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From the Publisher

ABOUT THIS PUBLICATION
The authenticated pdf of the Administrative Register (A.A.R.) posted on the Arizona Secretary of State’s website is the official published version for rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Register is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the Register contains notices of rules terminated by the agency and rules that have expired.

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Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number).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

New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

WHERE IS A “CLEAN” COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?
The Arizona Administrative Code (A.A.C) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor’s Regulatory Review Council. The Code also contains rules exempt from the rulemaking process.

The authenticated pdf of Code chapters posted on the Arizona Secretary of State’s website are the official published version of rules in the A.A.C. The Code is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS
On the cover: Each agency is assigned a Chapter in the Arizona Administrative Code under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the Arizona Administrative Code; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the Arizona Administrative Code. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the Register. The original filed document is available for 10 cents a page.
Participate in the Process

Look for the Agency Notice

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

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

Attend a public hearing/meeting

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

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

Write the agency

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

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

Arizona Regular Rulemaking Process

START HERE
APA, statute or ballot proposition is passed. It gives an agency authority to make rules.

It may give an agency an exemption to the process or portions thereof.

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

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

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


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

Substantial change?
If no change then

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

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

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

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

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


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

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

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

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


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

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

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

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

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

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

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

Acronyms

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

About Preambles

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

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

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

This section of the Arizona Administrative Register contains Notices of Proposed Rulemakings.

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 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

[R20-174]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)** | **Rulemaking Action**
   - R4-33-105 | Repeal
   - R4-33-501 | Amend
   - R4-33-503 | Amend
   - R4-33-504 | Repeal
   - R4-33-707 | New Section

2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
   - Authorizing statute: A.R.S. § 36-446.03(A)
   - Implementing statute: A.R.S. §§ 36-446.03(O) and 36-446.15

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: 26 A.A.R. 2097, October 9, 2020

4. **The agency's contact person who can answer questions about the rulemaking:**
   - Name: Allen Imig, Executive Director
   - Address: Board of Examiners of Nursing Care Administrators and Assisted Living Facility Managers
   - 1740 W. Adams St., Suite 2490
   - Phoenix, AZ 85007
   - Telephone: (602) 364-2273
   - Fax: (602) 542-8316
   - E-mail: allen.imig@aznciaboard.us

5. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
   - Under Laws 2020, Chapter 73, the legislature added A.R.S. § 36-446.16, authorizing individuals to obtain training for employment as an assisted living facility caregiver through on-the-job training. The legislation required the Board to prescribe standards for the on-the-job training. This rulemaking prescribes the required standards.
   - R4-33-105 and R4-33-504 are repealed to comply with paragraph 2 of Executive Order 2020-02. An exemption from Executive Order 2020-02 was provided by Trista Guzman Glover in an e-mail dated August 31, 2020.

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

7. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
   - Not applicable
8. **The preliminary summary of the economic, small business, and consumer impact:**

   The primary economic benefit results from the statutory change. The Board expects there will be positive benefits for individuals who train for employment as an assisted living facility caregiver on the job. These individuals will have the benefit of being employed while training and may receive the training without charge from their employing assisted living facility. The change may negatively impact owners of assisted living facility caregiver training programs who may see the number of participants decrease as a result of on-the-job training opportunities.

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

   Name: Allen Imig, Executive Director
   Address: Board of Examiners of Nursing Care Administrators and Assisted Living Facility Managers
   1740 W. Adams St., Suite 2490
   Phoenix, AZ 85007
   Telephone: (602) 364-2273
   Fax: (602) 542-8316
   E-mail: allen.imig@aznciaboard.us

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

    An oral proceeding regarding the proposed rules will be held as follows:
    Date: Tuesday, December 1, 2020
    Time: 9:00 a.m.
    Location: 1740 W. Adams St., Meeting Room C
    Phoenix, AZ 85007

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

    None

    a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
       Caregivers at assisted living facilities are not licensed by the Board. The Board’s authority is to prescribe standards for the training of assisted living facility caregivers.

    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 training of assisted living facility caregivers.

    c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**
       No analysis was submitted.

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

    None

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

    **TITLE 4. PROFESSIONS AND OCCUPATIONS**

    **CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**

    **ARTICLE 1. GENERAL**

    Section R4-33-105. **Hearing Procedures Repealed**

    **ARTICLE 5. CONTINUING EDUCATION**

    Section R4-33-501. Continuing Education Requirement; Extension of Time
    R4-33-503. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement
    R4-33-504. Extension of Time to Complete the Continuing Education Requirement Repealed

    **ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS**

    Section R4-33-707. Minimum Standards for an Assisted Living Facility On-the-job Caregiver Training Program

    **ARTICLE 1. GENERAL**

    R4-33-105. **Hearing Procedures Repealed**

    As required under A.R.S. § 36-146.027(1), the Board shall conduct all hearings according to the procedures in A.R.S. Title 41, Chapter 6, Article 10 and rules issued by the Office of Administrative Hearings.
ARTICLE 5. CONTINUING EDUCATION

R4-33-501. Continuing Education Requirement: Extension of Time
A. Continuing education is a prerequisite of license or certificate renewal.
   1. A licensed administrator shall obtain 50 credit hours of Board-approved continuing education during each biennial period.
   During the biennial period in which an administrator is initially licensed, the administrator shall obtain two credit hours of Board-approved continuing education for each month or part of a month remaining in the biennial period.
   2. A certified manager shall obtain 24 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which a manager is initially certified, the manager shall obtain one credit hour of Board-approved continuing education for each month or part of a month remaining in the biennial period.
B. The Board shall award credit hours in an approved continuing education as follows:
   1. Seminar or workshop. One credit hour of continuing education for each contact hour;
   2. Course at an accredited educational institution. Fifteen credit hours of continuing education for each course hour;
   3. Attendance at a business meeting of a national health care organization or of a state association affiliated with a national health care organization. One-half credit hour of continuing education for each business meeting attended;
   4. Self-study, online, or correspondence course. Approved credit hours of continuing education requested by the course provider;
   5. Serving as a preceptor. Two credit hours of continuing education for each month that an administrator serves as an AIT preceptor;
   6. Teaching a Board-approved continuing education. One credit hour of continuing education for each hour taught.
C. The Board shall limit the number of credit hours of Board-approved continuing education awarded as follows:
   1. No more than 40 percent of the required credit hours may be obtained using self-study, online, or correspondence courses;
   2. No more than 50 percent of the required credit hours may be obtained from serving as an AIT preceptor;
   3. Hours may be obtained for teaching a particular continuing education only once during each biennial period; and
   4. Hours that exceed the minimum required for a biennial period may not be carried over to a subsequent biennial period.
D. An administrator or manager shall obtain a certificate or other evidence of attendance from the provider of each continuing education attended that includes the following:
   1. Name of the administrator or manager;
   2. License or certificate number of the administrator or manager;
   3. Name of the continuing education;
   4. Name of the continuing education provider;
   5. Date, time, and location of the continuing education; and
   6. Number of credit hours in the continuing education.
E. An administrator or manager shall maintain the evidence of attendance described in subsection (D) for three years and make the evidence available to the Board under R4-33-503 and as otherwise required under this Chapter.
F. To obtain an extension of time under A.R.S. § 36-446.07(G) to complete the continuing education requirement, an administrator or manager shall submit to the Board a written request that includes the following:
   1. Ending date of the requested extension;
   2. Continuing education completed during the current biennial period and the documentation required under subsection (D);
   3. Proof of registration for additional continuing education that is sufficient to enable the administrator or manager to fulfill the continuing education requirement before the end of the requested extension, and
   4. Administrator’s or manager’s attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent renewal application.
G. The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
   1. Specifies an ending date no later than October 31,
   2. Includes the required documentation and attestation,
   3. Is submitted no sooner than April 30, and
   4. Will facilitate the safe and professional regulation of nursing care institutions or assisted living facilities in this state.

R4-33-503. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement
A. The Board may audit a licensee or certificate holder for compliance with the continuing education requirement at any time.
B. When notice of the need to renew a license or certificate is provided, the Board shall also provide notice of an audit of continuing education records to a random sample of administrators or managers. An administrator or manager subject to a continuing education audit shall submit the documentation required under R4-33-501(D) at the same time that the administrator or manager submits the renewal application required under R4-33-206 or R4-33-405. If an administrator or manager fails to submit the required documentation with the renewal application on or before June 30, the license or certificate expires unless the administrator or manager obtains an extension of time in which to complete the continuing education requirement under R4-33-504.

R4-33-504. Extension of Time to Complete the Continuing Education Requirement
A. To obtain an extension of time under A.R.S. § 36-446.07(G) to complete the continuing education requirement, an administrator or manager shall submit to the Board a written request that includes the following:
   1. Ending date of the requested extension;
   2. Continuing education completed during the current biennial period and the documentation required under R4-33-501(D);
   3. Proof of registration for additional continuing education that is sufficient to enable the administrator or manager to fulfill the continuing education requirement before the end of the requested extension, and
   4. Administrator’s or manager’s attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent renewal application.
B. The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
   1. Specifies an ending date no later than October 31,
R4-33-707. Minimum Standards for an Assisted Living Facility On-the-job Caregiver Training Program

A. In this Section:
   1. “Direct supervision” has the same meaning as specified at A.R.S. § 36-446.16(C).
   2. “Five years of experience,” as used in A.R.S. § 36-446.16(A)(1)(a)(v), means a certified assisted living facility manager has been the manager of record for at least five years at an assisted living facility.
   3. “Manager of record” means a certified assisted living facility manager for whom notice of appointment is provided under R4-33-410.
   4. “OTJ” means on-the-job, a form of training that provides an employee with knowledge and skills essential to adequate job performance.

B. Before implementing an OTJ training program, the owner of the assisted living facility at which the OTJ training program will be implemented shall apply to the Board to have the OTJ training program approved.

C. To apply for Board approval under subsection (B), the owner of the assisted living facility shall submit an application packet that contains:
   1. Name, address, telephone number, and e-mail address of the owner of the assisted living facility;
   2. Name, telephone number, e-mail address, and certificate number of the assisted living facility manager of record;
   3. A statement of who will be responsible for providing oversight of the OTJ training program. If oversight will be provided by someone other than the owner or manager of record, the name, telephone number, e-mail address, and occupational license number of the individual who will be responsible;
   4. License number of the assisted living facility at which the OTJ training program will be provided;
   5. An acknowledgment that the OTJ training program will consist of at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C); and
   6. A written description of the OTJ training program that includes:
      a. A statement of pre-requisites for being employed by the assisted living facility and becoming a participant in the OTJ training program including any criminal background or drug testing required;
      b. An acknowledgment that the OTJ training program will be provided only to individuals who:
         i. Are employed at the assisted living facility;
         ii. Are being paid and receiving the same benefits as other caregivers employed at the assisted living facility;
         iii. Have a valid fingerprint clearance card; and
         iv. Have a current food-handler’s card issued by the county in which the individual lives;
      c. A statement of whether any hours of the OTJ training program will involve classroom instruction and if so, the number of hours and curriculum subjects, as specified in R4-33-703(C), that will be taught by classroom instruction;
      d. An acknowledgement that none of the hours of the OTJ training program will be taught by distance learning;
      e. An acknowledgement that the OTJ training program will consist of at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C); and
      f. An acknowledgment that, as specified in A.R.S. § 36-446.16(A)(1)(v), no more than 31 of the 62 hours of OTJ training will be under the direct supervision of the manager of record;
   7. A copy of the license or certificate, as specified in A.R.S. § 36-446.16(A)(1), of each health professional who will provide direct supervision of the OTJ training program;
   8. A copy of written policies and procedures regarding:
      a. Ensuring each individual in the OTJ training program receives at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C);
      b. Subject subjects specified in R4-33-703(C), that will be taught by classroom instruction;
      c. Maintaining records of the OTJ training provided to each individual as specified in R4-33-702(A)(2)(d);
      d. Termination of or quitting by an individual participating in the OTJ training program;
      e. Criteria for completing the OTJ training program and procedure for ensuring each individual in the OTJ training program is informed of the criteria; and
      f. Frequency and documentation of updating the written policies and procedures;
   9. A copy of a skills checklist used to verify that each individual in the OTJ training program acquires the skills listed in R4-33-703(C) and necessary to function competently as an assisted living facility caregiver;
   10. A copy of the evidence of completion provided within 15 days to each individual who completes the OTJ training program;
   11. The fee specified at R4-33-104(D); and
   12. Signature of the owner of the assisted living facility at which the OTJ training program will be provided attesting that the information provided is complete and accurate.

D. After receiving Board approval of the OTJ training program, the owner of the assisted living facility for which the approval was provided shall ensure the following responsibilities are performed:
   1. Within 15 days after an individual completes the OTJ training program, provide to the Board the information specified in R4-33-702(A)(5)(a), (b), (g), and (h); and
   2. Maintain the following records in the caregiver’s permanent employee file:
      a. A copy of the caregiver’s fingerprint clearance card and food-handler’s card required under subsection (C)(5);
      b. Written documentation, signed by and with the license number of the health professional providing direct supervision, of each hour of OTJ training provided to the caregiver;
      c. A copy of the caregiver’s completed skills checklist required under subsection (C)(8);
d. Results of the state-approved written examination taken by the caregiver showing the caregiver achieved the grade specified in R4-33-702(A)(2)(b);

e. Copy of the evidence of completion issued to the caregiver with the caregiver’s signed and dated acknowledgement of receipt; and

f. A copy of any complaint submitted by the caregiver and records showing how the complaint was resolved.

E. The owner of an assisted living facility with a Board-approved OTJ training program shall allow the Board to conduct periodic evaluation, as described in R4-33-702(J), of the OTJ training program.

