

# NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 38. BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2051.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 4, 2010.*

[R11-151]

#### PREAMBLE

#### **1. Sections Affected**

R4-38-103  
R4-38-103  
R4-38-104  
R4-38-104  
R4-38-105  
R4-38-105  
R4-38-106  
R4-38-107  
R4-38-107  
R4-38-107  
R4-38-108  
R4-38-108  
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R4-38-110  
R4-38-110  
R4-38-111  
R4-38-112  
R4-38-112  
R4-38-113  
R4-38-115  
R4-38-116  
R4-38-117  
R4-38-118

#### **Rulemaking Action**

Renumber  
New Section  
Renumber  
Amend  
Renumber  
Amend  
Renumber  
Repeal  
Renumber  
Amend  
Renumber  
Amend  
Renumber  
New Section  
Renumber  
Amend  
Renumber  
Repeal  
Renumber  
Amend  
Amend  
New Section  
New Section  
New Section

#### **2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-2904(B)(1)

Implementing statute: A.R.S. §§ 32-2912(F)(3), 32-2913(A), 32-2915(F) and (G)

#### **3. The effective date for the rules:**

November 12, 2011

#### **4. List of all previous notices appearing in the *Register* addressing the final rules:**

Notice of Rulemaking Docket Opening: 17 A.A.R. 512, April 8, 2011

Notice of Proposed Rulemaking: 17 A.A.R. 468, April 8, 2011

#### **5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Chris Springer, Executive Director

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Address: Board of Homeopathic and Integrated Medicine Examiners  
1400 W. Washington St., Suite 230  
Phoenix, AZ 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

E-mail: chris.springer@azhomeopathbd.az.gov

**6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The Board is amending R4-38-106 to delete the oral examination requirement. R4-38-107 is being repealed to conform to the 2008 amendment of A.R.S. § 32-2913, which requires all applicants to pass an examination prescribed by the Board. Before the statute was amended in 2008, an applicant could request a waiver of the examination. However, to ensure that licensees are competent, the legislature decided to require all applicants to pass a written examination. The Board also deleted the requirement for an oral examination based on suggestions made in a 2008 performance audit. By enhancing the written examination to include questions testing an applicant's knowledge of the recognized homeopathic modalities, the Board deleted the requirement for an oral examination since the knowledge is tested in the new written examination. In 2008, the legislature also amended A.R.S. § 32-2915 to require that license renewal be done on a licensee's anniversary date rather than have all licensees renew at the end of each calendar year. The rules are being amended to provide necessary information regarding license application and renewal. The legislature also added a provision to A.R.S. § 32-2915 requiring a licensee to obtain 20 hours of Board-approved continuing education annually. Sections are being added to provide guidance regarding the requirement.

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

None

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

Not applicable

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

The Board incurred the costs associated with the rulemaking, informing applicants and licensees of the new requirements, and enforcing the rules. Much of this cost results from legislative action rather than the rulemaking.

Most of the economic impact on applicants and licensees results from legislative action rather than this rulemaking. The costs associated with obtaining 20 hours of Board-approved continuing education will be minimal because most licensees already participate in continuing education. There may be economic cost associated with taking an examination, especially if an applicant does not pass. However, this is a necessary requirement to enable the Board to fulfill its obligation to protect public health and safety. There are administrative costs associated with applying for and renewing licensure. However, the benefits of being licensed outweigh the costs of making application.

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

Only minor, non-substantive changes were made between the proposed and final rules. Some of these changes result from comments by G.R.R.C. staff.

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

The Board received no comments regarding the rules and no one attended the oral proceeding held on May 10, 2011.

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

None

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

None

**14. Were these rules previously made as emergency rules?**

No

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

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 38. BOARD OF HOMEOPATHIC AND INTEGRATED MEDICINE EXAMINERS

ARTICLE 1. GENERAL

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Section

<u>R4-38-103.</u>	<u>Postgraduate Requirements for Licensure</u>
<u>R4-38-104.</u>	<u>Approval of Approved Postgraduate Coursework</u>
<u>R4-38-105.</u>	<u>Approval of Preceptorship</u>
<u>R4-38-106.</u>	<u>Fees</u>
<u>R4-38-107.</u>	<u>Waiver of Written Examination</u>
<u>R4-38-107.</u>	<u>Examinations Examination</u>
<u>R4-38-108.</u>	<u>Application for Licensure</u>
<u>R4-38-109.</u>	<u>License Renewal</u>
<u>R4-38-110.</u>	<u>Repealed</u>
<u>R4-38-110.</u>	<u>Notification of Address Changes Change in Contact Information</u>
<u>R4-38-111.</u>	<u>Experimental Forms of Diagnosis and Treatment</u>
<u>R4-38-112.</u>	<u>Registering Use of Experimental Forms of Diagnosis and Treatment</u>
<u>R4-38-112.</u>	<u>Peer Review</u>
<u>R4-38-113.</u>	<u>Chelation Therapy Practice Requirements</u>
<u>R4-38-115.</u>	<u>Use of Title and Abbreviation</u>
<u>R4-38-116.</u>	<u>Continuing Education Requirement</u>
<u>R4-38-117.</u>	<u>Application For Continuing Education Approval</u>
<u>R4-38-118.</u>	<u>Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement</u>

ARTICLE 1. GENERAL

**R4-38-103. Postgraduate Requirements for Licensure**

Under A.R.S. § 32-2912(F)(3), an applicant for licensure shall:

1. Have a degree of doctor of medicine in homeopathy issued by a homeopathic college or other Board-approved educational institution, or
2. Have successfully completed:
  - a. Formal postgraduate courses approved under R4-38-104, or
  - b. A preceptorship approved under R4-38-105.

