

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), 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 adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

PREAMBLE

- | <u>Sections Affected</u> | <u>Rulemaking Action</u> |
|--------------------------|--------------------------|
| R4-20-101 | Amend |
| R4-20-104 | Amend |
| R4-20-112 | Repeal |
| R4-20-112 | New Section |
- The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-1673

Implementing statutes: A.R.S. §§ 32-1682(D), 32-1685
- A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 3616.
Notice of Rulemaking Docket Opening submitted to Secretary of State on October 4, 1999.
- The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Caren Heinze, Executive Director

Address: State Board of Dispensing Opticians
1400 W. Washington, Suite 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

E-mail: asbdo@primenet.com
- An explanation of the rule, including the agency's reasons for initiating the rule:**

R4-20-104(D) and R4-20-104(E) currently allow a person to substitute a passing score on an opticianry examination or contact lens examination for portions of the written examination if the score was obtained within 6 years before an application date. The Board is repealing the 6-year period to allow an individual who has passed the examination at any time to substitute the examination for portions of the written examination. The Board is also amending definitions to provide consistency with the rules. Additionally, the Board has determined that it must increase its fees in order to continue its licensing and oversight functions.

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6. A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of a political subdivision of the state:

Not applicable.

7. A reference to any study the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

None.

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

A. Identification of proposed rulemaking

R4-20-104(D) and R4-20-104(E) currently allow a person to substitute a passing score on an opticianry examination or contact lens examination for portions of the written examination if the score was obtained within 6 years before an application date. The Board is repealing the 6-year period to allow an individual who has passed the examination at any time to substitute the examination for portions of the written examination. The Board is also amending definitions to provide consistency with the rules. Additionally, the Board has determined that it must increase its fees in order to continue its licensing and oversight functions. The Board is proposing the following fee increases: \$25.00 for a dispensing optician license application, \$25.00 to \$50.00 for issuance of a dispensing optician license, \$15.00 to \$30.00 for renewal of a dispensing optician license, \$75.00 for an optician establishment license application, \$75.00 for issuance of an optician establishment license, and \$15.00 to \$40.00 for renewal of an optical establishment license.

B. Identification of those affected by the rulemaking

The costs associated with implementing the rules will be borne by the Board, dispensing opticians, applicants, consumers of dispensing optician services, and owners of optical establishments. The primary beneficiaries of the rules are the persons to whom the services are being provided.

C. Summary of the economic, small business, and consumer impact statement.

Annual cost/revenues are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000.

The costs to the Board are moderate for promulgation of the rules. The Board's administrative and staff costs to implement the rules are minimal. The Secretary of State's cost for publishing the rules is minimal. The cost for review of the rules by the Governor's Regulatory Review Council is minimal.

Increased revenues accruing to the Board as a result of the increase in fees range from moderate to substantial.

There will be a minimal increase in cost for an individual applying for a license, license issuance, or renewal of license. The increase is necessary to allow the Board to continue its licensing and oversight functions.

A licensee may choose to pass the cost onto consumers. The Board's continuing oversight is necessary to protect the consumer from improper or inadequate delivery of dispensing optician services.

Because the Board is a 90/10 agency, 90% of the Board's revenues from the collection of license application and renewal fees, examination fees, late renewal fees and other fees are deposited in the Board fund. Ten percent is deposited in the general fund.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Caren Heinze, Executive Director
Address: State Board of Dispensing Opticians
1400 W. Washington, Suite 230
Phoenix, Arizona 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093
E-mail: asbdo@primenet.com

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Oral proceedings will be conducted by the Board at the following location in the state for the purpose of taking oral

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and written testimony on the proposed rule from members of the public:

Date: December 6, 1999
Time: 1 p.m.
Location: 1400 W. Washington, Room 250
Phoenix, Arizona 85007

The public record on the proposed rulemaking will close at 5 p.m. on December 10, 1999.