F. The approval of an OTJ training program expires one year after the date of approval. If the approval expires, the owner of the assisted living facility shall ensure the OTJ training program ceases. To renew approval of the OTJ training program, the owner of the assisted living facility shall submit to the Board a renewal application packet, which is available on the Board’s web site, and the fee specified under R4-33-104(D).

G. The provisions of R4-33-706 are applicable to an OTJ training program.

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

NOTICE OF PROPOSED RULEMAKING

PREAMBLE

1. Article, Part, or Section Affected (as applicable) | Rulemaking Action
--- | ---
R20-5-1001 | Amend
R20-5-1002 | Amend
R20-5-1003 | Amend
R20-5-1004 | Amend
R20-5-1006 | Amend
R20-5-1007 | Amend
R20-5-1008 | Amend
R20-5-1009 | Amend

2. Citations to agency’s statutory rulemaking authority to include the authorizing statute and the implementing statutes:
   Authorizing statute: A.R.S. § 23-361
   Implementing statutes: A.R.S. Title 23, Chapter 2, Article 7
   Note: Grace Appelbe, Policy Advisor in the Office of the Arizona Governor, approved the request to proceed with the proposed rulemaking by e-mail dated July 27, 2020.

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: 26 A.A.R. 2767, October 23, 2020 (in this issue)

4. 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
   E-mail: Gaetano.Testini@azica.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:
   Title 20, Chapter 5, Article 10 of the Arizona Administrative Code contains rules related to wage claims filed with the Industrial Commission of Arizona (the “Commission”), Labor Department (“Labor Department” or “Department”). The proposed amendments would modernize the rules, including by: (1) allowing for service of documents by electronic means; (2) streamlining and eliminating redundancies in the wage claim investigation process to both reduce burdens on the parties involved in wage claim disputes and accelerate the processing of wage claims; and (3) bringing R20-5-1006(A)(3) into compliance with A.R.S. § 23-356. Specifically, the Commission is proposing the following rule changes:
   • R20-5-1001(8), R20-5-1002, R20-5-1003(F), R20-5-1004, R20-5-1005, R20-5-1006(B), R20-5-1009 - Modernize rules to authorize service of documents by electronic means, with a party’s consent.
   • R20-5-1002 - Correct website address of Commission, clarify information that must be provided by parties to a wage claim, and specifically authorize electronic signatures on wage claim and employer response forms.
   • R20-5-1003(E) - Delete antiquated and unnecessary language regarding forms being completed in “ink or type.”
   • R20-5-1003(F) - Extend time for a claimant’s response to a deficiency notice from 10 to 14 calendar days.
   • R20-5-1004(A) - Delete unnecessary and burdensome requirement that the Labor Department serve wage claims “within 10 days” of the Department’s receipt and extend time period for an employer’s response from 10 to 14 calendar days.
   • R20-5-1004(B) - Extend time period for an employer’s response from 10 to 14 calendar days.
• R20-5-1004(C) – Delete redundant and unnecessary provision that requires additional Labor Department action when an employer’s response is incomplete. Pursuant to R20-5-1004(F), the Labor Department already has authority to request additional information from a claimant or employer.

• R20-5-1004(D) – Streamline the wage claim investigation process to always provide a claimant with an opportunity to reply to an employer’s response to a wage claim and extend the time period for a claimant’s reply from 10 to 14 days.

• R20-5-1004(F) – Allow, rather than require, the Department to administer oaths for the purpose of taking affidavits and allow, rather than require, the Department to record interviews or discussions with a claimant or employer.

• R20-5-1006(A)(3) – Update jurisdictional limit for wage claims filed with the Department to be consistent with A.R.S. § 23-356.

• R20-5-1007(B) – Delete the provision, as it is redundant of R20-5-1005(G).

• R20-5-1008(A) – Authorize a wage claimant to pick up a wage payment in person from the Department.

• R20-5-1008(B) – Streamline the process where an employer claims to have paid wages due directly to the claimant by authorizing dismissal of a wage claim either where the claimant confirms receipt of the wages or where the claimant does not timely respond to a notice of wage payment from the Department. Extend the time period for a claimant to respond to such a notice from 10 to 14 calendar days.

6. 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 amended rules.

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

   Not applicable.

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

   The proposed changes to Article 10: (1) authorize service of documents by electronic means; (2) clarify information that must be provided by parties to a wage claim; (3) authorize electronic signatures on wage claim and employer response forms; (4) extend time periods for claimants and employers to respond to the Labor Department; (5) delete unnecessary and burdensome requirement that the Labor Department serve wage claims “within 10 days” of the Department’s receipt; (6) streamline the wage claim investigation process to always provide a claimant with an opportunity to reply to an employer’s response to a wage claim; (7) allow, rather than require, the Department to administer oaths for the purpose of taking affidavits; (8) allow, rather than require, the Department to record interviews or discussions with a claimant or employer; (9) authorize a wage claimant to pick up a payment in person from the Department; and (10) streamline the wage process when an employer claims to have paid wages due directly to the claimant by authorizing dismissal of a wage claim either where the claimant confirms receipt of the wages or where the claimant does not timely respond to a notice of wage payment from the Department. The Commission anticipates that each of these proposed amendments will reduce regulatory burden on participants in wage claim proceedings (without impacting the regulatory objective) and will serve to accelerate the efficient processing of wage claims. The Commission anticipates that the proposed rulemaking will have no adverse economic impact on small businesses or consumers.

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

   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
   E-mail: Gaetano.Testini@azica.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:

    Written comments can be submitted to the addresses listed in items 4 and 9 by the close of the comment period, which is at 5:00 p.m. on November 30, 2020. An oral proceeding on the proposed amended rule is scheduled for November 30, 2020, at 10:00 a.m., at the Industrial Commission of Arizona, 800 W. Washington, Room 339, Phoenix, AZ 85007. Participants can join the oral proceeding via Google Meets at: meet.google.com/sac-icfh-gzo and by phone (US) +1 541-714-5069 PIN: 686 329 454#.

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

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

      The proposed amended 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. The proposed rule amendments implement Arizona’s wage laws and do not implicate 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:
R20-5-1001. Definitions
In this Article, unless the context otherwise requires:
1. “Claim” means a wage claim pursuant to A.R.S. § 23-356.
2. “Claimant” means an individual who files a claim.
3. “Day” means calendar day.
5. “Determination” means a finding by the Department under A.R.S. § 23-357 that a claim is either valid or invalid or that the Department cannot resolve the dispute.
6. “Director” means the Director of the Department.
7. “Dismissal” means an action by the Department in which the Department dismisses the claim and refers the claimant to other statutory remedies.
8. “Notice” or “notification” when made by the Department or the Director means a written communication transmitted to the employer or claimant, or both, by regular mail.

R20-5-1002. Forms
The following forms are available upon request from the Department or from the Industrial Commission’s website at www.ica.state.az.us:
1. Wage claim. When making a claim, a claimant shall provide the following information to the Department:
   a. Claimant’s name, mailing address, e-mail address, telephone number, and date of birth;
   b. Employer’s name, address, telephone number, and description of business;
   c. Claimant’s dates of employment, position, and pay;
   d. The amount of the wages claimed and whether the claimant requested payment of the wages from employer;
   e. Claimant’s signature or electronic signature and signature date.
2. Employer response. The employer responding to a claim shall provide the following information to the Department:
   a. Employer’s legal name, including any trade names, legal domicile state, address, telephone number, and description of business, and an e-mail address for the designated representative of employer;
   b. Claimant’s dates of employment, position, and pay;
   c. Whether claimant is owed any wages, and, if so, employer’s reason for nonpayment; and
   d. Employer’s signature or electronic signature and signature date.

R20-5-1003. Filing Requirements; Time for Filing; Computation of Time
A. A claimant shall file a claim with the Department within one year of the date of the accrual of the claim.
B. In computing any period of time prescribed or allowed by this Article, the day of the act or event from which the designated period of time begins to run is not included. The last day of the period and Saturdays, Sundays, and legal holidays are included in the computation of time.
C. The date of filing of the claim is the date the claimant’s wage claim form is received by the Department.
D. The Department shall deem a form, document, instrument, or other written record filed at the Tucson office as filed at the Phoenix office for the purpose of computing time.
E. An individual filing a form or document related to a claim shall legibly fill out the form or document in ink or type.
F. If the wage claim form received from a claimant does not include the information required by R20-5-1002(1), the Department shall return the wage claim form to the claimant by regular mail with a request that the claimant provide the required information and return the completed wage claim form to the Department within 14 days of the date of service from the date of the Department’s request. If the Department does not receive the completed wage claim form within 14 days, the Department shall not initiate an investigation of the claim and the Department shall consider the claim withdrawn without prejudice. The claimant may re-file a withdrawn wage claim with the information required by R20-5-1002(1), if the claim is re-filed within one year of the date of the accrual of the claim.
R20-5-1004. Investigation of Claim
A. The Department shall mail serve a copy of a claimant’s wage claim form within 10 days after the Department’s receipt of the claim on the employer listed on the wage claim, with a request that the employer complete and file the employer response form within 10-14 days of the date of service of the Department’s mailing request.
B. If the Department does not receive the employer response form under subsection (A), the Department shall provide serve written notice to the employer stating that the employer must pay the amount claimed or file a written response to the wage claim within 10-14 days of the date of service of the Department’s written notice.
C. If the employer timely files the employer response under subsection (A), but the response is incomplete, the Department shall mail the employer a notice requesting that the employer file the required information within 10 days of the date of the Department’s notice. If the Department does not receive the required information within 10 days, the Department shall make a determination regarding the claim based on the evidence in the file.
D. If the employer’s response disputes the amount of wages claimed by the claimant, the Department shall mail serve a copy of the employer’s response to the claimant and offer the claimant the opportunity to file a written reply to the employer’s response within 10-14 days from the date of service the Department’s mailing. If the Department does not receive claimant’s reply within 10-14 days, the Department shall make a determination of the claim based on the evidence in the file.
E. If the employer fails or refuses to pay the amount claimed or submit a written response to the claim in accordance with subsection (B), the Department shall make a determination of the claim based on the evidence in the file.
F. Upon request from the Department, and if necessary to complete the Department’s investigation, the claimant, the employer, or both, shall submit further written information or meet with the Director or his designee. Except for statements made during settlement, mediation, or an informal conference, the Director or his designee may administer oaths for the purpose of taking affidavits and may tape record the meeting.
G. Upon completion of its investigation, the Department shall notify the parties to the claim of writing on the parties.

R20-5-1006. Dismissal of Claim
A. The Department shall dismiss a claim if:
1. The claim is filed more than one year after the date of the accrual of the claim,
2. The claimant does not comply with R20-5-1003(F),
3. The amount of wages claimed exceeds $5,000.00,
4. The Department’s investigation of the claimant’s evidence reveals no possible violation of A.R.S. § 23-350 et seq.,
5. The claimant has filed a civil action regarding the same claim,
6. The employer listed on the claim is in bankruptcy,
7. The Department is unable to locate the employer based on the information provided by the claimant,
8. The wages in question have been withheld from the claimant pursuant to the claimant’s prior written authorization.
B. The Department shall send a notice of dismissal to the claimant and, except as provided in subsections (A)(1) through (A)(3) and (7), the Department shall send a notice of dismissal to the employer. Notices of dismissal shall notify the claimant of the availability of other remedies.

R20-5-1007. Notice of Right of Review
A. A determination issued under A.R.S. § 23-357 shall include a notice informing the parties of their right to seek review under A.R.S. § 23-358 and § 12-901 et seq.
B. The Department shall serve a determination on the parties by regular mail.

R20-5-1008. Payment of Claim
A. The Department shall send any payment of a wage claim received by the Department to the claimant by certified mail, return receipt requested, unless the claimant elects to pick up the check in person at the Department.
B. If the Department discovers that payment of a wage claim is alleged to have been made directly to the claimant, the Department shall verify the payment by sending a notice requesting that the claimant provide written notice that payment of the wage claim is alleged to have been made directly to the claimant by regular mail. If the claimant confirms that payment of the wage claim was made directly to the claimant or does not respond to the Department’s letter notice within 10-14 days of the date of service the Department’s letter notice, the Department shall deem the claim to have been paid and shall dismiss the wage claim.
C. Payment of a partial amount of a wage claim does not preclude the Department from completing its investigation of the balance of the claim.
D. In the case of a determination and directive for payment issued by the Department under A.R.S. § 23-357, the Department shall, if the employer agrees and with the written consent of the claimant, enter into a payment agreement with the employer for payment of the amount of wages found to be owed the claimant.

R20-5-1009. Service of Determinations, Notices, and Other Documents
A. A determination, notice, or other document required by this Article or other law to be mailed or served upon a party, shall be made upon the party, or, if represented by legal counsel, the party’s legal counsel. Service upon legal counsel is considered service upon the party.
B. Service may be made and is deemed complete by:
1. Depositing the document in regular or certified mail, addressed to the party served at the address shown in the records of the Department, or by personal delivery upon the party.
2. With a party’s consent, transmission by e-mail to the e-mail address shown in the records of the Department.
NOTICES OF FINAL RULEMAKING

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

The final published notice includes a preamble and text of the rules as filed by the agency. Economic Impact Statements are not published.