**R4-38-103. R4-38-104. Approval of Approved Postgraduate Coursework**

A. An applicant for licensure who does not have a degree of doctor of medicine in homeopathy shall identify on a form supplied by the Board who seeks licensure based on successful completion of formal postgraduate courses shall: of

1. Complete at least 300 hours of formal postgraduate education courses in one or more of the treatment modalities specified in subsections (C)(1) through (6);
2. Ensure that with at least 40 hours of the 300-hour requirement required hours are in a course of classical homeopathy. To receive credit for formal postgraduate coursework, the applicant shall; and
3. submit the following Submit with the application required under R4-38-108 a statement from the sponsor of the formal postgraduate course that includes:
  - a. The applicant's name,
  - b. The name of the course sponsor,
  - c. The dates on which the course was taken,
  - d. A brief description of the course content,
  - e. The number of hours completed, and
  - f. Whether the applicant successfully completed the course.
1. A statement showing completion of the coursework and a brief description of the content; and
2. A certificate of attendance showing evidence of the number of hours successfully completed.

B. The Board shall approve a formal postgraduate course if the Board determines that:

1. the Except as provided in subsection (B)(4), the course content provides training in one or more of the treatment modalities specified in subsections (C)(1) through (6);
2. the educational qualifications of the instructors There is evidence that the course instructor is qualified in demonstrate sufficient knowledge of the subject matter of the course; and
3. and the The course sponsor is recognized within the homeopathic, osteopathic, or allopathic medical profession as a provider of postgraduate training and continuing education; or The Board shall approve a course of classical homeopathy, if the course includes case-taking, repertory use, materia medica, philosophy and history of homeopathy, acute remedies, constitutional prescribing, posology, homeopathy prescription policy, and remedy handling policy.
4. An applicant who has completed postgraduate coursework in treatment modalities not specified in subsections (C)(1) through (6) shall submit evidence of the postgraduate coursework with the application sufficient to enable the Board to determine whether the postgraduate coursework is related to the practice of homeopathic medicine as defined in statute.

C. No change

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1. No change
  - a. No change
    - i. No change
    - ii. No change
  - b. No change
2. No change
3. No change
4. No change
5. No change
  - a. No change
  - b. No change
6. No change

**~~R4-38-104.~~ R4-38-105. Approval of Preceptorship**

**A.** ~~Instead of evidence of formal postgraduate courses, an~~ An applicant may qualify for who seeks licensure based on successful completion of a preceptorship shall obtain the Board's approval of the preceptorship conducted by a preceptor qualified to provide instruction in one or more of the treatment modalities listed in A.R.S. § 32-2901(22) by submitting the following with the application the following required under R4-38-108:

1. A notarized affidavit from each preceptor on the preceptor's letterhead attesting to:
  - a. ~~The educational qualifications of the preceptor to include the number of years the preceptor has been conducting preceptorships;~~
  - b. The number of years the preceptor has been conducting preceptorships;
  - ~~b-c.~~ The dates of the preceptorship;
  - ~~e-d.~~ An outline of the training conducted;
  - e. ~~and each~~ Which of the treatment modality modalities listed in A.R.S. § 32-2901(22) were involved in the training;
  - ~~d-f.~~ The number of hours of didactic and clinical training in each treatment modality; and
  - ~~e-g.~~ The general nature of the services performed during the training; and
2. A summary from the applicant of each preceptorship including:
  - a. The name of each preceptor;
  - b. The treatment modalities included in each preceptorship; and
  - c. The total number of hours claimed instead of formal postgraduate courses.

**B.** The Board shall approve a preceptorship under this Section if the Board determines that:

1. The preceptorship provides training in one or more of the treatment modalities specified in R4-38-104;
2. The preceptorship involves a balance of didactic and clinical training;
3. The preceptor has been in full-time clinical practice for a least three years and meets the educational requirements of R4-38-302(C) in the treatment modality being precepted; and
4. If the preceptorship involves training in classical homeopathy, the preceptorship includes case-taking, repertory use, materia medica, philosophy and history of homeopathy, acute remedies, constitutional prescribing, posology, homeopathy prescription policy, and remedy handling policy.

**~~R4-38-105.~~ R4-38-106. Fees**

- A.** No change
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. No change
- B.** No change
1. No change
  2. No change
  3. No change
  4. No change

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5. No change
6. No change
7. No change
8. No change

**~~R4-38-107.~~ Waiver of Written Examination**

- ~~A.~~ The following applies to an applicant requesting waiver under A.R.S. § 32-2913(A):
- ~~1.~~ The Board shall not issue a license based on a waiver of the written examination without completion of an oral examination and a personal interview.
  - ~~2.~~ At the Board's discretion, an oral examination and personal interview may be conducted by a telephone conference call with a majority of the Board present.
- ~~B.~~ Based on the application, oral examination, and personal interview, the Board shall determine whether the applicant qualifies for a waiver.