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

None

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

ARTICLE 1. IN GENERAL

Sections

R4-20-101. Definitions
R4-20-104. Dispensing Optician Examination
~~R4-20-112. Fees Repealed~~
R4-20-112. Fees

ARTICLE 1. IN GENERAL

R4-20-101. Definitions

The following definitions apply in this Chapter unless otherwise specified:

1. "ABO" means the American Board of Opticianry
- ~~2.~~ No change
- ~~3.~~ No change
- ~~4.~~ No change
- ~~5.~~ No change
- ~~6.~~ No change
8. "NCLE" means the National Contact Lens Examiners.
- ~~7.~~ No change
- ~~8.~~ No change
- ~~9.~~ No change
- ~~10.~~ No change
- ~~11.~~ No change
- ~~12.~~ No change
- ~~13.~~ No change
- ~~14.~~ No change

R4-20-104. Dispensing Optician Examinations

- A. ~~Examinations shall be given at least twice each year and not be more than eight months apart. At least twice each year, the Board shall administer dispensing optician examinations that are spaced no more than 8 months apart.~~
- B. ~~Subjects to be covered by the written examination are as follows:~~ Written examination subjects on a dispensing optician examination shall cover the following subjects:
 1. Ocular anatomy~~;~~
 2. Geometric optics and laboratory~~;~~
 3. Ophthalmic dispensing~~;~~ and
 4. Contact lenses.
- C. No change

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- D.** ~~Any person~~ An individual who obtained a passing score on an opticianry examination administered by the ~~American Board of Opticianry ABO~~ ABO ~~within a six year period prior to application date, and holds a current certificate issued by the ABO,~~ may substitute ~~that the opticianry~~ the opticianry examination for those portions of the written examination required ~~by paragraphs in subsections (B)(1), (B)(2), and (B)(3),~~ by submitting to the Board a current ABO certificate that states ABO requirements have been met and by:
1. ~~submitting~~ Submitting to the Board the original notice of test results or the original certificate ~~which that~~ that states ~~that~~ the individual passed the examination; or
 2. ~~by having~~ Having the American Board of Opticianry ABO submit directly to the Board a notice of test results or certificate of passing the examination.
- E.** ~~Any person~~ An individual who obtained a passing score on a contact lens examination administered by the ~~National Contact Lens Examiners NCLE~~ NCLE ~~within a six year period prior to application date, and holds a current certificate issued by the NCLE~~ may substitute that examination for those portions of the ~~written~~ examination required ~~by paragraph in subsection (B)(4),~~ by submitting to the Board a current NCLE certificate that states NCLE requirements have been met and by:
1. ~~submitting~~ Submitting the original notice of test results or the original certificate ~~which that~~ that states ~~that~~ the individual passed the examination; or
 2. ~~by having~~ Having the National Contact Lens Examiners NCLE submit directly to the Board a notice of test results or certificate of passing the examination.

R4-20-112. Fees Repealed

- A.** ~~The following fees are applicable to dispensing optician licensure:~~
1. ~~Original dispensing optician's application filing fee is \$50.00;~~
 2. ~~An applicant for a dispensing optician's license who passes the examination shall pay a fee of \$25.00 for a license for the remaining months of that calendar year.~~
 3. ~~An applicant for comity licensure issued under the provisions of A.R.S. § 32-1683(5)(a) whose application is received by the Board or postmarked:~~
 - a. ~~Prior to July 1 shall pay a fee of \$50.00 for the remainder of the calendar year;~~
 - b. ~~On or after July 1 shall pay a fee of \$25.00 for the remainder of the calendar year.~~
 4. ~~An applicant who has been notified of having passed the examination or of having been approved for comity licensure shall pay the specified license fee for original licensure within ten months following the date of the Board's notice or the applicant shall retake and pass the practical examination to become licensed.~~
 5. ~~The annual fee for renewal or reinstatement of a dispensing optician's license is:~~
 - a. ~~\$70.00 for renewal applications received by the Board or postmarked by December 31 of the year preceding the license year;~~
 - b. ~~\$85.00 for renewal applications postmarked January 1 through January 31 of the license year;~~
 - c. ~~\$100.00 for renewal application received by the Board or postmarked on or after February 1 of the license year;~~
 - d. ~~\$100.00 for a reinstated license.~~
- B.** ~~The following fees are applicable to optical establishment licensure:~~
1. ~~Optical establishment license application fees is \$25.00.~~
 2. ~~If the application is approved, the optical establishment license fee is \$25.00.~~
 3. ~~The fee for annual renewal of an optical establishment license is:~~
 - a. ~~\$60.00 if the renewal application is received by the Board or postmarked by June 30 of the preceding license year;~~
 - b. ~~\$85.00 if the renewal application is received by the Board or postmarked July 1 through July 31 of the license year;~~
 - c. ~~\$100.00 if the renewal application is received by the Board or postmarked on or after August 1 of the license year.~~