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

NOTICE OF FINAL RULEMAKING

TITLE 13. PUBLIC SAFETY
CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

[R20-177]

PREAMBLE

1. Article, Part, or Section Affected (as applicable)  Rulemaking Action
   R13-4-101  Amend
   R13-4-104  Amend
   R13-4-105  Amend
   R13-4-106  Amend
   R13-4-108  Amend
   R13-4-109  Amend
   R13-4-110  Amend
   R13-4-111  Amend
   R13-4-114  Amend
   R13-4-116  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. § 41-1822(A)
   Implementing statute: A.R.S. § 41-1822(A)

3. The effective date for the rules:
   As specified under A.R.S. § 41-1032(A) and except as provided under item 3(b), the rules will be effective December 6, 2020.
   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):
      A.R.S. § 41-1823 requires that a rule establishing a minimum qualification for law enforcement officers not go into effect until six months after being filed with the Secretary of State. This provision applies to R13-4-105, R13-4-110, and R13-4-111 (effective April 7, 2021).

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: 26 A.A.R. 978, May 15, 2020
   Notice of Proposed Rulemaking: 26 A.A.R. 1343, July 10, 2020

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Michael Orose, Compliance Program Administrator
   Address: Arizona Peace Officer Standards and Training Board
            2643 E. University Dr.
            Phoenix, AZ 85034
   Telephone: (602) 774-9354
   E-mail: michaelo@azpost.gov
   Website: azpost.gov

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:
   The Board is amending the rules to:
Notices of Final Rulemaking

Update minimum qualifications regarding pre-application use of marijuana, other dangerous drugs, prescription medications, steroids, and narcotics;
Eliminate the total times an individual could have used marijuana in the past and focus only on use in the two years before appointment as a peace officer;
Remove “experimentation” as an explanation for pre-application use of marijuana or other dangerous drugs;
Update requirements regarding pre-application use of Adderall and CBD oil. This will eliminate the need for substantive policies 2016-001 and 2019-001 and amendments;
Update procedures to allow online administration of the comprehensive final examination (CFE), waiver examination, and completion of the personal history and other forms;
Add home schooling as an acceptable form of high school equivalency;
Clarify that results of a fingerprint check are required before graduation from the academy and reimbursement of training expenses;
Require information regarding agencies to which an applicant previously applied;
Add requirement for an agency to address “resolve-in-the-future” designations before appointing an individual as a peace officer;
Update certification retention requirements;
Update minimum course requirements;
Update academy training requirements;
Modernize the rules to be consistent with Board practice and industry standards; and
Ensure the rules are consistent with statute, Board practice, and current rule-writing standards.

An exemption from Executive Order 2019-01 was provided by Jennifer Thomsen by email dated October 8, 2019.

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 relied on “Chief Executive and Student Views about Peace Officer Pre-Employment Drug Use Standards,” by Jon Bottema, Arizona State University, January 2020. A copy of the report is available from the Board.

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 rulemaking will have minimal economic impact on peace officers, applicants, and law enforcement agencies. The amendments with the most significant potential economic impact are:
Updating minimum qualifications regarding pre-application use of marijuana, other dangerous drugs, prescription medications, steroids, and narcotics;
Removing “experimentation” as an explanation for pre-application use of marijuana or other dangerous drugs;
Eliminating the total times an individual could have used marijuana in the past and focus only on use in the two years before appointment as a peace officer;
Updating requirements regarding pre-application use of Adderall and CBD oil;
Requiring information regarding agencies to which an applicant previously applied; and
Adding a requirement for an agency to address “resolve-in-the-future” designations before placing a peace officer in a sworn position.

The changes regarding pre-application drug use are designed to clarify and enforce a standard applicable to all applicants. The Board believes eliminating the total times an individual could have used marijuana and removing experimentation as an explanation of pre-application use will have the beneficial effect of expanding the pool of applicants. The Board believes the changes are in the best interest of the law enforcement profession and public safety and welfare.

Agencies seeking to appoint a peace officer will have the additional requirement of obtaining information from agencies to which the individual previously applied and if applicable, resolving any resolve-in-the future designations in the individual’s record.

10. **A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
No changes were made between the proposed and final rulemaking.

11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:**
No comments were received about the proposed rulemaking and no one attended the oral proceeding on August 11, 2020. On June 30, 2020, before publication of the proposed rulemaking, the Board received a written comment concerning the rulemaking procedure and anticipated effective date of the amended rules.
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:

A.R.S. § 41-1823 requires that a rule establishing a minimum qualification for law enforcement officers not go into effect until six months after being filed with the Secretary of State. This provision applies to R13-4-105, R13-4-110, and R13-4-111.

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:
Certification of an individual as a peace officer is not a general permit. Under A.R.S. § 41-1822(A)(3), the Board is required to prescribe reasonable minimum qualifications for peace officers. The Board established those qualifications at R13-4-105 and certifies only individuals who meet the prescribed qualifications.

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:
No federal law is directly applicable to the subject of these rules. There are many federal laws that apply to law enforcement agencies and the work done by peace officers. These include general laws such as OSHA, EEOC, and ADA, federal laws regarding crimes, and federal case law regarding law enforcement. The training provided to peace officers is consistent with federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:
No analysis was submitted.

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 13. PUBLIC SAFETY

CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

ARTICLE 1. GENERAL PROVISIONS

Section
R13-4-101. Definitions
R13-4-104. Peace Officer Category Restrictions
R13-4-105. Minimum Qualifications
R13-4-106. Background Investigation Requirements
R13-4-108. Agency Records and Reports
R13-4-109. Denial, Revocation, Suspension, or Cancellation of Peace Officer Certified Status
R13-4-110. Basic Training Requirements
R13-4-111. Certification Retention Requirements
R13-4-114. Minimum Course Requirements
R13-4-116. Academy Requirements

ARTICLE 1. GENERAL PROVISIONS

R13-4-101. Definitions
In this Article, unless the context otherwise requires:

“Academy” means an entity that conducts the Board-prescribed basic training courses for full-authority, specialty, or limited-authority peace officers.

“Adderall,” as used in R13-4-105, means a combination drug containing salts of amphetamine that acts as a central nervous system stimulant. The combination may include amphetamine, methamphetamine, methylphenidate, dextroamphetamine, levoamphetamine, or other stimulants.

“Agency” means a law enforcement entity empowered by the state of Arizona.

“Appointment” means the selection by an agency of an individual to be a peace officer or peace officer trainee.

“Approved training program” means a course of instruction that meets Board-prescribed course requirements.

“Board” means the Arizona Peace Officer Standards and Training Board.

“Board-trained physician” means an occupational medicine specialist or a physician who has attended a Board course on peace officer job functions.

“Cancellation” means the annulment of certified status without prejudice to reapply for certification.

“Certified” means approved by the Board as being in compliance with A.R.S. Title 41, Chapter 12, Article 8 and this Chapter.
“CFE” means the Board-approved Comprehensive Final Examination that measures mastery of the knowledge and skills taught in the 585-hour full-authority peace officer basic training course.

“Denial” means the permanent refusal of the Board to grant certified status.

“Dangerous drug or narcotic” means a substance identified in A.R.S. § 13-3401 as being a dangerous drug or narcotic drug.

“Experimentation” means the illegal possession or use of marijuana or a dangerous drug or narcotic as described in R13-4-105(B) and (C).

“Full-authority peace officer” means a peace officer whose authority to enforce the laws of this state is not limited by this Chapter.

“Illegal” means in violation of federal or state statute, rule, or regulation.

“Lapse” means the expiration of certified status.

“Limited-authority peace officer” means a peace officer who is certified to perform the duties of a peace officer only in the presence and under the supervision of a full-authority peace officer.

“Open enrollee” means an individual who is admitted to an academy but is not appointed by an agency.

“Outside provider” means an entity other than the Board or an agency that makes continuing training available to peace officers.

“Peace officer” has the meaning in A.R.S. § 1-215.

“Peace officer trainee” means an individual recruited and appointed by an agency to attend an academy.

“Physician” means an individual licensed to practice allopathic or osteopathic medicine in this or another state.

“Resolve-in-the-future or RF” means a designation assigned by the Board regarding alleged misconduct of an inactive peace officer and requires an agency to resolve the alleged misconduct before the agency may appoint the peace officer.

“Restriction” means the Board’s limitation on duties allowed to be performed by a certified peace officer.

“Revocation” means the permanent withdrawal of certified status.

“Service ammunition” means munitions that perform equivalently in all respects when fired during training or qualification to those carried on duty by a peace officer.

“Service handgun” means the specific handgun or equivalent that a peace officer carries for use on duty.

“Specialty peace officer” means a peace officer whose authority is limited to enforcing specific sections of the Arizona Revised Statutes or Arizona Administrative Code, as specified by the appointing agency’s statutory powers and duties.

“Success criteria” means a numerical statement that establishes the performance needed for an individual to demonstrate competency in a knowledge, task, or ability required by this Chapter.

“Suspension” means the temporary withdrawal of certified status.

“Termination” means the end of employment or service with an agency as a peace officer through removal, discharge, resignation, retirement, or otherwise.

R13-4-104. Peace Officer Category Restrictions

A. Limited-authority peace officer.

1. A limited-authority peace officer shall be in the presence and under the supervision of a full-authority peace officer when engaged in patrol or investigative activities performed to detect, prevent, or suppress crime, or to enforce criminal or traffic laws of the state, county, or municipality.

2. A limited-authority peace officer may perform the following duties without supervision of a full-authority peace officer:
   a. Directing traffic;
   b. Assisting with crowd control; or
   c. Maintaining public order in the event of riot, insurrection, or disaster.

B. Specialty peace officer. A specialty peace officer has only the authority specified in R13-4-101.

C. Peace officer category change. A certified peace officer may be appointed to another peace officer category within the same agency without the background investigation and medical examination required in R13-4-105, R13-4-106, and R13-4-107 when these requirements were previously satisfied for appointment if:
   1. No more than 30 days have elapsed since the peace officer’s termination, and
   2. The change is to a category for which the officer is qualified under R13-4-110(A).

D. Inactive status. Certified status of a peace officer becomes inactive upon termination.

E. Lapse of certified status. After three consecutive years on inactive status, the certified status of a peace officer lapses after three consecutive years on inactive status.

F. Reinstatement from inactive status. A peace officer whose certified status is inactive and has not lapsed may have certification reinstated if the requirements of R13-4-105 are met for the new appointment, and if appointed:
   1. In the same peace officer category, or;
   2. As a specialty peace officer from inactive status as a full-authority peace officer.

G. Active status as a specialty or limited-authority peace officer does not prevent lapse of certified status as a full-authority peace officer.

R13-4-105. Minimum Qualifications
A. Except as provided in subsection (C) or (D), an individual shall meet the following minimum qualifications before being appointed to or attending an academy:
1. Be a United States citizen;
2. Be at least 21 years of age. An individual may attend an academy if the individual will be 21 years of age before graduating;
3. Meet one of the following education standards:
   a. Have a diploma from a high school recognized by the department of education of the jurisdiction in which the diploma is issued,
   b. Have successfully completed a General Education Development (G.E.D.) examination,
   c. Have a homeschool diploma or certificate of completion that is recognized as the equivalent of a high school diploma by the jurisdiction from which the homeschool diploma or certificate is issued, or
   d. Have a degree from an institution of higher education accredited by an agency recognized by the U.S. Department of Education;
4. Undergo a complete background investigation that meets the standards of R13-4-106. An individual may not begin an academy before the results of the background investigation are returned until the agency has completed the background investigation requirements at R13-4-106(C)(1), (C)(2), and (C)(4) through (C)(9). However, the individual may begin an academy before the results of the fingerprint query referenced in R13-4-106(C)(3) are returned. The academy shall not graduate the individual and the Board shall not reimburse the academy for the individual’s training expenses until a qualifying background investigation report, as specified in R13-4-106(C)(9), is obtained completed;
5. Undergo a medical examination that meets the standards of R13-4-107 within one year before appointment. An agency may make a conditional offer of appointment before the medical examination. If the medical examination is conducted more than 180 days before appointment, the individual shall submit a written statement indicating that the individual’s medical condition has not changed since the examination;
6. Not have been convicted of a felony or any offense that would be a felony if committed in Arizona;
7. Not have been dishonorably discharged from the United States Armed Forces;
8. Not have been previously denied certified status, have certified status revoked, or have current certified status suspended, or have voluntarily surrendered certified status in lieu of possible disciplinary action in this or any other state if the reason for denial, revocation, suspension, or possible disciplinary action was or would be a violation of R13-4-109(A) if committed in Arizona;
9. Not have illegally possessed, produced, cultivated, or transported marijuana for sale or sold marijuana;
10. Not have illegally possessed or used marijuana for any purpose within the past three years;
11. Not have ever illegally possessed or used marijuana other than for experimentation;
12. Not have ever illegally possessed or used marijuana while employed or appointed as a peace officer;
13. Not have illegally sold, produced, cultivated, or transported for sale a dangerous drug or narcotic;
14. Not have illegally used a dangerous drug or narcotic other than marijuana, for any purpose within the past seven years;
15. Not have ever illegally used a dangerous drug or narcotic while employed or appointed as a peace officer;
16. Not have ever illegally used a dangerous drug or narcotic while employed or appointed as a peace officer;
17. Not have a pattern of abuse of prescription medication;
18. Not have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with a frequency within the past three years that indicates a disrespect for traffic laws or a disregard for the safety of others on the highway;
19. Read the code of ethics in subsection (E) and affirm by signature the individual understands and agrees to abide by the code.