**~~R4-38-106.~~~~R4-38-107.~~ Examinations Examination**

- A. The examination for a license consists of ~~three~~ two parts:
- ~~1.~~ A timed written examination with a passing grade of 70% that includes questions the Board deems appropriate for the category of addressing the treatment modality for which the applicant provides evidence under R4-38-103 that are similar to those expected to be included in an examination in an approved postgraduate course in the treatment modality under R4-38-103 modalities listed in A.R.S. § 32-2901(22). To pass the written examination, an applicant shall obtain a score of at least 70 percent;
  - ~~2.~~ An oral examination on one or more of the treatment modalities in R4-38-103 based on an actual clinical case history. The applicant shall present to the Board a summary of the clinical management of the sample case; and
  - ~~3.~~2. A personal interview with the Board to examine ~~the~~ an applicant's personal and professional history as it applies to homeopathic medicine. The Board may ask questions to clarify issues regarding the applicant's competence to engage in the practice of medicine safely, unprofessional conduct in the applicant's professional record, and whether the scope of the applicant's practice falls within the ~~definition~~ scope of homeopathic medicine as defined at A.R.S. § 32-2901(22).
- B. An applicant who ~~applies for licensure and provides evidence of postgraduate education under R4-38-103(C)~~ may use a copy of Kent's Repertory ~~or other repertory with clinically updated rubrics~~ as a reference during the written examination. An applicant shall not use a computer or other written material during the written examination.

**~~R4-38-108.~~ Application for Licensure**

- ~~A.~~ To apply for licensure, an applicant shall submit the following directly to the Board:
1. An application form that contains the following information about the applicant:
    - a. Name as the applicant wants the name to appear on a license;
    - b. Social Security number, as required under A.R.S. §§ 25-320(P) and 25-502(K);
    - c. Date and place of birth;
    - d. Personal identifying characteristics including gender, weight, height, eye and hair colors, and any identifying marks;
    - e. Business name and address;
    - f. Residential address;
    - g. Business telephone and fax numbers;
    - h. E-mail address;
    - i. Date on which the applicant expects to take the written examination required under A.R.S. § 32-2913;
    - j. Name of the approved medical school from which the applicant obtained an allopathic or osteopathic medical degree and the date of the degree;
    - k. Name of the hospital program at which the applicant served as an intern and the years of the internship;
    - l. Names and addresses of three physicians who will send the Board letters of recommendation for the applicant;
    - m. List of the states or other jurisdictions in which the applicant is or ever has been licensed to practice medicine;
    - n. List of specialty colleges of which the applicant is a member;
    - o. List of specialty boards by which the applicant is certified;
    - p. List of the places where the applicant has practiced medicine and the dates of practice;
    - q. Statement indicating whether the applicant:
      - i. Has, within the last 10 years, had a medical malpractice judgment entered against an applicant or settled a malpractice claim against the applicant;
      - ii. Has ever been convicted of or pled guilty or nolo contendere to a criminal charge in an adult court of record;
      - iii. Has been charged with a crime that is pending adjudication in an adult court of record;
      - iv. Has had a state or other jurisdiction refuse or deny the applicant a license to practice medicine or has allowed the applicant to withdraw a license application instead of being refused or denied a license to practice medicine;

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- v. Has had a state or other jurisdiction take disciplinary action against the applicant's license to practice medicine including placing the license on probation, suspending the license, limiting or restricting the license, revoking the license, or accepting surrender of the license;
  - vi. Has had a state or other jurisdiction, including a federal agency, suspend, limit, restrict, revoke, deny, or accept surrender in lieu of action of the applicant's registration to possess, dispense, or prescribe controlled substances;
  - vii. Has or had, within the last 10 years, a mental illness or psychological condition that impaired the applicant's ability to practice medicine or function as a medical student;
  - viii. Is now or has been within the last 10 years dependent upon alcohol or drugs; and
  - ix. Has had a specialty board or college suspend, revoke, or deny certification to the applicant.
  - r. Notarized signature and attestation that the information provided is true, correct, and complete;
  - 2. A summary listing the course title, sponsor, dates attended, and credit hours and evidence of completing the 300 hours of postgraduate coursework required under R4-38-104 or the preceptorship required under R4-38-105;
  - 3. If the answer to any item in subsections (A)(1)(q)(i) through (ix) is yes, detailed information regarding the nature, date, and location of the incident, or the nature of the condition, and the identity of the agency, court, or organization involved, action taken, and current status;
  - 4. An Arizona Statement of Citizenship and documentary evidence of U.S. citizenship or qualified alien status;
  - 5. A list of the homeopathic modalities the applicant intends to make available under the applicant's supervision if the applicant is licensed;
  - 6. If the applicant intends to use an experimental form of diagnosis or treatment in the applicant's homeopathic medical practice, a copy of the written informed consent materials that a patient will sign before examination or treatment;
  - 7. Two photographs of the applicant's face taken within the last 60 days;
  - 8. A copy of the membership card provided by a specialty college of which the applicant is a member;
  - 9. A copy of the certification card provided by a specialty board by which the applicant is certified;
  - 10. A completed and signed form authorizing individuals, organizations, previous employers, and schools to release to the Board information regarding the applicant;
  - 11. A current curriculum vitae that includes all professional activity from medical school to the present; and
  - 12. The license application fee specified in R4-38-106.
- B.** An applicant for licensure shall ensure that the following information is submitted directly to the Board:
- 1. Verification of graduation provided by the allopathic or osteopathic medical college from which the applicant graduated;
  - 2. Letters of recommendation, on professional letterhead and notarized, from three licensed physicians; and
  - 3. Verification of licensure from every jurisdiction in which the applicant is or ever has been licensed to practice medicine.