R4-20-112. Fees

A. Dispensing optician fees are as follows:

- | | |
|--|--------------|
| 1. <u>License application fee</u> | <u>\$75</u> |
| 2. <u>License issuance fee</u> | <u>\$75</u> |
| 3. <u>Renewal of dispensing optician license</u> | <u>\$100</u> |

B. Optician establishment license fees are as follows:

- | | |
|--|--------------|
| 1. <u>License application fee</u> | <u>\$100</u> |
| 2. <u>License issuance fee</u> | <u>\$100</u> |
| 3. <u>Renewal of optical establishment license</u> | <u>\$100</u> |

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE DIVISION**

PREAMBLE

1. **Sections affected:** **Rulemaking Action:**
R17-4-506 Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366
Implementing statute: A.R.S. § 28-3306(A)(3)

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 4 A.A.R. 2181, October 30, 1998.
Notice of Rulemaking Docket Opening: 5 A.A.R. 2743, August 13, 1999.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Lynn S. Golder
Address: Arizona Department of Transportation
Motor Vehicle Division, Mail Drop 507M
3737 North 7th Street, Suite 160
Phoenix, Arizona 85014-5017
Telephone: 602.712.7941
Fax: 602.241.1624
E-mail: lgolder@dot.state.az.us

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The Arizona Department of Transportation, Motor Vehicle Division ("Division") proposes to repeal existing R17-4-506(A) through R17-4-506(D) and make replacement subsections (A) through (D). The replacement subsections constitute a new driver license point system rule. In a separate rulemaking action, the Division will repeal existing R17-4-506(E) through R17-4-506(I) and make new traffic survival school rules at R17-4-506.01 and following sections.

The new driver license point system rule updates statutory citations, consistent with the 1997 renumbering of Title 28, Arizona Revised Statutes. Subsections (C) and (D) of the new rule update driver license point system procedures. Subsection (B) of the new rule assigns appropriate points to the following 5 new offenses enacted in 1998:

A.R.S. § 28-1382 extreme DUI,
A.R.S. § 28-695 aggressive driving,
A.R.S. § 28-672(C), as amended by Laws 1999, Ch. 11, § 5, a specified moving violation resulting in a fatal accident,
A.R.S. § 672(A), as amended by Laws 1999, Ch. 11, § 5, a specified moving violation resulting in a serious-injury accident, and
A.R.S. § 28-644(A)(2) a gore-area violation.

Correct assignment of points for traffic offenses enables the Division to take the appropriate action to curb unsafe driving behavior. The Division orders a driver to complete traffic survival school training and educational sessions to improve the driver's safety and habits or removes a driver from the Arizona roads.

Appropriate action by the Division increases the safety of the Arizona roads. The new rule provides a driver license point system directed toward increased safety.

6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
None.

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

Not applicable.

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

Rulemaking on R17-4-506(A) to R17-4-506(D) will have an economic impact on agencies, entities, or groups in Arizona as follows:

The Division has the costs of rulemaking and reprogramming its driver database;

The Secretary of State and Governor's Regulatory Review Council have rule review and rule publication costs;

The Administrative Office of the Courts of the Arizona Supreme Court, that maintains a database containing drivers' point accumulations, has data entry costs;

Arizona courts, such as the Pima County Consolidated Justice Courts, that maintain a database containing drivers' point accumulations, have data entry costs;

Drivers that accumulate 8 or more points in a 12-month period under the new driver license point system rule have costs associated with a suspension or traffic survival school.

Arizona law enforcement agencies are affected by the new offenses enacted by the legislature. These agencies must also stay current with regard to the driver license point system. However, they do not incur costs from the driver license point system.