B. The illegal To determine whether an individual’s possession or use of marijuana, or a dangerous drug or narcotic is presumed to be illegal for experimentation if disqualified the individual from being appointed or attending an academy, the Board shall use the following standards:
1. The possession or use of marijuana exceeds a total of 20 times or exceeds five times since the age of 21 years; or Marijuana,
   a. All forms of marijuana, including THC extracts, cannabis, hashish, marijuana extracts, and marijuana edibles, and all forms of use will be treated the same;
   b. The individual has not illegally possessed or used marijuana within the two years before appointment as a peace officer;
   c. The individual has never illegally possessed or used marijuana as a peace officer;
2. The use of any dangerous drug or narcotic, other than marijuana, in any combination exceeds a total of five times, or exceeds one time since the age of 21 years. Dangerous drugs, hallucinogens, narcotics, and prescription drugs containing an active ingredient that is a narcotic or dangerous drug,
   a. The individual has not illegally possessed or used any of these substances:
      i. Within the seven years before appointment as a peace officer;
      ii. More than a total of five times for all substances combined;
      iii. More than one time for all substances combined since turning 21 years of age; and
      iv. As a peace officer;
   b. Dangerous drugs. All dangerous drugs, including methamphetamine, amphetamine, speed, spice, and bath salts will be treated the same;
   c. Hallucinogens. All hallucinogens, including peyote, mushrooms, ecstasy, lysergic acid diethylamide (LSD), ketamine, mescaline, salvia, and phencyclidine (PCP) will be treated the same;
   d. Narcotics. All narcotics, including cocaine, heroin, and opioids will be treated the same; and
Prescription medications. All prescription medications containing an active ingredient that is a narcotic or dangerous drug will be treated the same. Possession or use for recreational purposes of a prescription medication containing an active ingredient that is a narcotic or dangerous drug is disqualifying under subsection (B)(2);

   a. All steroids, including anabolic-androgenic steroids and corticosteroids will be treated the same;
   b. The individual has not illegally possessed or used a steroid within the three years before appointment as a peace officer; and
   c. The individual has never illegally possessed or used a steroid as a peace officer;

4. Adderall.
   a. All uses of Adderall, except as prescribed by a physician, will be treated the same;
   b. The individual has not possessed or used Adderall, except as prescribed by a physician, within the three years before appointment as a peace officer, and
   c. The individual has never possessed or used Adderall, except as prescribed by a physician, as a peace officer; and

5. Over-the-counter products containing cannabidiol (CBD). The Board does not consider possession or use of over-the-counter products containing CBD, as allowed under federal and state law, as disqualifying an individual from appointment as a peace officer.

C. An agency head who wishes to appoint an individual whose illegal possession or use of marijuana or a dangerous drug or narcotic is presumed determined to be not for experimentation disqualifying under this Section may petition the Board for a determination that, given the unique circumstances of the individual’s possession or use, the use was for experimentation should not be disqualifying. The petition shall:
   1. Specify the type of drugs illegally possessed or used, the number of uses, the age at the time of each possession or use, the method by which the information regarding illegal possession or use of drugs came to the agency’s attention, and any attempt by the agency head to verify the accuracy of the information; and
   2. State the factors the agency head wishes the Board to consider in making its determination. These factors may include:
      a. The duration of possession or use,
      b. The motivation for possession or use,
      c. The time elapsed since the last possession or use,
      d. How the drug was obtained,
      e. How the drug was ingested,
      f. Why the individual stopped possessing or using the drug, and
      g. Any other factor the agency head believes is relevant to the Board’s determination.

D. An agency head who wishes to appoint an individual whose conduct is grounds to deny certification under R13-4-109 may petition the Board for a determination that the otherwise disqualifying conduct constitutes juvenile indiscretion. The petition shall:
   1. Specify the nature of the conduct, the number of times the conduct occurred, the method by which information regarding the conduct came to the agency’s attention, and any attempt by the agency head to verify the accuracy of the information; and
   2. Include sufficient information for the Board to determine that all of the following are true:
      a. The conduct occurred when the individual was less younger than age 18;
      b. The conduct occurred more than 10 years before application for appointment;
      c. The individual has consistently exhibited responsible, law-abiding behavior between the time of the conduct and application for appointment;
      d. There is reason to believe that the individual’s immaturity at the time of the conduct contributed substantially to the conduct;
      e. There is evidence that the individual’s maturity at the time of application makes reoccurrence of the conduct unlikely; and
      f. The conduct was not so egregious that public trust in the law enforcement profession would be jeopardized if the individual is certified.

3. If the Board finds that the information submitted is sufficient for the Board to determine that the factors listed in subsection (D)(2) are true, the Board shall determine that the conduct constituted juvenile indiscretion and grant appointment.

E. Code of Ethics. Because the people of the state of Arizona confer upon all peace officers the authority and responsibility to safeguard lives and property within constitutional parameters, a peace officer shall commit to the following Code of Ethics and shall affirm the peace officer’s commitment by signing the Code.

“I will exercise self-restraint and be constantly mindful of the welfare of others. I will be exemplary in obeying the laws of the land and loyal to the state of Arizona and my agency and its objectives and regulations. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secure unless revelation is necessary in the performance of my duty.

I will never take selfish advantage of my position and will not allow my personal feelings, animosities, or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, and without favor, malice, ill will, or compromise. I am a servant of the people and I recognize my position as a symbol of public faith. I accept it as a public trust to be held so long as I am true to the law and serve the people of Arizona.”

F. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-106. Background Investigation Requirements

A. Personal history statement. An individual who seeks to be appointed shall complete and submit to the appointing agency a personal history statement on a form prescribed by the Board before the start of a background investigation. The Board shall use the answers to questions contained in the personal history statement to determine whether the individual is eligible for certified status as a peace officer. The Board shall ensure that the questions concern whether the individual meets the minimum requirements for appointment, has engaged in conduct or a pattern of conduct that would jeopardize the public trust in the law enforcement profession, and is of good moral character.

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B. Investigative requirements for the applicant. To assist with the background investigation, an individual who seeks to be appointed shall provide the following:
1. Proof of United States citizenship. A copy of a birth certificate, United States passport, or United States naturalization papers is acceptable proof.
2. Proof of education. A copy of a diploma, certificate, or transcript is acceptable proof.
3. Record of any military discharge. A copy of the Military Service Record (DD Form 214 or NGB Form 22–Member 4), which documents the character of service, separation code, and reentry code, is acceptable proof.
4. Personal references. The names and addresses of at least three people who can provide information as personal references.
5. Previous employers or schools attended. The names and addresses of all employers and schools attended within the previous five years.
6. Residence history. The complete address for every location at which the individual has lived in the last five years.

C. Investigative requirements for the agency. A complete background investigation includes the following inquiries and a review of the returns to determine that the individual seeking appointment meets the requirements of R13-4-105, and that the individual’s personal history statement is accurate and truthful. For each individual seeking to be appointed, the appointing agency shall:
1. Query all the law enforcement agency records in jurisdictions listed in subsections (B)(5) and (B)(6);
2. Query the motor vehicle division driving record from any state listed in subsections (B)(5) and (B)(6);
3. Complete and submit a Fingerprint Card Inventory Sheet to the Federal Bureau of Investigation and Arizona Department of Public Safety for query;
4. Query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state listed in subsections (B)(5) and (B)(6);
5. Contact all personal references and employers listed in subsections (B)(4) and (B)(5) and document the answers to inquiries concerning whether the individual meets the standards of this Section;
6. Query the Board regarding the individual’s certification status, reports of alleged misconduct by the individual, and whether the individual has a Board case with an RF designation;
7. Query all Arizona law enforcement agencies where the individual was appointed or applied for appointment as a peace officer regarding records maintained under R13-4-108(C);

D. Administer a polygraph examination, unless prohibited by law. The results shall include a detailed report of the pre-test interview and any post-test interview and shall cover responses to all questions that concern:
   a. Minimum standards for appointment as required by R13-4-105,
   b. Truthfulness on the personal history statement, and
   c. Any Board case with an RF designation; and

If the results of the background investigation show that the individual meets minimum qualifications for appointment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character, complete a report that attests to those findings. If the agency is unable to obtain all information required under subsections (C)(1) through (C)(8), include in the report a description of the missing information and efforts made to obtain it.

R13-4-108. Agency Records and Reports

A. Agency reports. On forms prescribed by the Board, an agency shall submit:
1. A report by the agency head attesting that the requirements of R13-4-105 are met for each individual appointed. The report shall be submitted to the Board before an individual attends an academy or performs the duties of a peace officer.
2. A detailed description of, and supporting documentation for, any cause existing for suspension or revocation of certified status.

B. Agency records. An agency shall make its records available on request by the Board or staff. The agency shall maintain the following for each individual for whom certification is sought:
1. An application file that contains all of the information required in R13-4-103(E) and R13-4-106(C) for each individual appointed for certification as a peace officer;
2. A copy of reports submitted under subsection (A);
3. A signed copy of the affirmation to the Code of Ethics required under R13-4-105;
4. A written report of the results of a completed or partially completed background investigation and all written documentation obtained or recorded under R13-4-106, including information obtained regarding a Board case with an RF designation;
5. A completed medical report required under R13-4-107; and
6. A record of all continuing training, proficiency training, and firearms qualifications conducted under R13-4-111.

C. Record retention. An agency shall maintain the records required by this Section as follows:
1. For applicants investigated under R13-4-106 who are not appointed: three years;
2. For applicants who are appointed: five years from the date of termination, except records retained under subsection (B)(6) shall be retained for three years following completion of training; and
3. Reports of a polygraph examination given under R13-4-106(C)(6) shall be maintained in accordance with state law.

D. An agency shall make the records maintained under subsection (C) available, on request, to another agency completing a background investigation under R13-4-106(C).
R13-4-109. Denial, Revocation, Suspension, or Cancellation of Peace Officer Certified Status
A. Causes for denial, suspension, or revocation. The Board may deny certified status or suspend or revoke the certified status of a peace officer for:
   1. Failing to satisfy a minimum qualification for appointment listed in R13-4-105;
   2. Willfully providing false information in connection with obtaining or reactivating certified status;
   3. Having a medical, physical, or mental disability that substantially limits the individual’s ability to perform the duties of a peace officer effectively, or that may create a reasonable probability of substantial harm to the individual or others, for which a reasonable accommodation cannot be made;
   4. Violating a restriction or requirement for certified status imposed under R13-4-109.01, R13-4-103 (G), or R13-4-104;
   5. Illegally possessing or using marijuana, a dangerous drug, or a narcotic. Engaging in behavior that would be disqualifying under R13-4-105(B); and
   6. Using or being under the influence of spiritual liquor or duty without authorization;
B. Cause for mandatory revocation. Upon the receipt of a certified copy of a judgment of a felony conviction of a peace officer, the Board shall cancel the certified status of a peace officer if the Board determines that the individual was not qualified when certified status was granted, and revocation is not warranted under subsection (A).
C. Cause for cancellation. The Board shall cancel the certified status of a peace officer if the Board determines that the individual was not qualified when certified status was granted, and revocation is not warranted under subsection (A).
D. Action by the Board. Upon receipt of information that cause exists to deny certification, or to cancel, suspend, or revoke the certified status of a peace officer, the Board shall determine whether to initiate action regarding the retention of certified status. The Board may conduct additional inquiries or investigations to obtain sufficient information to make a fair determination.
E. Notice of action. The Board shall notify the affected individual of Board action to initiate proceedings regarding certified status for a cause listed under subsection (A) or (B). The notice shall be served as required by A.R.S. § 41-1092.04 and specify the cause for the action. Within 30 days after receiving the notice, the individual named in the notice shall advise the Board or its staff in writing whether a hearing is requested. Failure to file a written request for hearing at the Board office within 30 days after receiving the notice constitutes a waiver of the right to a hearing.
F. Effect of agency action. Action by an agency or a decision resulting from an appeal of that action does not preclude action by the Board to deny, cancel, suspend, or revoke the certified status of a peace officer.
R13-4-110. Basic Training Requirements
A. Required training for certified status. The Board shall not certify and an individual shall not perform the duties of a peace officer until the individual successfully completes basic training as follows:
   1. To be certified as a full-authority peace officer, an individual shall complete the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass the CFE.
      a. The Board shall ensure the CFE is administered in a secure manner.
      b. The Board shall ensure that the CFE is administered during the final two weeks of the full-authority peace officer basic training course.
      c. An individual passes the CFE by achieving a score of at least 70 percent on each of the three blocks of the CFE when each block is scored separately.
      d. An individual who fails one or more blocks of the CFE may retake the failed block one time before the individual is scheduled to graduate from the academy.
      e. An individual who fails a retake of a block of the CFE, as described in subsection (A)(1)(d), may retake the failed block once more within 60 days from the original testing date if the individual remains appointed by the original appointing agency or enrolled in the academy.
      f. An individual who fails a second retake of a block of the CFE, as described in subsection (A)(1)(e), may pursue certification only by repeating the 585-hour full-authority peace officer basic training course.
      g. An agency head is not required to continue to appoint an individual during the 60 days permitted for a second retake of a failed block of the CFE, as described in subsection (A)(1)(e).
   2. To be certified as a specialty peace officer, an individual shall complete a Board-prescribed specialty peace officer basic training course or the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a specialty peace officer.
   3. To be certified as a limited-authority peace officer, an individual shall complete a Board-prescribed limited-authority peace officer basic training course or the 585-hour full-authority peace officer basic training course, specified in R13-4-116, at an academy and pass blocks of the CFE prescribed under subsection (A)(1) that are relevant to the duties of a limited-authority peace officer.
B. Exceptions. The training requirement in subsection (A) is waived when an agency uses an individual during a:
   1. Riot, insurrection, disaster, or other event that exhausts the peace officer resources of the agency and the individual is attending an academy; or
   2. Field training program that is a component of a basic training program at an academy, and the individual is under the direct supervision and control of a certified peace officer.
C. Firearms training required. Unless otherwise specified in this Section, a peace officer shall complete the firearms qualification courses required in R13-4-116(E) before the peace officer carries a firearm in the course of duty.
D. Waiver of required training. An agency, on behalf of an individual, may apply to the Board for a waiver of required training if the individual’s certified status is lapsed or the individual has functioned in the capacity of a peace officer in another state or for a federal law enforcement agency. The Board shall grant, on a case-by-case basis, a waiver of required training if the Board determines that the best interests of the law enforcement profession are served, the public welfare and safety are not jeopardized, and:

1. The appointing agency submits to the Board written verification of the individual’s previous experience and training on a form prescribed by the Board;
2. The individual meets the minimum qualifications listed in R13-4-105;
3. The individual complies with the requirements of R13-4-103(E)(1);
4. The appointing agency complies with the requirements of R13-4-106(C);
5. The individual successfully completes an examination measuring the individual’s comprehension of the 585-hour full-authority peace officer basic training course as follows:
   a. If the individual has at least two years of active status experience as a certified peace officer in another state or for a federal law enforcement agency during the last three years, has been on inactive status for no more than one year, and submits to the Board basic training and in-service training records that the Board determines demonstrate substantial comparability to Arizona’s 585-hour full-authority peace officer basic training course, the individual shall pass all blocks I and IV of the CFE; and
   b. If the individual’s certification is lapsed, the individual shall pass all blocks of the CFE; and
   c. If the individual’s out-of-state or federal law enforcement experience does not meet the criterion in subsection (D)(5)(a), but the Board determines that the individual’s basic training and in-service training records demonstrate substantial comparability to Arizona’s full-authority peace officer basic training course, the individual shall pass all blocks of the CFE; and
   d. The provisions in subsections (A)(1)(c) through (f) apply to this subsection; and
6. In addition to the examination required under subsection (D)(5), the individual satisfactorily performs the practical demonstrations of demonstrates proficiency in the areas of physical conditioning, vehicle operations, pursuit operations, and firearms, including firearms qualifications, as required under R13-4-116(E)(1).

E. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-111. Certification Retention Requirements

A. Continuing training required.

1. The following continuing training standards apply for a peace officer to retain certification:
   a. A full-authority, specialty, or limited-authority peace officer shall complete eight hours of continuing training each year beginning January 1 following the date the officer is certified.
   b. A specialty or limited-authority peace officer shall complete eight hours of continuing training every three years beginning January 1 following the date the officer is certified.

2. Continuing training course standards for peace officers. The provider of a continuing training course for peace officers shall ensure that:
   a. The course curriculum consists of advanced or remedial instruction on one or more of the topic areas specified in R13-4-116(E)(1) topics related to law enforcement operations and peace officer functions and skills;
   b. The instructor meets the requirements of R13-4-114(A)(2)(a) or (b);
   c. An attendance verification certificate, which includes a statement that the provider believes the course meets the requirements of this Section, is given to each attendee for audit purposes;
   d. If the training provider is an agency, an attendance roster and lesson plan or other information sufficient to determine compliance with this Section is made available upon request by the Board for Board audit;
   e. If the training provider is an outside provider that does not seek confirmation that the course contains advanced or remedial instruction on one or more of the topic areas specified in R13-4-116(E)(1), a copy of the lesson plan or other information sufficient to determine compliance with this Section is given to each attendee; and
   f. If the training provider is an outside provider that seeks and receives confirmation under subsection (A)(3)(c), a copy of the Board’s written confirmation is distributed to each attendee.

3. Training providers. Courses of continuing training may be conducted by the Board, an agency, or an outside provider.
   a. All Board-provided continuing training courses meet the requirements of this Section.
   b. Agency-provided continuing training courses meet the requirements of this Section if all the requirements of subsection (A)(2) are met.
   c. Outside-provider continuing training courses meet the requirements of this Section if all the requirements of subsection (A)(2) are met. The Board shall may inform an outside provider in writing whether a continuing training course meets these requirements if a course package is submitted to the Board, in a timely manner before the training is conducted, that includes:
      i. A description of the training course that allows the Board to determine whether the course contains advanced or remedial instruction on one or more of the topic areas specified in R13-4-116(E)(1);
      ii. The name of the individual, or if applicable, the institution or organization, providing the training with sufficient information for the Board to determine whether the requirements of R13-4-114(A)(2)(a) or (b) are met;
      iii. A course schedule listing the number of instructional hours; and
      iv. An attestation that the outside provider shall, upon request by the Board, make the lesson plan or other information sufficient to determine compliance with this Section available for Board audit, and shall ensure that the requirement of subsection (A)(2)(b) is met.
   d. The Board’s confirmation that a continuing training course conducted by an outside provider meets the requirements of this Section is not an evaluation of the content of the course. Rather, confirmation indicates only that the topic of the course is consistent with R13-4-116(E)(1). Confirmation is effective as long as the information submitted to the Board under subsection (A)(3)(c) is unchanged.
e. The Board shall withdraw confirmation that a continuing training course conducted by an outside provider meets the requirements of this Section if the Board receives information that the course content conflicts with the basic peace officer course content and the Board finds that the conflict creates an issue of public safety, liability, or ethics.

f. If an agency wishes to host an outside-provider continuing training course:
   i. Both the agency and outside provider shall comply with the provisions of subsections (A)(3)(c)(i) through (iii);
   ii. The agency shall provide the confirmation described under subsection (A)(2)(c);
   iii. The outside provider shall distribute to each attendee an attendance verification certificate described under subsection (A)(2)(c) and a copy of the confirmation received under subsection (A)(3)(i)(ii); and
   iv. Upon request, the agency shall make available to the Board the lesson plan and other information used to determine the outside-provider continuing training course met the requirements of this Section.

4. Required records. A peace officer shall provide to the appointing agency a copy of all documents provided to the peace officer under subsection (A)(2)(c), (A)(2)(c), or (A)(3)(f)(iii). The appointing agency shall maintain the documents and make them available, upon request by the Board, for Board audit.

B. Proficiency training required.

1. To retain certification, a peace officer who is not in a supervisory position Sergeant or higher rank within the peace officer’s appointing agency shall complete eight hours of proficiency training every three years beginning January 1, following the date the peace officer is certified.

2. Proficiency training course standards. The provider of a proficiency training course for peace officers shall ensure that:
   a. The training requires physical demonstration of one or more performance objectives included in the 585-hour full-authority peace officer basic training course under R13-4-116 and demonstration of the use of judgment in the application of the physical act;
   b. The curriculum consists of advanced or remedial instruction on one or more of the following topic areas:
      i. Arrest and control tactics,
      ii. Tactical firearms (not the annual firearms qualification required under this Section),
      iii. Emergency vehicle operations,
      iv. Pursuit operations,
      v. First aid and emergency care,
      vi. Physical conditioning, and
      vii. High-risk stops;
   c. The instructor meets the requirements of R13-4-114(A)(2)(c);
   d. An attendance verification certificate, which includes a statement that the provider believes the course meets the requirements of this Section, is given to each attendee for audit purposes; and
   e. If the training provider is an agency, an attendance roster and lesson plan or other information sufficient to determine compliance with this Section is made available upon request by the Board.

3. Training providers. Courses that qualify for proficiency training credit may be conducted by the Board or an agency.
   a. All Board-provided proficiency training courses meet the requirements of this Section.
   b. Agency-provided proficiency training courses meet the requirements of this Section if all the requirements of subsection (B)(2) are met.

4. Required records. A peace officer shall provide to the appointing agency a copy of all documents provided to the peace officer under subsection (B)(2)(d). The appointing agency shall maintain and make the document available, upon request by the Board, for Board audit.

C. Firearms qualification required. A peace officer authorized to carry a firearm shall qualify to continue to be authorized to carry a firearm each year beginning January 1 following certification by completing a Board-prescribed firearms qualification course, using a service handgun and service ammunition, and a Board-prescribed target identification and judgment course.

1. Firearms qualification course standards.
   a. A firearms qualification course is a course:
      i. Prescribed under R13-4-116(E)(1), or
      ii. Determined by the Board to measure firearms competency at least as accurately as courses prescribed under R13-4-116(E)(1).  
   b. The provider of a firearms qualification course shall ensure that the course includes:
      i. A timed accuracy component;
      ii. A type and style of target that is equal to, or more difficult than, targets used in a course prescribed under R13-4-116(E)(1); and
      iii. A success criterion that is equal to, or more difficult than, criteria used in a course prescribed under R13-4-116(E)(1).

2. Firearms target identification and judgment course standards.
   a. A firearms target identification and judgment course is a course:
      i. Prescribed under R13-4-116(E)(1), or
      ii. Determined by the Board to measure target identification and judgment competency at least as accurately as courses prescribed under R13-4-116(E)(1).  
   b. The provider of a firearms target identification and judgment course shall ensure that the course includes:
      i. A timed accuracy component;
      ii. A type and style of target discrimination test that is equal to, or more difficult than, those used in a course prescribed under R13-4-116(E)(1); and
      iii. A success criterion that is equal to, or more difficult than, criteria used in a course prescribed under R13-4-116(E)(1).  

   3. The provider of a firearms qualification or firearms target identification and judgment course shall ensure that the course is taught by a firearms instructor who meets the requirements of R13-4-114(A)(2)(c).
D. This Section is effective six months after filing with the Secretary of State as required by A.R.S. § 41-1823(A).

R13-4-114. Minimum Course Requirements

A. Instructors. An academy administrator or agency head shall ensure that only an instructor who meets the requirements of this Section facilitates a Board-prescribed course.

1. Instructor classifications.
   a. General instructor. An individual qualified to teach topics not requiring a proficiency instructor under subsection (A)(1)(c).
   b. Specialist instructor. An individual, other than an Arizona peace officer, qualified to teach a topic in which the instructor has special expertise but who does not qualify for general instructor status.
   c. Proficiency instructor. An individual qualified to teach a topic area listed in R13-4-111(B)(2)(b).

2. Instructor qualification standards.
   a. A general instructor shall meet the following requirements of subsections (A)(2)(a)(i) and (A)(2)(a)(ii) and either the requirement of subsection (A)(2)(a)(iii) or (A)(2)(a)(iv):
      i. Have two years’ experience as a certified peace officer;
      ii. Maintain instructional competency;
      iii. Successfully complete a Board-sponsored instructor training course or an instructor training course that contains all of the performance objectives and demonstrations of the Board-sponsored instructor course;
      iv. Possess a community college or university teaching certificate.
   b. A specialist instructor shall meet the requirements of subsections (A)(2)(b)(i) and (A)(2)(b)(ii) and either subsection (A)(2)(b)(iii) or subsections (A)(2)(b)(iv) and (A)(2)(b)(v):
      i. Be nominated by an agency head or the administrator of an academy authorized to provide a peace officer basic training course;
      ii. Maintain instructional competency;
      iii. Possess a professional license or certification other than a peace officer certification that relates to the topics to be taught;
      iv. Provide documentation to the agency head or academy administrator for forwarding to the Board that demonstrates the expertise and ability to enhance peace officer training in a special field;
      v. Possess a community college or university teaching certificate.
   c. A proficiency instructor shall meet the requirements of subsections (A)(2)(c)(i) and (A)(2)(c)(ii) and either subsection (A)(2)(c)(iii) or (A)(2)(c)(iv):
      i. Meet the requirements for general instructor;
      ii. Maintain instructional competency;
      iii. Successfully complete a proficiency instructor course in a topic area listed in R13-4-111(B)(2)(b) that includes a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic training course listed in R13-4-116(E);
      iv. Complete a form prescribed by the Board that documents advanced training and experience in the topic area including a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic training course listed in R13-4-116(E);
   d. A proficiency instructor shall meet the requirements of subsection (A)(2)(c) separately for each topic area listed in R13-4-111(B)(2)(b) for which the proficiency instructor seeks qualification.

3. Instructional competency. An academy administrator or an agency head shall immediately notify the Board in writing of any instructor:
   a. Who jeopardizes the safety of students or the public,
   b. Whose instruction violates acceptable training standards,
   c. Who is grossly deficient in performance as an instructor, or
   d. Who is a proficiency instructor and fails to complete satisfactorily the competency assessment to instruct in the instructor’s topic area within the 585-hour full-authority peace officer basic training course.

4. If the Board determines that an instructor fails to comply with the provisions of this Section, has an instructional deficiency, or fails to maintain proficiency, any course facilitated by the instructor does not meet the requirements of this Section.

B. Curriculum standards. An academy administrator or agency head shall ensure that the curriculum for a Board-prescribed course meets the following standards:

1. Curriculum.
   a. Curriculum development employs valid, job-based performance objectives and learning activities, and promotes student, officer, and public safety, as determined by a scientifically conducted validation study of the knowledge, skills, abilities, and aptitudes needed by the affected category of Arizona peace officer.
   b. The curriculum meets or exceeds the requirements of subsection (B)(2), unless otherwise provided in this Section.