**R4-38-109. License Renewal**

- A.** The Board shall provide a licensee with at least 30 days' notice of the need to renew the licensee's license. It is the responsibility of the licensee to renew timely. Failure to receive notice of the need to renew does not excuse failure to renew timely.
- B.** Under A.R.S. § 32-2915(G), a licensee who wishes to continue practicing homeopathic medicine shall submit the license renewal materials described in subsection (E) annually on or before the last day of the month in which the license was initially issued.
- C.** A licensee who fails to comply with subsection (E) by the date specified in subsection (B) may apply for license renewal within 60 days after the date specified in subsection (B) by:
- 1. Submitting to the Board the license renewal materials described in subsection (E), and
  - 2. Paying the late renewal penalty prescribed in R4-38-106.
- D.** If a licensee fails to comply with either subsection (B) or (C), the licensee's license expires and the licensee shall immediately cease practicing homeopathic medicine. A licensee whose license expires may obtain licensure only by complying again with R4-38-108 and taking the examination specified in R4-38-107.
- E.** To renew a license issued by the Board, a licensee shall submit the following directly to the Board:
- 1. A license renewal application that contains the following information about the applicant:
    - a. Name;
    - b. License number;
    - c. Business name and address;
    - d. Residential address;
    - e. Business telephone number;
    - f. E-mail address;
    - g. Address and telephone numbers of each location at which the licensee practices;
    - h. Number of the active M.D. or D.O. license held by the licensee and name of the state that issued the license; and
    - i. A statement indicating whether during the last 12 months:

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- i. A licensing authority of another jurisdiction denied the licensee a license to practice allopathic, homeopathic, or osteopathic medicine and if so, the name of the jurisdiction, date of the denial, and an explanation of the circumstances;
  - ii. A licensing authority of another jurisdiction revoked, suspended, limited, restricted, or took other action regarding a license of the licensee and if so, the name of the jurisdiction taking action, nature and date of the action taken, and an explanation of the circumstances;
  - iii. The licensee has been convicted of or pled guilty or nolo contendere to a criminal charge, including driving under the influence of drugs or alcohol, and if so, the name of the jurisdiction in which convicted, nature of the crime, date of conviction, and current status;
  - iv. A lawsuit was filed or settlement entered into or judgment entered against the licensee alleging professional malpractice or negligence in the practice of homeopathic, allopathic, or osteopathic medicine and if so, the case number, date of action, the matters alleged, and whether the lawsuit is still pending or the manner in which the settlement or judgment was resolved; and
  - v. The licensee has or had a mental illness or psychological condition that may impair the licensee's ability to practice homeopathic medicine safely and skillfully and if so, the nature of the condition and any accommodations necessary;
  - vi. The licensee has been charged with or arrested for any felony or misdemeanor involving conduct that may affect patient safety or a felony as required under A.R.S. § 32-3208.
2. A list of the treatment modalities the licensee makes available under the licensee's supervision;
  3. If the licensee uses an experimental form of diagnosis or treatment in the licensee's practice of medicine, a copy of the written informed consent materials that a patient signs before examination or treatment;
  4. A list of any specialty certifications held by the licensee, the certifying entity, and the date the certification expires;
  5. If the licensee dispenses drugs or devices as part of the licensee's practice of homeopathic medicine:
    - a. The licensee's DEA registration number;
    - b. A statement of whether a complaint has been filed or legal action has been taken against the licensee by a court or federal or state agency for dispensing a device, drug, or substance and if so, the name and address of the court or federal or state agency and documentation of the action taken; and
    - c. A list of the items dispensed;
  6. An Arizona Statement of Citizenship and documentary evidence of U.S. citizenship or qualified alien status;
  7. An affirmation that the licensee has completed the continuing education required under A.R.S. § 32-2915;
  8. An affirmation that the licensee is in compliance with A.R.S. § 32-3211 regarding medical records;
  9. The license renewal fee prescribed under R4-38-106; and
  10. The licensee's dated signature affirming that the information provided is true, correct, and complete.

**~~R4-38-110.~~ Repealed**

**~~R4-38-108, R4-38-110.~~ Notification of ~~Address Changes~~ **Change in Contact Information****

~~The Board shall communicate with a licensee using the most recent contact information provided to the Board. To ensure timely communication from the Board, A~~ a licensee shall advise the Board in writing within 45 days of opening an additional office address, or a change in name, office or residential address, ~~change in home address;~~ or ~~change in~~ telephone number.

