right of the Municipal Payor to request reimbursement for any omitted amounts paid during the applicable fiscal year.
- F.** The Commission shall process reimbursements pursuant to A.R.S. § 23-1702(C) on or before December 31 of each year.
- G.** The maximum annual amount of aggregate reimbursements paid by the Fund shall in no event exceed the total amount of monies in the Fund as of close of business on June 30 of the applicable fiscal year.

R20-5-1403. Recordkeeping and Record Inspections

- A.** Municipal Payors seeking reimbursement from the Fund shall maintain all records supporting amounts included in a reimbursement claim for at least ten years after the reimbursement claim is filed.
- B.** Municipal Payor records supporting amounts included in a reimbursement claim shall always be open for inspection by the Commission or representatives of the Commission to ascertain information necessary for its administration of A.R.S. §§ 23-1701 through 23-1703. Upon request, a Municipal Payor shall make such records available to the Commission within 30 days.

R20-5-1404. Fund Overpayments

- A.** A Municipal Payor that discovers an error in a reimbursement claim which may result or has resulted in an overpayment from the Fund shall notify the Commission of the error within three business days of discovery of the error.
- B.** Overpayments made by the Fund to Municipal Payors that are discovered through inspection of records, or otherwise, shall be returned to the Fund by the applicable Municipal Payor within 30 days of notification by the Commission.



NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening under A.R.S. § 41-1021.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that an 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. An agency may file the Notice of Rulemaking Docket Opening along with the Notice of Proposed Rulemaking.

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

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS REAL ESTATE APPRAISAL DIVISION

[R21-225]

1. **Title and its heading:**
Chapter and its heading:
Article and its heading:

Section numbers:
 - 4, Professions and Occupations
 - 46, Department of Financial Institutions – Real Estate Appraisal Division
 - 1, General Provisions
 - 2, Registration, Licensure, and Certification as an Appraiser
 - 3, Complaint Investigations
 - 3.1, Rules of Practice and Procedure before the Superintendent
 - 4, Appraisal Management Companies
 - 5, Course Approval
 - 6, Property Tax Agents
 - R4-46-101, R4-46-102, R4-46-106, R4-46-107, R4-46-201, R4-46-201.01, R4-46-202.01, R4-46-203, R4-46-204, R4-46-209, R4-46-301, R4-46-301.01, R4-46-302.01, R4-46-303.01, R4-46-304.01, R4-46-305.01, R4-46-306.01, R4-46-307.01, R4-46-401, R4-46-402, R4-46-403, R4-46-404, R4-46-405, R4-46-406, R4-46-408, R4-46-501, R4-46-502, R4-46-503, R4-46-504, R4-46-505, R4-46-506, R4-46-507, R4-46-508, R4-46-509, R4-46-510, R4-46-511, R4-46-601
2. **The subject matter of the proposed rule:**
The regulation of appraisers, appraisal management companies, education course providers, and property tax agents.
3. **A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 27 A.A.R. 2891, December 17, 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.

NOTICES OF PUBLIC INFORMATION

Agencies use Notices of Public Information to notify stakeholders about other information that pertains to rulemaking notices under A.R.S. § 41-1013(B)(14). When required by law, agencies also use this notice to notify the public about information not related to rulemaking.

The most common use for this notice is to correct errors printed in a rulemaking notice or to extend a public comment period.

The Administrative Rules Division of the Office does not provide a standard template for Notices of Public Information because the content of this type of notice varies.

An agency shall follow the Office's formatting standards when preparing this type of notice and use a numbered list of questions and answers. Additionally, an agency receipt shall be filed with a Notice of Public Information.

NOTICE OF PUBLIC INFORMATION**DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL**

[M21-77]

1. Name of the agency:

Arizona Department of Environmental Quality

2. Subject of the notice:

Reissuance of the AZPDES Phase II Municipal Separate Storm Sewer System General Permit (MS4)

3. A brief description of the reissued general permit:

Pursuant to Arizona Administrative Code (A.A.C.), Title 18, Article 9, C901 and C903, the Department is reissuing a general permit under the Arizona Pollutant Discharge Elimination System (AZPDES), authorizing discharges of pollutants associated with municipal stormwater to the Arizona Protected Surface Waters List, which includes waters of the U.S., pursuant to the federal Clean Water Act and recent amendments to Arizona Revised Statutes title 49-201 *et seq.* that establish a state water protection program. This general permit, AZG2021-002, replaces permit AZG2016-002.

4. A description of the permit area:

The general permit authorizes stormwater discharges associated with municipal activities in Arizona, except for Indian Country as defined in 18 U.S.C. § 1151.