2. Curriculum format standard. The curriculum consists of the following:
   a. A general statement of instructional intent that summarizes the desired learning outcome, is broad in scope, and includes long-term or far-reaching learning goals;
   b. Lesson plans containing:
      i. Course title,
      ii. Hours of instruction,
      iii. Materials and aids to be used,
      iv. Instructional strategy,
      v. Topic areas in outline form,
      vi. Performance objectives or learning activities,
      vii. Success criteria, and
viii. Reference material;
c. Performance objectives consisting of at least the following components:
   i. The student, which is an individual or group that performs a behavior as the result of instruction;
   ii. The behavior, which is an observable demonstration by the student at the end of instruction that shows that the objective is achieved and allows evaluation of the student’s capabilities to perform the behavior; and
   iii. The conditions, which is a description of the important conditions of instruction or evaluation under which the student performs the behavior. Unless specified otherwise within the lesson plan, instruction and evaluation will be in written or oral form;
d. Learning activities. A student is not required to demonstrate mastery of learning activities as a condition for successfully completing the training. Learning activities are subject areas for which performance objectives are not appropriate because either:
   i. Reliable and meaningful assessment of mastery of the material would be extremely difficult or impossible, or
   ii. Mastery of the material is not likely to bear a direct relationship to the ability to perform entry-level peace officer job duties; and

e. The following decimal numbering system to provide a logical means of organization:
   i. Functional area (1.0, 2.0, 3.0);
   ii. Topic area (1.1.0, 1.2.0, 1.3.0), and
   iii. Performance objective or learning activity (1.1.1, 1.1.2, 1.1.3).

C. The Board shall maintain and provide upon request a copy of curricula that meet the standards of this Section.

R13-4-116. Academy Requirements
A. Unless otherwise provided in this Article, only the basic training provided by an academy that the Board determines meets the standards prescribed in this Section may be used to qualify for certified peace officer status.

B. The academy administrator shall ensure that the academy has the following:
1. A classroom with adequate heating, cooling, ventilation, lighting, and space;
2. Chairs with tables or arms for writing;
3. Visual aid devices for classroom presentation;
4. Equipment in good condition for specialized instruction;
5. A safe driving range for conducting the defensive and pursuit driving course;
6. A firing range with adequate backstop to ensure the safety of all individuals on or near the range; and
7. A safe location for practical exercises.

C. Administrative requirements. The academy administrator shall ensure that the academy:
1. Establishes and maintains written policies, procedures, and rules concerning:
   a. Operation of the academy,
   b. Entrance requirements,
   c. Student and instructor conduct, and
   d. Administering examinations;
2. Admits only individuals who meet the requirements of R13-4-105, as attested to by the appointing agency or, in the case of an open enrollee, by the academy administrator, on a form A1 or A4, as applicable, which is submitted to prescribed by the Board on or before the first day of training;
3. Administers to each student at the beginning of each academy session a written examination prescribed by the Board measuring competency in reading and writing English;
4. Reviews examination results with each student and ensures that the student is shown any necessary corrections and signs and dates an acknowledgment that the student participated in the review;
5. Requires instructors to use lesson plans that cover the course content and list the performance objectives to be achieved and learning activities to be used;
6. Administers written, oral, or practical demonstration examinations that measure the attainment of the performance objectives;
7. Ensures that a student meets the success criteria for police proficiency skills under subsection (E)(1);
8. Provides remedial training for a student who misses a class before allowing the student to graduate; and
9. Refuses to graduate a student who is absent more than 32 hours from the 585-hour full-authority peace officer basic training course or 16 hours from the specialty or limited-authority peace officer basic training course.

D. Basic course requirements. The academy administrator shall ensure that the academy uses curricula that meet the requirements of R13-4-114 for the following basic courses of instruction.
1. The 585-hour full-authority peace officer basic training course shall include all of the topics listed in each of the following functional areas:
   a. Functional Area I - Introduction to Law Enforcement.
      i. Criminal justice systems,
      ii. History of law enforcement,
      iii. Law enforcement services,
      iv. Supervision and management,
      v. Ethics and professionalism, and
      vi. Stress management.
   b. Functional Area II - Law and Legal Matters.
      i. Introduction to criminal law;
      ii. Laws of arrest;
      iii. Search and seizure;
      iv. Rules of evidence;
      v. Summonses, subpoenas, and warrants;
      vi. Civil process;
      vii. Administration of criminal justice;
      viii. Juvenile law and procedures;
      ix. Courtroom demeanor;
      x. Constitutional law;
      xi. Substantive criminal law, A.R.S. Titles 4, 13, and 36; and
      xii. Liability issues.
   c. Functional Area III - Patrol Procedures.
      i. Patrol and observation (part 1),
      ii. Patrol and observation (part 2),
      iii. Domestic violence,
      iv. Mental illness,
      v. Crimes in progress,
      vi. Crowd control formations and tactics,
      vii. Bomb threats and disaster training,
      viii. Intoxication cases,
      ix. Hazardous materials,
      xi. Bias-motivated crimes,
      xii. Fires, and
      xiii. Civil Disputes.
   d. Functional Area IV - Traffic Control.
      i. Impaired driver cases;
      ii. Traffic citations;
      iii. Traffic collision investigation;
      iv. Traffic collision (practical);
      v. Traffic direction; and
   e. Functional Area V - Crime Scene Management.
      i. Preliminary investigation and crime scene management,
      ii. Crime scene investigation (practical),
      iii. Physical evidence procedures,
      iv. Interviewing and questioning,
      v. Fingerprinting,
      vi. Sex crimes investigations,
      vii. Death investigations including sudden infant death syndrome,
      viii. Organized crime activity,
      ix. Investigation of specific crimes, and
      x. Narcotics and dangerous drugs.
   f. Functional Area VI - Community and Police Relations.
      i. Cultural awareness,
      ii. Victimology,
      iii. Interpersonal communications,
      iv. Crime prevention, and
      v. Police and the community.
   h. Functional Area VIII - Police Proficiency Skills.
      i. First aid,
      ii. Firearms training (including firearms qualification),
      iii. Physical conditioning,
      iv. High-risk stops,
G. Reports required. The academy administrator shall submit to the Board:

1. A record of all students attending the academy;
2. A manual containing the policies, procedures, and rules of the academy;
3. A document signed by each student indicating that the student received and read a copy of the academy policies, procedures, and rules;
4. An application for each student, on a form prescribed by the Board, from the appointing agency or, in the case of an open enrollee, from the academy administrator, attesting that the requirements of R13-4-105 are met;
5. A copy of all lesson plans used by instructors;
6. An annually signed and dated acknowledgment that the academy administrator reviewed and approved each lesson plan used at the academy;
7. A copy of all examinations, answer sheets or records of performance, and examination review acknowledgments;
8. An attendance roster for all classes or other record that identifies absent students;
9. A record of classes missed by each student and the remedial training received;
10. A record of disciplinary actions for all students; and
11. A file for each student containing the student’s performance history.

H. Required inspections. Before an academy provides training to individuals seeking certification for any category of peace officer, the Board staff shall conduct an onsite inspection of the academy to determine compliance with this Section and R13-4-114. Board staff shall conduct additional inspections as often as the Board deems necessary.

1. Within 30 days after the inspection, the Board staff shall provide to the academy administrator an inspection report that lists any deficiencies identified and remedial actions the academy is required to take to comply with the standards of this Section and R13-4-114.
2. Within 30 days after receipt of the inspection report, the academy administrator shall submit to the Board a response that indicates the progress made to complete the remedial actions necessary to correct the deficiencies described in the inspection report. The academy administrator shall submit to the Board additional responses every 30 days until all remedial action is complete.
3. Within 30 days after receipt of notice that all remedial action is complete, Board staff shall conduct another inspection.
4. Following each inspection, Board staff shall present an inspection report to the Board describing the academy’s compliance in meeting the standards of this Section and R13-4-114.

I. If an academy does not conduct a peace officer basic training course for 12 consecutive months, the academy shall not provide training until Board staff conducts another inspection as required by subsection (H). Otherwise, an academy may continue to provide training unless the Board determines that the academy is not in compliance with the standards of this Section or R13-4-114.

J. If the Board finds that an academy fails to comply with the provisions of this Section or R13-4-114, the academy shall not provide training to individuals seeking to be certified as peace officers.

K. An academy administrator shall ensure that an open enrollee is admitted only after the academy administrator complies with every requirement of an agency or agency head imposed by R13-4-105, R13-4-106, R13-4-107, and R13-4-108 except for R13-4-106(C)(4).
# Notices of Proposed Expedited Rulemaking

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

Questions about the interpretation of expedited rules should be addressed to the agency promulgating the rules. Refer to item 4 to contact the person charged with the rulemaking.

## Notice of Proposed Expedited Rulemaking

**Title 18. Environmental Quality**  
**Chapter 13. Department of Environmental Quality**  
**Solid Waste Management**

[R20-173]

## Preamble

1. **Article, Part, or Section Affected (as applicable)**  
   **Rulemaking Action**
   - R18-13-201  
   - Amend
   - R18-13-703  
   - Amend
   - R18-13-1301  
   - Amend
   - R18-13-1302  
   - Amend
   - R18-13-1303  
   - Amend
   - R18-13-1304  
   - Amend
   - R18-13-1601  
   - Amend
   - R18-13-1602  
   - Amend
   - R18-13-1603  
   - Amend
   - R18-13-1604  
   - Amend
   - R18-13-1607  
   - Amend
   - R18-13-1608  
   - Amend
   - R18-13-1610  
   - Amend
   - R18-13-1613  
   - Amend

2. **Citations to the agency’s statutory authority for the rulemaking to include the authorizing statute (general) and the implementing statute (specific):**
   - Authorizing statutes: A.R.S. §§ 41-1003, 49-104(B)(4), 49-705, and 49-761(A)
   - Implementing statutes: A.R.S. §§ 49-701.01(C), 49-762, 49-762.03(F), 49-857(C), and 49-851 through 49-868

3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rulemaking:**
   - Notice of Rulemaking Docket Opening: 26 A.A.R. 1947, September 18, 2020

4. **The agency’s contact person who can answer questions about the rulemaking:**
   - Name: Caitlin Caputo or Mark Lewandowski
   - Address: Department of Environmental Quality  
   - Waste Programs Division  
   - 1110 W. Washington St.  
   - Phoenix, AZ 85007
   - Telephone: (602) 771-4677 or (602) 771-2230
   - Fax: (602) 771-4272
   - E-mail: caputo.caitlin@azdeq.gov or lewandowski.mark@azdeq.gov

5. **An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:**
   - The proposed changes will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. The changes correct outdated citations, clarify the language of a rule without changing the effect of the rule, and implement, without material change, courses of action proposed in a five-year review report approved by the Governor’s Regulatory Review Council on March 3, 2020.
   - The definition of Petroleum Contaminated Soil (PCS) is provided in A.R.S. § 49-851(A)(3) and has been unchanged since 1996. Since the current definition in Rule 1601, subsections (8) and (13), of PCS predates the 1996 statute, ADEQ is using A.R.S. § 49-851(A)(3) as a framework for the updated definition of PCS in this rulemaking, but is not including a level for the chemical ace-naphthylene since ADEQ never determined a level for that chemical in its SRL rules. The result will be unification of the rule and statutory definitions of PCS.
6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
   The Department of Environmental Quality did not review or rely on any study for 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 proposed changes do not diminish a previous grant of authority of a political subdivision of this state.

8. The preliminary summary of the economic, small business, and consumer impact:
   Not applicable, in accordance with A.R.S. § 41-1055(D)(2).

9. The agency’s contact person who can answer questions about the economic, small business, and consumer impact statement:
   Not applicable

10. Where, when, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(C):
    Close of Comment: By 5:00 p.m., Thursday, November 12, 2020.
    Written comments may be provided to wasterulemaking@azdeq.gov or either of the individuals listed in item 4 no later than the close of comment.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:
    There are no other matters prescribed by statutes applicable specifically to ADEQ or this specific rulemaking.
    a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:
       The Article 7 rule, which was amended after July 29, 2010, does not require the issuance of a permit. The rules in Articles 2, 13, and 16, were adopted before July 29, 2010, so, under A.A.C. R1-6-301(A)(13) there is no compliance requirement with A.R.S. § 41-1037.
    b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:
       There are no federal laws corresponding to the rules in Articles 2, 7, 13, and 16. R18-13-1607(A) uses the word “only” and appears to prohibit disposal at a facility out of state, therefore subsection (A) should be clarified to avoid inadvertent prohibition on out of state activities.
    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:
       Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:
    None

13. The full text of the rule follows:

   TITLE 18. ENVIRONMENTAL QUALITY
   CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
   SOLID WASTE MANAGEMENT

   ARTICLE 2. SOLID WASTE DEFINITIONS; EXEMPTIONS
   Section
   R18-13-201. Land Application of Biosolids Exemption

   ARTICLE 7. SOLID WASTE FACILITY PLAN REVIEW FEES
   Section
   R18-13-703. Review of Bill

   ARTICLE 13. SPECIAL WASTE
   Section
   R18-13-1301. Definitions
   R18-13-1302. Special Waste Generator Manifesting Requirements
   R18-13-1303. Special Waste Shipper Manifesting Requirements
   R18-13-1304. Special Waste Receiving Facility Manifesting Requirements

   ARTICLE 16. BEST MANAGEMENT PRACTICES FOR PETROLEUM CONTAMINATED SOIL
   Section
   R18-13-1601. Definitions
   R18-13-1602. Applicability
ARTICLE 2. SOLID WASTE DEFINITIONS; EXEMPTIONS

R18-13-201. Land Application of Biosolids Exemption
A. This Section applies only to biosolids as defined in R18-13-1501(7). The land application of biosolids, when placed on or applied to the land in full conformity with 18 A.A.C. 13, Article 15 18 A.A.C. 9, Article 10 and A.R.S. § 49-761(F), and if the site of land application has ceased to receive application of biosolids and all applicable site restrictions set by 18 A.A.C. have been satisfied, is exempt statewide from the definition of solid waste found at A.R.S. § 49-701.01(A). This exemption applies only when the biosolids and the soil to which it has been applied remain at the site of the application.