**~~R4-38-109, R4-38-111.~~ Experimental Forms of Diagnosis and Treatment**

- A. No change
- B. No change
  1. No change
  2. No change
  3. No change
- C. No change
  1. No change
  2. No change
  3. No change
  4. No change
  5. No change

**~~R4-38-112.~~ Registering Use of Experimental Forms of Diagnosis and Treatment**

~~As part of an initial licensing application and subsequent annual renewal application, an applicant shall designate on a form provided by the Board the modalities of treatment used in the applicant's practice and forms of diagnosis and treatment used by the applicant that are defined as experimental by R4-38-109.~~

**~~R4-38-111, R4-38-112.~~ Peer Review**

- A. No change
- B. No change

- C. No change
- D. No change

**R4-38-113. Chelation Therapy Practice Requirements**

- A. Before a licensee may practice chelation therapy for other than the treatment of metal poisoning, the licensee:
  - 1. Shall document completion of the postgraduate education required in ~~R4-38-103(C)(2)~~ R4-38-104(C)(2); and
  - 2. ~~File a sample~~ Submit to and obtain approval from the Board of the informed patient consent form ~~and obtain approval of written disclosure from the Board~~ as required by A.R.S. § 32-2933(27). As part of the documentation submitted with the informed patient consent form, the licensee shall include a copy of the chelation therapy protocol.
- B. ~~If the Board approves the written disclosure under A.R.S. § 32-2933(27), the licensee may practice chelation therapy.~~ The ~~A~~ licensee shall ensure that detailed records and periodic analysis of results on patients consistent with the most recent informed consent and protocol on file with the Board are maintained consistent with A.R.S. § 32-2933(27) and available for periodic review by a peer review committee designated by the Board. ~~Retention~~ The licensee shall ensure that retention of patient medical and treatment records ~~shall also conform with~~ to the requirements of A.R.S. § ~~42-2297~~ 32-2936.

**R4-38-115. Use of Title and Abbreviation**

- A. The use of the abbreviation “M.D.(H.)” or “D.O.(H.)” (with or without periods), is equivalent to the written designation, “Doctor of Medicine (Homeopathic)” or “Doctor of Osteopathy (Homeopathic).”
- B. A ~~Homeopathic~~ homeopathic physician practicing in this state who is not licensed by the Arizona Board of Medical Examiners or the Arizona Board of Osteopathic Examiners in Medicine and Surgery shall not use any designation other than the initials ~~MD~~ M.D.(H.) or ~~DO~~ D.O.(H.) (with or without periods) to indicate a doctoral degree, ~~which shall be followed by the full, written designation, “Homeopathic Physician.”~~
- C. A physician licensed by the Board and ~~any state~~ the Arizona Board of Medical Examiners or the Board and ~~any state~~ the Arizona Board of Osteopathic Examiners in Medicine and Surgery shall use ~~one of the following designations, M.D., M.D.(H.) or D.O., D.O.(H.)~~ as appropriate (with or without periods):
  - 1. “MD, MD(H)” or “DO, MD(H);”
  - 2. “MD, Homeopathic Physician” or “DO, Doctor of Medicine (Homeopathic).”
  - 3. “MD, Doctor of Medicine (Homeopathic)” or “DO, Doctor of Medicine (Homeopathic).”
- D. A licensee practicing in this state shall display the license issued by the Board or an official duplicate of the license in a conspicuous location in the reception area of each office facility.

**R4-38-116. Continuing Education Requirement**

- A. Under A.R.S. § 32-2915(F), a licensee shall complete at least 20 hours of Board-approved continuing education in the 12 months before submitting the license renewal materials required under R4-38-109. If a licensee completes more than 20 hours of continuing education during a year, the licensee shall not report the extra hours in a subsequent year.
- B. A licensee shall ensure that the licensee obtains and maintains for two years documentary evidence of complying with the continuing education requirement.
- C. An hour of continuing education consists of 60 minutes of participation unless specified otherwise in subsection (D).
- D. The following continuing education programs and activities are approved by the Board and do not require an application under R4-38-117:
  - 1. Participating in an internship, residency, or fellowship at a teaching institution approved by the American Medical Association, Association of American Medical Colleges, or American Osteopathic Association. A licensee may claim one credit hour of continuing education for each day of training in a full-time approved program, or for a less than full-time training on a pro-rata basis. For purposes of this subsection, teaching institutions define “full-time”;
  - 2. Participating in an education program for an advanced degree in a medical or medically-related field in a teaching institution approved by the American Medical Association, Association of American Medical Colleges, or American Osteopathic Association. A licensee may claim one credit hour of continuing education for each one day of full-time study or less than a full-time study on a pro rata basis. For purposes of this subsection, teaching institutions define “full-time”;
  - 3. Participating in full-time research in a teaching institution approved by the American Medical Association, Association of American Medical Colleges, or American Osteopathic Association. A licensee may claim one credit hour of continuing education for each one day of full-time research, or less than full-time research on a pro rata basis. For purposes of this subsection, teaching institutions define “full-time”;
  - 4. An educational program certified as Category 1 by an organization accredited by the Accreditation Council for Continuing Medical Education or the American Osteopathic Association;
  - 5. A medical education program designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of medicine and provided by an organization or institution accredited by the Accreditation Council for Continuing Medical Education or the American Osteopathic Association; and
  - 6. A homeopathic medical education course approved or offered by the Council on Homeopathic Education.
- E. The following activities are approved by the Board as continuing education and do not require an application under R4-38-117 subject to the specified limitations:



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1. Serving as an instructor of medical students, house staff, other physicians, or allied health professionals from a hospital or other health care institution if serving as an instructor provides the licensee with an understanding of current developments, skills, procedures, or treatments related to the practice of allopathic, osteopathic, or homeopathic medicine. A licensee who serves as an instructor:
    - a. May claim one hour of continuing education for each hour of instruction up to a maximum of 10 hours, and
    - b. If the licensee teaches substantially the same class more than once, may claim hours of continuing education only for the first time the class is taught;
  2. Publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of allopathic, osteopathic, or homeopathic medicine. A licensee who publishes or presents a paper, report, or book:
    - a. May claim one hour of continuing education for each hour preparing, writing, and presenting up to a maximum of 10 hours; and
    - b. May claim hours of continuing education only after the date of publication or presentation; and
  3. Participating in the following activities if the participation provides the licensee with an understanding of current developments, skills, procedures, or treatments related to the practice of allopathic, osteopathic, or homeopathic medicine. A licensee may claim one hour of continuing education for each hour of participation in the following activities up to a maximum of six hours:
    - a. Completing a self-instructed medical education program through the use of videotape, audiotape, film, filmstrip, radio broadcast, or computer;
    - b. Reading scientific journals and books;
    - c. Preparing for and obtaining specialty board certification or recertification; and
    - d. Participating on a staff or quality of care committee or utilization review committee in a hospital, health care institution, or government agency.
- F.** The Board shall approve a program or activity note listed in subsection (D) or (E) as continuing education if the provider of the program or activity makes application under R4-38-117 and the Board determines that the program or activity:
1. Is designed to provide the participant with:
    - a. Understanding of current developments, procedures, or treatments related to the practice of homeopathic medicine as defined at A.R.S. § 32-2901(22);
    - b. Knowledge and skills used to practice homeopathic medicine safely and competently; or
    - c. Knowledge and skills related directly or indirectly to patient care including practice management, medical ethics, or language necessary to the patient population served;
  2. Includes a method by which the participant evaluates the:
    - a. Stated objectives of the program or activity;
    - b. Instructor knowledge and teaching ability;
    - c. Effectiveness of the teaching methods used, and
    - d. Usefulness or applicability of the information provided; and
  3. Provides the participant with a certificate of attendance that shows the:
    - a. Name of the participant;
    - b. Name of the approved continuing education;
    - c. Name of the continuing education provider;
    - d. Date, time, and location of the continuing education; and
    - e. Hours of instruction provided.
- G.** Except as specified in subsection (H), a licensee who fails to comply with subsection (A) may submit to the Board a notice of 60-day extension. The licensee shall submit the notice of 60-day extension no later than the date indicated in R4-38-109(B). If a licensee who submits a notice of 60-day extension fails to comply with the continuing education requirement and submit the affirmation required by R4-38-109(E)(7) within the extension period, the licensee's license expires and the licensee shall immediately cease practicing homeopathic medicine. A licensee whose license expires may obtain licensure only by complying again with R4-38-108 and taking the examination specified in R4-38-107.
- H.** If a licensee fails to comply with subsection (A) because of disability, military service, absence from the U.S., or other circumstance beyond the control of the licensee, the licensee may submit to the Board a request for a temporary waiver of the continuing education requirement that includes the reason for noncompliance, the number of hours of continuing education completed, and the amount of time requested for the licensee to complete the continuing education requirement. The licensee shall submit the request for temporary waiver no later than the date specified in R4-38-109(B). The Board shall evaluate the request for temporary waiver and provide written notice to the licensee of the time within which the licensee shall comply with subsection (A).

**R4-38-117. Application for Continuing Education Approval**

- A.** To obtain Board approval of a continuing education under R4-38-116(F), the provider of the continuing education shall submit the following to the Board at least 10 days before the meeting at which the Board will consider the continuing education for approval:

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1. An application for approval, using a form available from the Board, which contains the following information:
    - a. Title of the continuing education;
    - b. Name and address of the continuing education provider;
    - c. Name and telephone and fax numbers of the contact person for the continuing education provider;
    - d. Date, time, and place at which the continuing education will be taught, if known;
    - e. Subject matter of the continuing education;
    - f. Objective of the continuing education;
    - g. Method of instruction; and
    - h. Number of continuing education hours requested; and
  2. The following documents:
    - a. Curriculum vitae of the continuing education instructor.
    - b. Detailed outline of the continuing education.
    - c. Agenda for the continuing education showing hours of instruction and subject matter taught in each hour.
    - d. Method by which participants will evaluate the continuing education, and
    - e. Certificate of attendance that meets the requirements of R4-38-116(F)(3).
- B.** A provider of continuing education shall not advertise that a continuing education is approved until the Board approves the application submitted under subsection (A).
- C.** The Board's approval of a continuing education is valid for one year or until there is a change in subject matter, instructor, or hours of instruction. At the end of one year or when there is a change in subject matter, instructor, or hours of instruction, the provider of the continuing education shall reapply for approval.
- R4-38-118. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement**
- A.** When notice of the need to renew a license is provided under R4-38-109(A), the Board shall also provide notice of an audit of continuing education records to a random sample of licensees.
- B.** A licensee who is notified of a continuing education audit shall submit documentary evidence of compliance with the continuing education requirement at the same time that the licensee submits the renewal application required under R4-38-109(E).
- C.** If a licensee subject to a continuing education audit fails to submit the required evidence no later than the date specified in R4-38-109(C), the licensee is considered to have committed an act of unprofessional conduct and is subject to probation or license suspension or revocation.