5. How to obtain copies of the permit documents:

Copies of the general permit and accompanying fact sheet are available upon request from the agency personnel listed in item 8, below, and on the Department's website at http://www.azdeq.gov/MS4_GP. The general permit and fact sheet are also available in the Records Center at the Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona, and may be reviewed any time between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. In Phoenix, please call (602) 771-4380 or email recordscenter@azdeq.gov 24 hours in advance to schedule an appointment to review the file.

6. The name, address, and email address of agency personnel to whom questions and comments on the general permit may be addressed:

Name: Rosi Sherrill
Address: Arizona Department of Environmental Quality
Water Quality Division, Surface Water Permits
1110 W. Washington,
Phoenix, AZ 85007
Email: Sherrill.laurie@azdeq.gov

NOTICE OF PUBLIC INFORMATION**DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER POLLUTION CONTROL**

[M21-78]

1. Name of the agency:

Arizona Department of Environmental Quality

2. Subject of the notice:

Reissuance of AZPDES Pesticide General Permit (PGP) for Discharges of Pesticides to Protected Surface Waters.

3. A brief description of the reissued general permit:

Pursuant to 18 A.A.C. 9, Article 9, R18-9-C901 and -C903, the Department is reissuing a general permit under the Arizona Pollutant Discharge Elimination System (AZPDES), authorizing pesticide discharges associated with pesticide applications to protected surface waters. This general permit AZG2021-003 replaces permit AZG2011-001.

**4. A description of the permit area:**

The general permit authorizes pesticide discharges associated with pesticide applications in Arizona, except for Indian Country as defined in 18 U.S.C. § 1151.

5. Permit Schedule:

The 2021 PGP replaces ADEQ's 2011 PGP in accordance with the following schedule:

Issue Date: October 8, 2021

Effective Date: October 8, 2021

Expiration Date: October 7, 2026

6. How to obtain copies of the final permit documents:

Copies of the general permit and accompanying fact sheet are available upon request from the agency personnel listed in item 8, below, and on the Department's website at <http://azdeq.gov/pgp>. The general permit and fact sheet are also available in the Records Center at the Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona, and may be reviewed any time between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays.

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

Name: Rosi Sherrill

Address: Arizona Department of Environmental Quality
Water Quality Division, Surface Water Protection
1110 W. Washington
Phoenix, AZ 85007

Telephone: (602) 771-4409

*Email: AZPDES@azdeq.gov



NOTICES OF SUBSTANTIVE POLICY STATEMENT

SUMMARIES AND LOCATION OF STATEMENTS

Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice as defined under A.R.S. § 41-1001(24).

Agencies are required to prepare a notice and publish the names of its substantive policy statements, a summary of statements, and its website where full statements can be reviewed under A.R.S. § 41-1013(B)(9). These notices are published in this section of the *Register*.

Substantive policy statements are advisory only. A substantive policy statement does not include internal pro-

cedural documents that only affect an agency's internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

Any person may petition an agency under A.R.S. § 41-1033(A)(2) to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule.

Contact the agency liaison listed under Item #5.

NOTICE OF SUBSTANTIVE POLICY STATEMENT

ARIZONA STATE LOTTERY

[M21-79]

- 1. Title of the substantive policy statement and the number by which the policy statement is referenced:**
Arizona State Lottery - Individuals Prohibited From Playing Arizona Lottery Games
- 2. Date the substantive policy statement was issued and the effective date of the policy statement, if different from the issuance date:**
November 2021
- 3. Summary of the contents of the policy statement:**
This policy clarifies which individuals are prohibited from playing Arizona State Lottery (Lottery) games.
- 4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:**
Arizona Revised Statute § 5 -567
- 5. A statement as to whether the substantive policy statement is a new statement or a revision:**
This is a new substantive policy statement.
- 6. The agency contact person who can answer questions about the substantive policy statement:**
Name: Sherri Zendri
Address: State Lottery Commission
4740 E. University Dr.
Phoenix, AZ 85034
Telephone: (480) 921-4401
Fax: (480) 921-4512
Email: szendri@azlottery.gov
Website: www.arizonalottery.com
- 7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**
The full text of the policy specified in question #1 of this summary is available by contacting the agency contact referenced above.



GOVERNOR EXECUTIVE ORDER

Executive Order 2020-02 is being reproduced in each issue of the *Administrative Register* as a notice to the public regarding state agencies' rulemaking activities.

This order has been reproduced in its entirety as submitted.

EXECUTIVE ORDER 2021-02**Moratorium on Rulemaking to Promote Job Creation and Economic Development; Internal Review of Administrative Rules**

[M21-11]

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 **three** existing rules to eliminate for every **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.