B. No change

ARTICLE 7. SOLID WASTE FACILITY PLAN REVIEW FEES

R18-13-703. Review of Bill
A. No change
B. Unless the Department and applicant agree otherwise, the review shall take place within 30 days of receipt by the Department of the request. The Director shall make a final decision as to whether the time and costs billed are correct and reasonable. The final decision shall be mailed to the applicant within 10 working days after the date of the review and is subject to appeal pursuant to A.R.S. §§ 49-769 through 1092.12.

ARTICLE 13. SPECIAL WASTE

R18-13-1301. Definitions
In addition to the terms prescribed in A.R.S. § 49-851, the terms in this Article shall have the following meanings:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change

12. “Special waste manifest” means a form provided by the Department, shown as Exhibit A Appendix B to this Article, and used to identify the origin, quantity, composition, routing, and destination of special waste during its transportation from a generator’s facility to a special waste receiving facility.

13. No change
14. No change

R18-13-1302. Special Waste Generator Manifesting Requirements
A. A generator shall request a generator identification number on a form provided by the Director, and shown as Exhibit B Appendix A to this Article, prior to shipping special waste. Within 30 days of receiving the completed form, the Director shall issue the identification number to the generator.

B. No change

1. No change
2. No change
3. No change
4. No change

C. No change

D. No change

E. No change

1. No change
2. No change

F. No change

G. No change

R18-13-1303. Special Waste Shipper Manifesting Requirements
A. A special waste shipper who receives special waste in Arizona for transport to a special waste receiving facility in Arizona shall request a special waste shipper identification number on a form provided by the Director and shown as Exhibit B Appendix A to this Article. The Director shall issue an identification number within 30 days of receipt of the completed form.

B. A special waste shipper shall:
1. Accept special waste for intrastate shipment to a special waste receiving facility only if the waste is accompanied by a special waste manifest which is completed and signed in accordance with the provisions of R18-8-302 R18-13-1302.

2. No change
   a. No change
   b. No change

C. No change

R18-13-1304. Special Waste Receiving Facility Manifesting Requirements

A. A special waste receiving facility shall request an identification number on a form provided by the Director, and shown as Exhibit B Appendix A to this Article, and obtain the number prior to receiving special waste. The Department shall issue the identification number within 30 days of receipt of the completed form.

B. No change
   1. No change
   2. No change
   3. No change

C. No change

D. No change
   1. No change
   2. No change

ARTICLE 16. BEST MANAGEMENT PRACTICES FOR PETROLEUM CONTAMINATED SOIL

R18-13-1601. Definitions

In addition to definitions in A.R.S. § 49-851 and A.A.C. R18-13-1301, the terms in this Article shall have the following meanings:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. “Non-regulated soils” means soils contaminated with total petroleum hydrocarbon (TPH) levels equal to or less than 100 mg/kg that are neither hazardous waste, PCS, nor solid waste PCS, and which do not constitute an environmental nuisance pursuant to A.R.S. §§ 49-141 through 49-144.
8. “PCS” means petroleum contaminated soils, which are not hazardous waste or solid waste PCS, which are excavated for storage, treatment, or disposal, and which contain contaminants as described by any of the following:
   a. TPH which exceeds concentrations of 5,000 mg/kg,
   b. Benzene which exceeds concentrations of 0.13 mg/kg,
   c. Toluene which exceeds concentrations of 200 mg/kg,
   d. Ethylbenzene which exceeds concentrations of 68 mg/kg,
   e. Total xylene which exceeds concentrations of 11 mg/kg.
9. No change
10. No change
11. No change
12. No change
13. “Solid waste PCS” means excavated soils contaminated with petroleum, which are not hazardous waste and which meet any of the following not PCS but that contain one or more of the contaminants in the list below at the following concentrations:
   a. Have TPH concentrations which exceed 100 mg/kg but which are at or below 5,000 mg/kg; Benzene greater than or equal to 0.65 but less than 1.4 mg/kg;
   b. Are soils contaminated with non-fuel, non-solvent petroleum products with a TPH which exceeds 100 mg/kg; Toluene greater than or equal to 650 mg/kg;
c. Ethylbenzene greater than or equal to 400 mg/kg;

d. Total Xylenes greater than or equal to 270 but less than 420 mg/kg;

e. Anthracene greater than or equal to 22,000 but less than 240,000 mg/kg;

f. Benz(a)anthracene greater than or equal to 6.9 but less than 21 mg/kg;

g. Benzo(a)pyrene greater than or equal to 0.69 but less than 2.1 mg/kg;

h. Benzo(b)fluoranthene greater than or equal to 6.9 but less than 21 mg/kg;

i. Benzo(k)fluoranthene greater than or equal to 69 but less than 210 mg/kg;

j. Chrysene greater than or equal to 680 but less than 2,000 mg/kg;

k. Dibenz(a,h)anthracene greater than or equal to 0.69 but less than 2.1 mg/kg;

l. Fluoranthene greater than or equal to 2,300 but less than 22,000 mg/kg;

m. Fluorene greater than or equal to 2,700 but less than 26,000 mg/kg;

n. Indeno-pyrene greater than or equal to 6.9 but less than 21 mg/kg;

o. Naphthalene greater than or equal to 56 but less than 190 mg/kg;

p. Pyrene greater than or equal to 2,300 but less than 29,000 mg/kg.

14. No change

15. No change

16. “Temporary treatment facility” means an on-site treatment facility, or an off-site treatment facility owned or operated by the generator of PCS, where the PCS is treated to reduce TPH, benzene, toluene, ethylbenzene, or total xylene concentrations—the contaminants that make it PCS and which complies with the requirements of R18-13-1610.

17. “Total petroleum hydrocarbons” or “TPH” means the sum of the aliphatic and aromatic hydrocarbon constituents contained in petroleum, as determined through laboratory testing.

18. “Treatability study” means a study in which a special waste is subjected to a treatment process to determine any one or more of the following:

a. No change

b. No change
c. No change
d. No change
e. No change

19. “Treatment facility” means a special waste receiving facility at which PCS is treated to reduce the PCS contaminants and, if in the state of Arizona, has been Department-approved by the Director pursuant to A.R.S. § 49-857 or has qualified for Interim Use Facility status pursuant to A.R.S. § 49-858, and at which PCS receives treatment to reduce TPH or benzene, toluene, ethylbenzene, or total xylene concentrations.

R18-13-1602. Applicability

A. No change

B. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

C. No change

D. PCS incorporated into asphalt for use in paving is not subject to other provisions of this Article if the owner or operator of the facility where the asphalt is produced does all of the following:

1. Notifies the Department in writing at least 30 days prior to commencing such incorporation,

2. Maintains records in accordance with R18-13-1614,

3. Stores the PCS prior to incorporation in accordance with R18-13-1611,

4. Uses only soil characterized as PCS based on TPH concentrations as set forth in R18-13-1601(9)(a).

E. Requirements in this Article for Department-approved facilities do not apply to facilities that are out of state or in Indian Country.

R18-13-1603. Exemptions

A. No change

B. No change

C. No change

D. No change

E. Soil characterized as PCS solely because the TPH concentration exceeds 5,000 mg/kg may be disposed in accordance with A.R.S. § 49-761 et seq. and shall be exempt from the requirements of this Article, except that the generator shall comply only with the requirements for accumulation sites in R18-13-1612, if either of the following conditions are met:

1. The mathematical product of the TPH (mg/kg) and the number of tons excavated is less than 10,000.

2. The mathematical product of the TPH (mg/kg) and the number of cubic yards excavated is less than 8,500.

R18-13-1604. Waste Determination

A. No change

1. No change
No change

B. No change

1. No change
2. No change

C. Where multiple samples are collected from a stockpile of contaminated soil generated from a single source, the stockpile shall be considered as PCS if the arithmetic mean of the TPH concentrations of the samples exceeds 5,000 mg/kg. A sample having a concentration of total petroleum hydrocarbons which is below the analytical method detection limit or reporting limit shall be assigned a concentration which is 1/2 of the reported analytical method detection limit or reporting limit.

D. If soil excavated during the initial investigation of a site to determine the extent of contamination is PCS, the PCS may be returned into the excavation site from which the soil was removed if all of the following conditions are met:

1. There is no freestanding liquid within the excavation, unless the State Fire Marshal or other jurisdictional fire authority directs otherwise, and the requirements of subsections (2) and (3) of this subsection are met.
2. The owner or operator provides notification to the Department that the PCS has been returned to the excavation within 14 days after the return of the PCS to the excavation.
3. The owner or operator completes a site characterization within 120 days and implements remediation within 150 days after the date the site characterization began.

R18-13-1607. Facility Approval; Application

A. PCS shall be treated, stored, or disposed only at a PCS disposal facility, storage facility, treatment facility, or temporary treatment facility. A facility located in Arizona shall not be constructed or operated prior to obtaining written approval from the Department, except as provided for in A.R.S. § 49-858.

B. No change

C. No change

1. No change
2. No change

D. No change

E. No change

F. No change

R18-13-1608. General Design and Performance Standards

A. No change

B. A facility which receives PCS for treatment, storage, or disposal shall meet the general design criteria of either subsection (B)(1) or (2) as follows:

1. The PCS shall be held within a containment system designed and constructed to preclude the migration of contaminants into subsurface soil, groundwater, or surface water. The containment system shall meet the following criteria:
   a. Maintain a maximum hydraulic conductivity permeability coefficient of no more than 1 x 10^{-7} cm/sec;
   b. No change
   c. No change
2. No change
   a. No change
   b. No change
   c. No change

C. No change
R18-13-1610. Temporary Treatment Facility

A. No change

B. A temporary treatment facility shall obtain approval from the Department prior to commencing construction or operation. In lieu of the requirements of R18-13-1607(C), an application for approval shall contain all of the following:
   1. No change;
   2. No change;
   3. Application information required pursuant to A.R.S. § 49-762.03(C) for plan approval for temporary treatment facilities;
   4. No change;
   5. No change;
   6. No change;
   7. No change;
   8. No change
      a. No change
      b. No change
      c. No change
      d. No change

C. No change
   1. No change
   2. No change
      a. No change
      b. No change
      c. No change
      d. No change
   3. No change

D. No change

E. No change

F. In accordance with A.R.S. § 49-762(F) § 49-762.03(C), a temporary treatment facility shall be exempt from the notice and public hearing requirements set forth in A.R.S. § 49-762.04(A).

R18-13-1613. Disposal

A. No change

B. A PCS disposal facility designed in accordance with R18-13-1608(B)(1) shall comply with the following specific design criteria:
   1. No change
   2. For purposes of this Section, “composite liner” means a system consisting of two components: the upper component shall consist of a minimum 30-mil flexible membrane liner (FML) and the lower component shall consist of at least a two-foot layer of compacted soil with a hydraulic conductivity permeability coefficient of no more than $1 \times 10^{-7}$ cm/sec. FML components consisting of high density polyethylene (HDPE) shall be at least 60 mil thick. The FML component shall be installed in direct and uniform contact with the compacted soil component.
NOTICES OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

This section of the Arizona Administrative Register contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(J), if an agency does not file a five-year rule review report with the Governor’s Regulatory Review Council (including a revised report); or if an agency does not file an extension before the due date of the report; or if an agency files an extension but does not submit a report within the extension period; the rules scheduled for review expire. The Council is required to notify the Secretary of State that the rules have expired and are no longer enforceable. The notice is published in the Register, and the rules are removed from the Code.

GOVERNOR’S REGULATORY REVIEW COUNCIL
NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)
DEPARTMENT OF ECONOMIC SECURITY
STATE ASSISTANCE PROGRAMS

[R20-176]

1. Agency name: Department of Economic Security
2. Title and its heading: 6, Economic Security
3. Chapter and its heading: 13, Department of Economic Security - State Assistance Programs
4. Article and its heading: 8, Short-term Crisis Services

As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules expired as of October 7, 2020:

R6-13-801. Definitions
R6-13-802. Application Procedures
R6-13-803. General Eligibility Requirements
R6-13-804. Financial Eligibility Requirements; Countable Income
R6-13-805. Emergent Need Eligibility Requirements
R6-13-806. Types of Assistance; Duration
R6-13-807. Payments
R6-13-808. Notification
R6-13-809. Complaints, Hearings, and Appeals

Signature is of Nicole Sornsin
Nicole Sornsin
Council Chair
NOTICES OF RULEMAKING DOCKET OPENING

This section of the Arizona Administrative Register contains Notices of Rulemaking Docket Opening. A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that the agency intends to work on its rules.

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

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

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

NOTICE OF RULEMAKING DOCKET OPENING
INDUSTRIAL COMMISSION OF ARIZONA
[R20-178]

1. Title and its heading: 20, Commerce, Financial Institutions, and Insurance
   Chapter and its heading: 5, Industrial Commission of Arizona
   Article and its heading: 10, Wage Claims
   Section numbers: R20-5-1001 through R20-5-1004 and R20-5-1006 through R20-5-1009

2. The subject matter of the proposed rule:
   Title 20, Chapter 5, Article 10 of the Arizona Administrative Code contains rules related to wage claims filed with the Industrial Commission of Arizona, Labor Department. The proposed amendments would modernize the rules, including by: (1) allowing for service of documents by electronic means; (2) streamlining and eliminating redundancies in the wage claim investigation process to both reduce burdens on the parties involved in wage claim disputes and accelerate the processing of wage claims; and (3) bringing R20-5-1006(A)(3) into compliance with A.R.S. § 23-356.