**NOTICE OF FINAL RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 15. DEPARTMENT OF WATER RESOURCES**

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2051.) The Governor's Office authorized the notice to proceed through the rulemaking process on September 16, 2010.*

[R11-152]

**PREAMBLE**

- |   |  |
|---|--|
| <p><b>1. <u>Sections Affected</u></b><br/>R12-15-723</p>  | <p><b><u>Rulemaking Action</u></b><br/>Amend</p> |
| <p><b>2. <u>The statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):</u></b><br/>Authorizing statutes: A.R.S. §§ 45-105(B)(1), 45-113(B) and 45-576(H)<br/>Implementing statute: A.R.S. § 45-576</p> |  |
| <p><b>3. <u>The effective dates of the rules:</u></b><br/>September 13, 2011</p>  |  |

The Department requests that the rule become effective immediately upon filing with the Office of the Secretary of State pursuant to A.R.S. § 41-1032(A)(4), which provides that a rule may be effective immediately if the rule provides a benefit to the public and a penalty is not associated with a violation of the rule. The rule allows the Director to restore irrigation grandfathered rights that were extinguished for assured water supply credits during 2005, 2006 and 2007 if requested by the landowners and if certain conditions are met. This provides a direct benefit to the owners of

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lands to which the rights were appurtenant, and an indirect benefit to persons who derive revenue from the sale of products associated with the use of these lands for agricultural production. The rule imposes no penalties.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 2063, October 22, 2010

Notice of Proposed Rulemaking: 17 A.A.R. 1082, May 27, 2011

Notice of Supplemental Proposed Rulemaking: 17 A.A.R. 1116, June 3, 2011

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Ken Slowinski, Chief Counsel

Address: Department of Water Resources  
3550 N. Central Ave.  
Phoenix, AZ 85012

Telephone: (602) 771-8472

Fax: (602) 771-8686

E-mail: kcslowinski@azwater.gov

or

Name: Scott Miller, Manager, Groundwater Permitting and Wells Section

Address: Department of Water Resources  
3550 N. Central Ave.  
Phoenix, AZ 85012

Telephone: (602) 771-8604

Fax: (602) 771-8689

E-mail: jsmiller@azwater.gov

**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

*Reasons for initiating the rule:*

A person may not offer subdivided lands for sale or lease in an active management area ("AMA") without first obtaining either a certificate of assured water supply from the Arizona Department of Water Resources ("Department") or a commitment of water service from a water provider that has been designated by the Department as having an assured water supply. A.R.S. § 45-576(A). "Assured water supply" is defined by statute to mean that sufficient groundwater, surface water or effluent of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least 100 years; that the financial capability has been demonstrated to construct the necessary water facilities to make the water supply available for the proposed use; and that the projected groundwater use is consistent with the AMA's management plan and management goal. A.R.S. § 45-576(J).

The Department's Assured and Adequate Water Supply Rules, R12-15-701 *et seq.* ("AAWS Rules"), set forth criteria that an applicant for an assured water supply determination must meet to demonstrate an assured water supply. The criteria for demonstrating that an applicant's projected groundwater use is consistent with the AMA's management goal is different for each AMA. Generally, applicants for assured water supply determinations in the Phoenix, Pinal, Prescott and Tucson AMAs must demonstrate that only a small percentage of their total estimated water demand will be met with groundwater. Beginning in 2025, applicants for certificates of assured water supply in those AMAs must demonstrate that no groundwater will be used. *See* R12-15-724 through R12-15-727.

One exception to these restrictions on groundwater use is the ability of an applicant to purchase an existing grandfathered groundwater right in the AMA, extinguish that right and obtain a small volume of extinguishment credits that can be used to offset an equal volume of groundwater use. *See* R12-15-723. Once a grandfathered groundwater right is extinguished in this manner, no groundwater may be withdrawn pursuant to the right. For an irrigation grandfathered right ("IGFR"), this means that no more agricultural production may occur on the land to which the right was appurtenant.

A number of agricultural landowners within AMAs extinguished their IGFRs during the housing boom in calendar years 2005, 2006 and 2007 in anticipation that their lands would be developed within a short time thereafter. However, due to the dramatic downturn in the real estate market that became wide-spread by 2008, and the subsequent tightening of credit by banks, much of that land is still undeveloped. As a result, substantial areas of farmland slated for future residential development are now stranded in a status where they cannot be used for either purpose. Members of the agricultural and development communities have asked the Department to amend the AAWS Rules to allow for the restoration of the IGFRs that were appurtenant to these lands so that the lands can be put back into agricultural production until the housing market improves.