The public benefits from a rule that assigns appropriate points to traffic offenses and correctly reflects the actions taken by the Division under the driver license point system. Arizona roads are safer when drivers who accumulate at least 8 points in a 12-month period improve their driving behavior through the curriculum of a licensed traffic survival school or face removal from the Arizona roads. Licensed traffic survival schools benefit from fees paid by drivers ordered by the Division to complete the traffic survival school curriculum.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Lynn S. Golder
Address: Arizona Department of Transportation
Motor Vehicle Division, Mail Drop 507M
3737 North 7th Street, Suite 160
Phoenix, Arizona 85014-5017
Telephone: (602) 712.7941
Fax: (602) 241.1624
E-mail: lgolder@dot.state.az.us

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

Written comments on the proposed rulemaking or preliminary summary of economic, small business, and consumer impact should be submitted to the person specified in question # 3 no later than the close of the record at 5:00 p.m., Friday, December 3, 1999. Oral proceedings are scheduled as follows:

PHOENIX

Date: Monday, November 29, 1999
Time: 1 p.m.
Location: Arizona Department of Transportation Auditorium
206 South 17th Avenue, Room 107
Phoenix, Arizona 85007

TUCSON

Date: Tuesday, November 30, 1999

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Time: 1 p.m.
Location: Motor Vehicle Division Tucson Regional Service Center Conference Room
3565 South Broadmont Drive, Second Floor
Tucson, Arizona 85713

YUMA

Date: Wednesday, December 1, 1999
Time: 9 a.m.
Location: Motor Vehicle Division Yuma Regional Service Center Conference Room
2165 East Gila Ridge Road
Yuma, Arizona 85365

FLAGSTAFF

Date: Friday, December 3, 1999
Time: 2 p.m.
Location: Motor Vehicle Division
Flagstaff Regional Service Center Conference Room
1801 South Milton Road
Flagstaff, Arizona 86001

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

Not applicable.

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

None.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

MOTOR VEHICLE DIVISION

ARTICLE 5. DRIVER LICENSES

Section

R17-4-506. Driver License Point System

ARTICLE 5. DRIVER LICENSES

R17-4-506. ~~Driver license point system~~ Driver License Point System

- A.** ~~Definitions. The words and phrases, when used in these rules, shall have the meanings respectively ascribed to them.~~
- ~~1. "Department" means the Motor Vehicle Division, Arizona Department of Transportation, acting directly or through its duly authorized officers and agents.~~
 - ~~2. "Assistant director" means the Assistant Director of the Department of Transportation for the Motor Vehicle Division.~~
 - ~~3. "License" means a person licensed as an operator or chauffeur.~~
 - ~~4. "Conviction" means, for the purpose of this rule, a final conviction. Also, for the purpose of this rule, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.~~
 - ~~5. "Fee" means the fee provided for in A.R.S. § 28-446(D). It shall be the only monies collected from licensee in connection with approved training sessions.~~
 - ~~6. "Judgment" means a final judgment on a civil traffic violation.~~
 - ~~7. "TSS" means a school offering a course approved by the Department pursuant to A.R.S. § 28-446.~~

A. In this Section, unless the context otherwise requires:

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“Civil traffic violation” has the meaning prescribed in A.R.S. § 28-121(B).

“Conviction” has the meaning prescribed in A.R.S. § 28-101(12).

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

“Driver” has the meaning prescribed in A.R.S. § 28-101(18).

“Fee” has the meaning prescribed at A.R.S. § 28-3307(C), as amended by Laws 1999, Ch. 214, § 7.

“Judgment” means a final court order with a finding of responsible for a civil traffic violation.

“Suspension” has the meaning prescribed at A.R.S. § 28-3001(16).

“Traffic survival school” has the meaning prescribed in A.R.S. § 32-2351(3)(b), as added by Laws 1999, Ch. 214, § 33.

- B.** ~~Point system. For the purpose of determining under A.R.S. § 28-446(A)(3) when there has been such frequency of convictions or judgments of serious offenses against traffic regulations governing the movement of vehicles as to warrant suspension or to require any licensee to attend and successfully complete approved training and educational sessions designed to improve the safety and habits of drivers, the following convictions or judgments shall have assigned to them the points indicated below:~~

Points

- | | |
|---|--------------|
| 1. Conviction of violation of A.R.S. § 28-692, driving while under the influence of intoxicating liquor or drugs. | 8 |
| 2. Conviction of violation of A.R.S. §§ 28-692 and 28-693 when both violations are charged in one citation, driving while under the influence of intoxicating liquor or drugs and with reckless driving. | 8 |
| 3. Conviction of violation of A.R.S. § 28-693, reckless driving. | 8 |
| 4. Conviction of violation of A.R.S. § 28-708, racing on highways. | 8 |
| 5. Conviction or judgment of a violation of A.R.S. §§ 662, 28-663, 28-664, 28-665, leaving the scene of an accident. | 6 |
| 6. Conviction or judgment of a violation of A.R.S. § 28-701, speeding. | 3 |
| 7. Conviction or judgment of a violation of any other traffic regulation governing the movement of vehicles. | 2 |