3. A citation to all published notices relating to the proceeding:
   Notice of Proposed Rulemaking: 26 A.A.R. 2741, October 23, 2020 (in this issue)

4. The name and address of agency personnel with whom persons may communicate regarding the rule:
   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
   E-mail: Gaetano.Testini@azica.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:
   Written comments on this rulemaking may be submitted to the person referenced in section 4 above. Written comments for the rulemaking record may be submitted after publication of the Notice of Proposed Rulemaking in the Arizona Administrative Register and prior to the close of record date of November 30, 2020. An oral proceeding on the proposed rulemaking is scheduled for November 30, 2020, at 10:00 a.m., at the Industrial Commission of Arizona, 800 W. Washington, Room 339, Phoenix, AZ 85007.
   Participants can join the oral proceeding via Google Meets at: meet.google.com/sac-icfh-gzo and by phone (US) +1 541-714-5069 PIN: 686 329 454#.

6. A timetable for agency decisions or other action on the proceeding, if known:
   Please see the Notice of Proposed Rulemaking in this issue.
NOTICES OF SUBSTANTIVE POLICY STATEMENT

The Administrative Procedure Act (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(9)). Substantive policy statements are written expressions which inform the general public of an agency’s current approach to rule or regulation practice.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency’s internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

NOTICE OF SUBSTANTIVE POLICY STATEMENT
DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
DIVISION OF INSURANCE

1. Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:
Regulatory Bulletin 2020-01: Uninsured and Underinsured Motorist Coverage Offer Form; SB1087

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:
Issued: January 10, 2020
Effective: July 1, 2020 to reflect amendments made by SB1087 to A.R.S. § 20-259.01 (Laws 2019, Ch. 301)

3. Summary of the contents of the substantive policy statement:
This Regulatory Bulletin clarifies the Department of Insurance and Financial Institutions, Division of Insurance’s (“Division”) interpretation of the Legislature’s changes to A.R.S. § 20-259.01 and attaches a revised form which is “approved by the Director” and which should be used or used in substance by an insurer offering Uninsured Motorist Coverage (UM) and Underinsured Motorist Coverage (UIM) to a named insured or applicant after being filed with and approved by the Division. This Regulatory Bulletin amends prior bulletins 2003-10 (July 15, 2003), 2003-03 (March 24, 2003), 1998-12 (November 9, 1998), and 1998-05 (August 11, 1998) and is directed toward insurers writing automobile insurance in Arizona and producers selling those products.

SB1087 clarified that the offer of UM/UIM limits to a named insured or applicant shall be made at the time of application on a form approved by the Director. A.R.S. § 20-259.01, as amended by SB1087, removes the requirement that insurers use the Director’s form to reflect the insured’s “selection” of UM/UIM coverages, rather the form now reflects the insurer’s “offer” of UM/UIM coverage. SB1087 further amended the law to require that the policy declarations page must be sent to the named insured, and the declarations page constitutes the final expression of the named insured’s decision to purchase or reject UM/UIM coverage and is valid for, extends to and covers all persons insured under the policy. An insurance producer who uses the approved form in offering UM/UIM coverages satisfies the insurance producer’s standard of care.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:
A.R.S. 20-259.01 as amended by SB1087 (Laws 2019, Ch. 301) underlies the substantive policy statement.

5. A statement as to whether the substantive policy statement is a new statement or a revision:
This substantive policy statement is a new statement that amends prior statements (2003-10 (July 15, 2003), 2003-03 (March 24, 2003), 1998-12 (November 9, 1998), and 1998-05 (August 11, 1998)).

6. The agency contact person who can answer questions about the substantive policy 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
E-mail: mary.kosinski@difi.az.gov
Website: https://difi.az.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:
Please contact the person listed in paragraph #6 for instructions on how to download this substantive policy statement from the Department’s website at no cost.
Notice of Substantive Policy Statement

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
DIVISION OF INSURANCE

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

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:
   Issued and effective: April 3, 2020
   Insurers are required to comply until the state of emergency created by COVID-19 has been terminated.

3. Summary of the contents of the substantive policy statement:
   This Regulatory Bulletin provides guidance to Life and Disability insurers, Health Care Services Organizations and Hospital, Medical, Dental and Optometric Service Corporations on implementation of Executive Order 2020-07: Proactive Measures to Protect Against COVID-19 and Executive Order 2020-15: Expansion of Telemedicine.

   The Department interprets Executive Order 2020-07 to mean that any Arizona resident, whether covered by a policy or certificate issued in Arizona, is eligible for the reduced-cost options from all insurers regulated by the Insurance Division of the Department of Insurance and Financial Institutions (“Division”).

   Executive Order 2020-15 establishes additional requirements for coverage and administration of telemedicine visits by insurers with health plans regulated by the Division.

   The Regulatory Bulletin provides guidance in the areas of coverage of out-of-network laboratory services, cost-sharing waivers for diagnostic testing, coverage of telemedicine visits and communications to members. The Regulatory Bulletin also encourages insurers to monitor their member and provider grievances and appeals and their customer call center contacts for indications that their staffs may need additional training, their systems may need additional enhancements or that the providers may need additional instructions.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:
   This substantive policy statement interprets Governor Ducey’s Executive Orders 2020-07 and 2020-15.

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

6. The agency contact person who can answer questions about the substantive policy 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
   E-mail: mary.kosinski@difi.az.gov
   Website: https://difi.az.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:
   Please contact the person listed in paragraph #6 for instructions on how to download this substantive policy statement from the Department’s website at no cost.
Lastly, the Division notifies insurers that on-site financial examinations will be conducted in compliance with public health directives.

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

   A.R.S. § 20-223:
   - May 1, 2020: Combined Annual Statement Filing (Property)
   - May 1, 2020: Combined Insurance Expense Exhibit (Property)
   - June 1, 2020: Accountant’s Letter of Qualifications (Property, Life/Fraternal, Health, Title)
   - August 15, 2020 due to NAIC and July 1, 2020 due to state: PBR Exemption Filing due to state 7/1 (Life/Fraternal)
   - June 1, 2020: Audited Financial Report (Property, Life/Fraternal, Health, Title)
   - August 1, 2020: Communication of Internal Control Related Matters Noted in Audit (Property, Life/Fraternal, Health, Title)
   - April 30, 2020: Actuarial Memorandum Required by Actuarial Guideline XXXVIII 8D (Life/Fraternal)
   - August 1, 2020: Management’s Report of Internal Control Over Financial Reporting (Property, Life/Fraternal, Health, Title)
   - May 15, 2020:
     - Quarterly Statement Filing as of March 31, 2020 (Property, Life/Fraternal, Health, Title)
     - Trusteed Surplus Statement – Quarter Ending March 31, 2020 (Property, Life/Fraternal)
     - Supplement A to Schedule T (Medical Professional Liability Supplement) – Quarter Ending March 31, 2020 (Property)
     - Medicare Part D Coverage Supplement – Quarter Ending March 31, 2020 (Property, Life/Fraternal, Health)
     - Director and Officer Insurance Coverage Supplement – Quarter Ending March 31, 2020
   - A.R.S. § 20-481.09:
     - March 31, 2020: Form B Registration Statement & Related Form C
     - March 31, 2020: Risk Assessment Report (Form F)
   - A.R.S. § 20-491:
     - June 30 2020: Own Risk and Solvency Assessment (ORSA) Summary Report
   - A.R.S. § 20-492:
     - June 1, 2020: Corporate Governance Annual Disclosure

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

6. **The agency contact person who can answer questions about the substantive policy 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
   E-mail: mary.kosinski@difi.az.gov
   Website: https://difi.az.gov
7. **Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**
   Please contact the person listed in paragraph #6 for instructions on how to download this substantive policy statement from the Department’s website at no cost.

**NOTICE OF SUBSTANTIVE POLICY STATEMENT**

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
DIVISION OF INSURANCE

1. **Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:**
   Regulatory Bulletin 2020-04: COVID-19 and Insurance Customer Relief; Flexibility

2. **Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**
   Issued: April 16, 2020 with immediate effect.

3. **Summary of the contents of the substantive policy statement:**
   This Regulatory Bulletin is issued to all insurers providing any insurance coverage including life, health, motor vehicle, property, casualty, and other types of insurance for individuals, groups, and businesses to express appreciation to insurers who have been mindful of the difficulties experienced by their insureds because of COVID-19. Insurers are encouraged to work with their insureds to offer the types of relief listed in the bulletin.

   Arizona insureds are encouraged to work with their insurers to see what types of relief options are available for them.

   Lastly, insurers are reminded to make informational filings with the Division to document their relief programs which will not be considered violations of the Arizona Unfair Trade Practices Act if implemented during the public health emergency.

4. **Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:**
   The Arizona Unfair Trade Practices Act, A.R.S. § 20-452

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

6. **The agency contact person who can answer questions about the substantive policy 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
   E-mail: mary.kosinski@difi.az.gov
   Website: https://difi.az.gov

7. **Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**
   Please contact the person listed in paragraph #6 for instructions on how to download this substantive policy statement from the Department’s website at no cost.

**NOTICE OF SUBSTANTIVE POLICY STATEMENT**

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
DIVISION OF INSURANCE

1. **Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:**
   2020 Arizona Insurance Laws; Regulatory Bulletin 2020-05

2. **Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**
   The Department issued the substantive policy statement on August 17, 2020 with immediate effect.

3. **Summary of the contents of the substantive policy statement:**
   This Regulatory Bulletin advises all insurance producers, surplus lines brokers, insurance industry representatives, insurance trade associations, life & disability insurers, property & casualty insurers and other interested parties of the major, newly enacted legislation affecting the Division of Insurance of the Department of Insurance and Financial Institutions, its licensees and insurance consumers. This annually produced Regulatory Bulletin generally describes the substantive content of all bills that may be of interest to the insurance industry in Arizona.

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

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

6. The agency contact person who can answer questions about the substantive policy statement:
   Name: Stephen Briggs
   Address: Department of Insurance and Financial Institutions
            100 N. 15th Ave., Suite 261
            Phoenix, AZ 85007-2630
   Telephone: (602) 364-3471
   E-mail: Stephen.Briggs@difi.az.gov
   Website: https://difi.az.gov/

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:
   Please contact the person listed in paragraph #6 for instructions on how to download this substantive policy statement from the Department’s website at no cost.

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NOTICE OF SUBSTANTIVE POLICY STATEMENT
DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
DIVISION OF FINANCIAL INSTITUTIONS

1. Title of the Substantive Policy Statement and the substantive policy statement number by which the substantive policy statement is referenced:
   Regulatory Bulletin 2021-01: Collection Agency Licenses; Branches

2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:
   Issued: September 18, 2020
   Effective: September 28, 2020

3. Summary of the contents of the substantive policy statement:
   This Regulatory Bulletin notifies collection agencies who are either seeking licensure or currently licensed by the Division that they are not required to apply for or renew licenses for branches they may operate. The Division finds that although the fees statute (A.R.S. § 6-126) sets a fee for a collection agency branch application and renewal, that requirement alone is not enough to establish that the legislature intended that collection agency branches are required to be licensed by the Division.

4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:
   A.R.S. Title 32, Chapter 9 and A.A.C. Title 20, Chapter 4, Article 15 underlie the substantive policy statement.

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

6. The agency contact person who can answer questions about the substantive policy 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
   E-mail: mary.kosinski@difi.az.gov
   Website: https://difi.az.gov

7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:
   Please contact the person listed in paragraph #6 for instructions on how to download this substantive policy statement from the Department’s website at no cost.
WHEREAS, government regulations should be as limited as possible; and
WHEREAS, burdensome regulations inhibit job growth and economic development; and
WHEREAS, protecting the public health, peace and safety of the residents of Arizona is a top priority of state government; 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 and 2019; and
WHEREAS, the State of Arizona eliminated or improved 637 burdensome regulations in 2019 and a total of 2,289 needless regulations have been eliminated or improved since 2015; and
WHEREAS, estimates show these eliminations saved job creators $53.9 million in operating costs in 2019 and a total of over $134.3 million in savings since 2015; and
WHEREAS, in 2019, for every one new necessary rule added to the Administrative Code, five have been repealed or improved; and
WHEREAS, approximately 354,000 private sector jobs have been added to Arizona since January 2015; 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 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, 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 while achieving the same regulatory objective.
   c. To prevent a significant threat to the public health, peace or safety.
   d. To avoid violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action.
   e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
   f. To comply with a state statutory requirement.
   g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor’s Office of Strategic Planning and Budgeting.
   h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
   i. To address matters pertaining to the control, mitigation or eradication of waste, fraud or abuse within an agency or wasteful, fraudulent or abusive activities perpetrated against an agency.
   j. To eliminate rules which are antiquated, redundant or otherwise no longer necessary for the operation of state government.

2. A State agency that submits a rulemaking request pursuant to this Order shall recommend for consideration by the Office of the Governor at least three existing rules to eliminate for every one additional rule requested by the agency.
3. A State agency that submits a rulemaking exemption request pursuant to this Order shall include with their request an analysis of how small businesses may be impacted by any newly proposed rules or rule modifications.

4. 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.

5. 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 such 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.

6. All state agencies that are required to issue occupational or professional licenses by universal recognition (established by section 32-4302, Arizona Revised Statutes) must track all applications received for this license type. Before any agency denies a professional or occupational license applied for under section 32-4302, Arizona Revised Statutes, 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 Office of the Governor should be notified of any required timeframes, whether in statute or rule, for approval or denial of the license by the agency.

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

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

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 13th day of January in the Year Two Thousand and Twenty and of the Independence of the United States of America the Year Two Hundred and Forty-Fourth.

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
- SPM = 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 amended 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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**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.

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## REGISTER PUBLISHING DEADLINES

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

<table>
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<th>Deadline Date (paper only)</th>
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## 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 2020/2021

*(MEETING DATES ARE SUBJECT TO CHANGE)*

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<th>DEADLINE FOR PLACEMENT ON AGENDA*</th>
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* Materials must be submitted by **5 PM** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.