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

Douglas A. Ducey
GOVERNOR

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

ATTEST:

Katie Hobbs
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

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R19-4-214.	FXN-1186		XM-2604;		PM-1297
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**RULES EFFECTIVE DATES CALENDAR**

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

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



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

**REGISTER PUBLISHING DEADLINES**

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

Deadline Date Friday, 5:00 p.m. <i>(*earlier date due to holiday)</i>	Register Publication Date	Oral Proceeding may be scheduled on or after
August 20, 2021	September 10, 2021	October 12, 2021
August 27, 2021	September 17, 2021	October 18, 2021
September 3, 2021	September 24, 2021	October 25, 2021
September 10, 2021	October 1, 2021	November 1, 2021
September 17, 2021	October 8, 2021	November 8, 2021
September 24, 2021	October 15, 2021	November 15, 2021
October 1, 2021	October 22, 2021	November 22, 2021
October 8, 2021	October 29, 2021	November 29, 2021
October 15, 2021	November 5, 2021	December 6, 2021
October 22, 2021	November 12, 2021	December 13, 2021
October 29, 2021	November 19, 2021	December 20, 2021
November 5, 2021	November 26, 2021	December 27, 2021
November 12, 2021	December 3, 2021	January 3, 2022
November 19, 2021	December 10, 2021	January 10, 2022
November 26, 2021	December 17, 2021	January 18, 2022
December 3, 2021	<i>Thursday</i> December 23, 2021*	January 24, 2022
December 10, 2021	<i>Thursday</i> December 30, 2021*	January 31, 2022
December 17, 2021	January 7, 2022	February 7, 2022
<i>Thursday</i> December 23, 2021*	January 14, 2022	February 14, 2022
<i>Thursday</i> December 30, 2021*	January 21, 2022	February 22, 2022
January 7, 2022	January 28, 2022	February 28, 2022
January 14, 2022	February 4, 2022	March 7, 2022
January 21, 2022	February 11, 2022	March 14, 2022
January 28, 2022	February 18, 2022	March 21, 2022
February 4, 2022	February 25, 2022	March 28, 2022
February 11, 2022	March 4, 2022	April 4, 2022
February 18, 2022	March 11, 2022	April 11, 2022



GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and *Register* deadlines do not correlate. We publish these deadlines under A.R.S. § 41-1013(B)(15).

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 305, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit <http://grrc.az.gov>.

GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES FOR 2021/2022

(MEETING DATES ARE SUBJECT TO CHANGE)

[M20-42]/[M21-61]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> September 21, 2021	<i>Tuesday</i> October 19, 2021	<i>Tuesday</i> October 26, 2021	<i>Tuesday</i> November 2, 2021
<i>Tuesday</i> October 19, 2021	<i>Tuesday</i> November 23, 2021	<i>Tuesday</i> November 30, 2021	<i>Tuesday</i> December 7, 2021
<i>Tuesday</i> November 23, 2021	<i>Tuesday</i> December 21, 2021	<i>Tuesday</i> December 28, 2021	<i>Tuesday</i> January 4, 2022
<i>Tuesday</i> December 21, 2021	<i>Tuesday</i> January 18, 2022	<i>Tuesday</i> January 25, 2022	<i>Tuesday</i> February 1, 2022
<i>Tuesday</i> January 18, 2022	<i>Tuesday</i> February 15, 2022	<i>Tuesday</i> February 22, 2022	<i>Tuesday</i> March 1, 2022
<i>Tuesday</i> February 15, 2022	<i>Tuesday</i> March 22, 2022	<i>Tuesday</i> March 29, 2022	<i>Tuesday</i> April 5, 2022
<i>Tuesday</i> March 22, 2022	<i>Tuesday</i> April 19, 2022	<i>Tuesday</i> April 26, 2022	<i>Tuesday</i> May 3, 2022
<i>Tuesday</i> April 19, 2022	<i>Tuesday</i> May 17, 2022	<i>Tuesday</i> May 24, 2022	Wednesday June 1, 2022
<i>Tuesday</i> May 17, 2022	<i>Tuesday</i> June 21, 2022	<i>Tuesday</i> June 28, 2022	Wednesday July 6, 2022
<i>Tuesday</i> June 21, 2022	<i>Tuesday</i> July 19, 2022	<i>Tuesday</i> July 26, 2022	<i>Tuesday</i> August 2, 2022
<i>Tuesday</i> July 19, 2022	<i>Tuesday</i> August 23, 2022	<i>Tuesday</i> August 30, 2022	Wednesday September 7, 2022
<i>Tuesday</i> August 23, 2022	<i>Tuesday</i> September 20, 2022	<i>Tuesday</i> September 27, 2022	<i>Tuesday</i> October 4, 2022
<i>Tuesday</i> September 20, 2022	<i>Tuesday</i> October 18, 2022	<i>Tuesday</i> October 25, 2022	<i>Tuesday</i> November 1, 2022
<i>Tuesday</i> October 18, 2022	<i>Tuesday</i> November 22, 2022	<i>Tuesday</i> November 29, 2022	<i>Tuesday</i> December 6, 2022

* 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.