- B.** Under A.R.S. § 28-3306(A)(3), if a driver accumulates at least 8 points in a 12-month period, the Division shall suspend the driver or order the driver to successfully complete the curriculum of a licensed traffic survival school. The Division shall assign points to a driver as follows:

- | | <u>Points</u> |
|---|---------------|
| <u>1. Conviction of violating A.R.S. § 28-1381, driving or actual physical control of a vehicle while under the influence of intoxicating liquor or drugs;</u> | <u>8</u> |
| <u>2. Conviction of violating A.R.S. § 28-1382, driving or actual physical control of a vehicle while under the extreme influence of intoxicating liquor;</u> | <u>8</u> |
| <u>3. Conviction of violating A.R.S. § 28-693, reckless driving;</u> | <u>8</u> |
| <u>4. Conviction of violating A.R.S. § 28-708, racing on highways;</u> | <u>8</u> |
| <u>5. Conviction of violating A.R.S. § 28-695, aggressive driving;</u> | <u>8</u> |
| <u>6. Conviction or judgment of violating A.R.S. §§ 28-662, 28-663, 28-664, 28-665, leaving the scene of an accident;</u> | <u>6</u> |
| <u>7. Conviction or judgment of violating A.R.S. § 28-672, failure to comply with a red traffic control signal, failure to yield the right of way when turning left at an intersection or failure to comply with a stop sign or yield sign, and the failure results in an accident causing death to another person;</u> | <u>6</u> |
| <u>8. Conviction or judgment of violating A.R.S. § 28-672, failure to comply with a red traffic control signal, failure to yield the right of way when turning left at an intersection or failure to comply with a stop sign or yield sign, and the failure results in an accident causing serious physical injury to another person;</u> | <u>4</u> |
| <u>9. Conviction or judgment of violating A.R.S. § 28-701, speeding;</u> | <u>3</u> |
| <u>10. Conviction or judgment of violating A.R.S. § 28-644, driving over or across or parking in any part of a gore area; and</u> | <u>3</u> |
| <u>11. Conviction or judgment of violating any other traffic regulation that governs the movement of vehicles.</u> | <u>2</u> |

- C.** ~~General provision. Upon receipt of a conviction or judgment which brings the licensee’s total points within any twelve (12) month period to eight (8) points, as set forth in subsection (B), or when the Department’s records or other sufficient evidence show that the licensee falls within any of the categories set forth in A.R.S. § 28-446(A), subparagraphs one through eight (1-8), the Department shall determine that:~~

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1. The licensee shall be suspended, or
2. The licensee should be required to attend and successfully complete approved training and educational session, or

C. The Division shall:

1. Send an order of suspension under A.R.S. § 28-3318 when a driver:
 - a. Accumulates at least 13 points in any 12-month period, or
 - b. Completed traffic survival school within 24 months before the violation resulting in Division action;
2. Specify, on the order of suspension, the length of the suspension as follows:
 - a. A 3-month suspension for accumulation of 8 to 14 points in any 12-month period.
 - b. A 6-month suspension for accumulation of 15 to 19 points in any 12-month period, and
 - c. A 12-month suspension for accumulation of 20 or more points in any 12-month period; and
3. Instruct the driver, on the order of suspension, to submit any hearing request to the Division before the effective date of the suspension stated on the order.

D. Suspension, assignment to TSS:

1. If the Department determines that the licensee should be suspended, notice thereof will be sent by mail in accordance with A.R.S. § 28-453 together with a request for surrender of the license and notification that the licensee has the right to request a hearing within fifteen (15) days after mailing thereof or the suspension shall become effective.
2. If the Department determines that the licensee should attend TSS, notice thereof to the licensee will be in accordance with A.R.S. § 28-453. The notice will inform the licensee:
 - a. Of the names and locations of the schools which may be attended;
 - b. Of the last date upon which to report to the selected school for enrollment;
 - c. That failure to report to a TSS in the required time may result in the suspension of his driver license;
 - d. That failure to attend all sessions of the TSS or successfully complete the school may result in the suspension of this driver license;
 - e. Of the length of time of suspension; and
 - f. That there is a right to request a hearing in writing within fifteen (15) days after mailing of the notice or the terms of the notice will become final.
3. If the licensee decides to attend TSS as directed in paragraph (2), the licensee shall:
 - a. Select from the furnished list of TSS's a school to attend.
 - b. Report to the selected TSS within fifteen (15) days after mailing of the Department's notice. Upon reporting, the licensee's current driver license shall be surrendered and a temporary driver permit good for a maximum of sixty (60) days shall be issued. Upon a written showing of good cause, the Department may authorize one extension of such permit for an additional sixty (60) days.
4. Upon receipt by the Department of a report from the TSS, it shall be determined either that the licensee has or has not attended and successfully completed the school.
5. If it is determined that the licensee has successfully completed the school, the Department shall notify the licensee and return the permanent license with any reasonable restrictions placed thereon which are in the interest of public safety when the requirements of A.R.S. § 28-446(D) have been met.

D. The Division shall send a dated order of assignment to traffic survival school under A.R.S. § 28-3318 to a driver with at least 8 points in a 12-month period, who does not come under R17-4-506(C).

1. The order of assignment shall:

- a. List the names and phone numbers of the licensed traffic survival schools:
 - i. In the driver's Arizona county of residence;
 - ii. In a neighboring Arizona county, if the county of residence has no traffic survival schools; or
 - iii. For a nonresident driver, state the Division telephone number to call about complying with the order of assignment;
- b. State that a licensed traffic survival school will charge a fee;
- c. Instruct the driver to submit any hearing request to the Division by 15 days after the date of the order of assignment; and
- d. Warn the driver that failure to successfully complete traffic survival school within 60 days after the date of the order of assignment may result in a 6-month suspension.

2. Division records shall reflect a driver's completion of traffic survival school when:

- a. A licensed traffic survival school reports the driver's successful completion of the curriculum, or
- b. The driver presents to the Division an original certificate of completion issued by a licensed traffic survival school, within 30 days of issuance of the certificate.

3. The Division shall send a driver an order of suspension for 6 months under A.R.S. § 28-3318 when:

- a. The driver does not establish completion of traffic survival school under R17-4-506(D)(2), and
 - b. At least 61 days pass after the date of the order of assignment.
- The order of suspension shall instruct the driver to submit any hearing request to the Division before the effective date of the suspension stated on the order.

- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. AIR POLLUTION CONTROL

PREAMBLE

1. **Sections Affected** **Rulemaking Action**

R18-2-609	Repeal
R18-2-609	New Section
R18-2-610	Renumber
R18-2-610	New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 49-457(H)
Implementing statute: A.R.S. § 49-457
3. **List of all previous notices appearing in the register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. page # 1233, April 30, 1999.
List of Governor's Agricultural Best Management Practices Committee Members: 4 A.A.R. 10 (semi-annual index), December 31, 1998.
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Ross Rodgers
Address:	Governor's Agricultural Best Management Practices Committee Arizona Department of Environmental Quality 3003 North Central Avenue, 5th Floor Phoenix Arizona 85012
Telephone:	602-207-2335
Fax:	602-207-2366
E-mail:	rodgers.ross@ev.state.az.us
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The Governor's Agricultural Best Management Practices Committee (Committee) is mandated by A.R.S. § 49-457 to promulgate a rule establishing an agricultural general permit for best management practices that reduce PM10 (particulate matter 10 or less micrometers in aerodynamic diameter) from regulated agricultural activities.
6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
8. **The preliminary summary of the economic, small business, and consumer impact:**

The proposed rule imposes an administrative burden on the Arizona Department of Environmental Quality (ADEQ) that will enforce the rule. The Natural Resource Conservation Districts (NRCs) within the Maricopa PM10 non-attainment area are required by A.R.S. § 49-457(I) to maintain records. The proposed rule has a negative economic

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impact on the regulated agricultural industry and small agricultural businesses by incurring costs to implement the best management practices. Due to the nature of agricultural economics, the agricultural industry will not be able to recapture the costs associated with the implementation of the best management practices. Agricultural commodity groups, Cooperative Extension, and NRCs may be affected by this rule because they will help educate and provide technical assistance to commercial farmers. As a result of this rule, the general public will receive cleaner air and health-related benefits because of reduced PM10 emissions from regulated agriculture activities.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Ross Rodgers
Address: Governor's Agricultural Best Management Practices Committee
Arizona Department of Environmental Quality
3003 North Central Avenue, 5th Floor
Phoenix Arizona 85012
Telephone: 602-207-2335
Fax: 602-207-2366
E-mail: rodders.ross@ev.state.az.us

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

Date: December 7, 1999
Time: 4:30 p.m.
Location: Arizona Department of Environmental Quality, Room 1709, 3033 North Central, Phoenix, Arizona 85012 (Please call (602) 207-2372 for special accommodations pursuant to the Americans with Disabilities Act.)
Nature: Public hearing with the opportunity for formal comments regarding the "agriculture PM10 general permit" proposed rule.

The close of the written public comment period is December 9, 1999, at 5 p.m.

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

None.

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

None.

13. The full text of the rule follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. AIR POLLUTION CONTROL

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

Sections

~~R18-2-609.~~ Agricultural Practices Repealed

~~R18-2-609.~~ Definitions for R18-2-610

~~R18-2-610.~~ Agricultural PM10 general permit

~~R18-2-610.~~ ~~R18-2-611.~~ Evaluation of Nonpoint Source Emissions

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES

R18-2-609. Agricultural Practices Repealed

No person shall cause, suffer, allow, or permit the performance of agricultural practices including but not limited to tilling of land and application of fertilizers without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.

R18-2-609. Definitions for R18-2-610

The definitions contained in 18 A.A.C. 2, Article 1 of this chapter and the following definitions shall apply to R18-2-610:

1. "Access restriction" means restricting or eliminating public access to non-cropland.
2. "Aggregate cover" means applying gravel, concrete, recycled road base, caliche, or other similar material to non-cropland.
3. "Artificial wind barrier" means a physical barrier to the wind.
4. "Best management practice" means a practical and economically feasible practice that will reduce PM10 from a regulated agricultural activity and is approved by the Agricultural Best Management Practices Committee.
5. "Chemical irrigation" means applying a fertilizer, pesticide or other agricultural chemical in an irrigation water system.
6. "Combining tractor operations" means performing 2 or more tillage, cultivation, planting, or harvesting operations with a single tractor or harvester pass.
7. "Commercial farm" means 10 contiguous acres or more of land used for agricultural purposes within the boundary of the Maricopa PM10 non-attainment area.
8. "Commercial farmer" means an operator of a commercial farm.
9. "Committee" means the Governor's Agricultural Best Management Practices Committee.
10. "Cover crop" means plants or a green manure crop grown for seasonal soil protection or soil improvement.
11. "Critical area planting" means using trees, shrubs, vines, grasses, or other vegetative cover on non-cropland.
12. "Cropland" means land on a commercial farm that: a) is within the time-frame of final harvest to plant emergence; b) has been tilled in a prior year and is suitable for crop production, but is currently fallow; or c) is a turn-row.
13. "Cross-wind ridges" means soil ridges formed by a tillage operation.
14. "Cross-wind strip-cropping" means planting strips of alternating crops within the same field.
15. "Cross-wind vegetative strips" means herbaceous cover established in 1 or more strips.
16. "Equipment modification" means modifying agricultural equipment to prevent or reduce particulate matter generation from cropland.
17. "Limited activity during a high wind event" means eliminating agricultural activities when the measured wind speed at 6 feet in height is above 25 mph at the commercial farm site.
18. "Manure application" means applying animal waste or biosolids to the soil surface.
19. "Maricopa PM10 non-attainment area" means the Phoenix planning area as set forth in 40 CFR 81.303.
20. "Mulching" means applying plant residue or other material, that is not produced on-site, to the soil surface.
21. "Multi-year crop" means a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than 1 year.
22. "Non-cropland" means any commercial farm land that is: a) no longer used for agricultural production, b) no longer suitable for production of crops; or c) subject to a restrictive easement or contract that prohibits use for the production of crops. Non-cropland includes private farm roads, ditches, ditch banks, equipment yards, storage yards, or well heads.
23. "Operator" means an individual, entity, or joint operation who is in general control of the farm during the current year.
24. "Permanent cover" means a perennial vegetative cover on cropland.
25. "Planting based on soil moisture" means applying water to soil before performing planting operations.
26. "Reduce vehicle speed" means operating farm vehicles or farm equipment on unpaved private farm roads at speeds not to exceed 20 mph.
27. "Reduced harvest activity" means the mechanized cutting and removal of crops from fields or reducing the number of harvest passes.
28. "Reduced tillage system" means reducing the number of tillage operations used to produce a crop.
29. "Regulated agricultural activities" means commercial farming practices that may produce PM10 within the Maricopa PM10 non-attainment area and are subject to the requirements in R18-2-610.
30. "Residue management" means managing the amount and distribution of crop and other plant residues on the soil surface.
31. "Sequential cropping" means growing crops in a sequence that minimizes the amount of time bare soil is exposed on a field.
32. "Surface roughening" means manipulating the soil surface to produce or maintain clods.

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33. “Synthetic particulate suppressant” means a man-made particulate matter control product including lignosulfate, calcium chloride, magnesium chloride, emulsions of petroleum products, enzyme products, or polyacrylamides.
34. “Tillage and harvest” means any mechanical practice that physically disturbs cropland or crops on a commercial farm.
35. “Tillage based on soil moisture” means applying water to the soil before or during tillage, or delaying tillage to coincide with precipitation.
36. “Timing of a tillage operation” means managing the timing of tillage operations to minimize the soil’s susceptibility to generate PM10.
37. “Track-out control system” means using a device to remove mud or soil from a vehicle before entering a paved public road.
38. “Tree, shrub, or windbreak planting” means providing a woody vegetative barrier to the wind.
39. “Watering” means applying water to non-cropland.

R18-2-610. Agricultural PM10 general permit

- A.** A commercial farmer shall comply with this Section by December 31, 2001.
- B.** A commercial farmer, who commences a regulated agricultural activity after December 31, 2000, shall comply with this Section within 18 months of commencing the regulated agricultural activity.
- C.** A commercial farmer shall comply with this Section by implementing 1 Best Management Practice for each of the following categories:
 1. Tillage and Harvest,
 2. Non-cropland, and
 3. Cropland.A commercial farmer may implement more than 1 best management practice for 1 or more of the categories.
- D.** The best management practices selected must not violate any other local, state or federal law.
- E.** A commercial farmer shall implement at least 1 of the following best management practices to reduce PM10 emissions during tillage and harvest activities:
 1. Chemical irrigation
 2. Combining tractor operations
 3. Equipment modification
 4. Limited activity during a high wind event
 5. Multi-year crop
 6. Planting based on soil moisture
 7. Reduced harvest activity
 8. Reduced tillage system
 9. Tillage based on soil moisture
 10. Timing of a tillage operation
- F.** A commercial farmer shall implement at least 1 of the following best management practices to reduce PM10 emissions from non-cropland:
 1. Access restriction
 2. Aggregate Cover
 3. Artificial wind barrier
 4. Critical area planting
 5. Manure application
 6. Reduce vehicle speed
 7. Synthetic particulate suppressant
 8. Track-out control system
 9. Tree, shrub, or windbreak planting
 10. Watering
- G.** A commercial farmer shall implement at least 1 of the following best management practices to reduce PM10 emissions from cropland:
 1. Artificial wind barrier
 2. Cover crop
 3. Cross-wind ridges
 4. Cross-wind strip-cropping
 5. Cross-wind vegetative strips
 6. Manure application
 7. Mulching
 8. Multi-year crop
 9. Permanent cover

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- 10. Planting based on soil moisture
- 11. Residue management
- 12. Sequential cropping
- 13. Surface roughening
- 14. Tree, shrub, or windbreak planting

- H.** A person or entity may develop new practices that reduce PM10. The person or entity may submit practices that are proven effective through on-farm demonstration trials to the Committee. The Committee may meet to review the submitted practices. The Committee may incorporate these practices by rule into the agricultural PM10 general permit.
- I.** A commercial farmer shall maintain a record demonstrating compliance with this Section. The record shall be provided to the director within 2 working days of notice to the commercial farmer. The record shall contain:
 - 1. The name of the commercial farmer.
 - 2. The mailing address or physical address of the commercial farm.
 - 3. The best management practices selected for tillage and harvest, non-cropland and cropland.
- J.** The director shall not assess a fee to the commercial farmer for coverage under the agricultural PM10 general permit.
- K.** The director must document non-compliance with this Section before issuing a compliance order.
- L.** A commercial farmer who is not in compliance with this Section is subject to the provisions stated in A.R.S. § 49-457(I), (J), and (K).

~~R18-2-610~~R18-2-611. Evaluation of Nonpoint Source Emissions

No change.