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While the lack of water use on these lands benefits the aquifer, as no groundwater is being used, the Department recognizes the need to assist in the economic recovery of the regions where these lands are located by allowing the lands to be put to a productive use. Therefore, the Department is proposing to amend the AAWS Rules to allow for the restoration of an IGFR that was extinguished during calendar year 2005, 2006 or 2007 if certain conditions are met, including that the land to which the IGFR was appurtenant remains capable of being irrigated. The proposed amendment will allow continued productive use of otherwise idle land, which will increase overall economic activity without significantly impacting groundwater supplies. Additionally, the amendment will eliminate the dust and weed problems that exist with idle, undeveloped lands.

An explanation of the rule:

R12-15-723 is amended to add new subsections (I), (J), (K) and (L). Subsection (I) allows a person to apply to the Director on or before December 31, 2015 for the restoration of all or a portion of an IGFR that was extinguished during 2005, 2006 or 2007 if the person owns the land to which the right or portion of the right was appurtenant and the following additional conditions are met:

- The land to which the right or portion of the right was appurtenant must be physically capable of being irrigated and the infrastructure for delivering water to the land for irrigation purposes must be intact and operable. Land is not physically capable of being irrigated if it has been developed for a non-irrigation use or if other physical changes have occurred making it not possible to irrigate the land.
- The person must hold extinguishment credits that were issued for the extinguishment of a grandfathered right in the AMA in which the land is located, and that have not been pledged to a certificate or designation, in an amount equal to the amount of extinguishment credits issued by the Director in exchange for extinguishment of the irrigation grandfathered right or portion of the right.

Subsection (J) requires an application to restore all or a portion of an IGFR to be on a form provided by the Director, include a filing fee of \$250.00 and contain the following information:

- The irrigation grandfathered right number of the right sought to be restored.
- The original certificate of extinguishment credits issued by the Director for the extinguishment credits held by the applicant as described above, or an affidavit stating that the certificate is lost.
- A copy of a deed showing that the applicant owns the land to which the right or portion of the right sought to be restored was appurtenant. If the application seeks to restore only a portion of the irrigation grandfathered right, the application must also include the legal description of the land to which that portion of the right was appurtenant.
- A certification that all the conditions in subsection (I) are met.
- An agreement in writing that if the right or portion of the right is restored, the flexibility account for the land to which the right or portion of the right is appurtenant will have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and that any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the applicant.

Subsection (K) requires the Director to approve an application for restoration of an IGFR if the application includes the required fee and the required information, and the Director determines that the information is correct. If the Director approves the application, all the following will apply:

- The irrigation water duty for the land to which the right or portion of the right is restored will be the same as it was when the right was extinguished, unless the irrigation water duty is changed in a management plan adopted after the right was extinguished or is modified pursuant to A.R.S. § 45-575.
- The flexibility account for the land to which the right or portion of the right is appurtenant will have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the applicant.
- The extinguishment credits held by the applicant as described above shall be forfeited.
- The restored irrigation grandfathered right may be extinguished in the future in exchange for extinguishment credits. For purposes of calculating the amount of extinguishment credits, the calendar year of extinguishment is the calendar year in which the restored irrigation grandfathered right is extinguished.

Subsection (L) establishes the following licensing time-frames for an application to restore an irrigation grandfathered right: (1) an administrative completeness time-frame of 30 days; (2) a substantive review time-frame of 90 days; and (3) an overall time-frame of 120 days. The application will be subject to the licensing time-frame provisions in R12-15-401.

**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:**

None

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

Not applicable

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

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1. Identification of the proposed rulemaking.

The purpose of this proposed rulemaking is to address concerns raised by the agricultural and development communities regarding agricultural lands within active management areas that had their irrigation grandfathered rights (“IGFRs”) extinguished in exchange for assured water supply extinguishment credits during 2005, 2006 and 2007 in anticipation of development occurring on the lands. Due to the economic recession, many of these lands have not been developed and are not anticipated to be developed in the near future. Because the lands no longer have an IGFR, they cannot be put into agricultural production, creating an economic hardship for the landowners. These idle, vacant lands also create possible dust control issues and negative aesthetic values for the communities where they are located.

Through this rulemaking, the Department is amending R12-15-723 to allow the owners of these lands to apply to the Director to have their extinguished IGFRs restored. The Director will be required to restore an extinguished IGFR if the applicant meets certain conditions, including a requirement that the applicant hold, and then forfeit, extinguishment credits that were issued for the extinguishment of a grandfathered right in the AMA in which the land is located, and that have not been pledged to a certificate or designation, in an amount equal to the amount of extinguishment credits issued by the Director in exchange for extinguishment of the irrigation grandfathered right or portion of the right sought to be restored.

2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking.

Approximately 20,359 acres and 276 irrigation grandfathered right-holders will be affected by, bear the costs, or directly benefit from the proposed rulemaking.

3. Cost-benefit analysis.

a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking including the number of new full-time employees necessary to implement and enforce the proposed rule.

Probable costs to ADWR of the proposed rulemaking include costs associated with processing applications to restore extinguished IGFRs. However, ADWR will charge an application fee that should allow the Department to recover its costs. The Department will not be required to hire new full-time employees. Current staff resources will be used to implement and enforce the proposed rulemaking.

The proposed rulemaking will benefit the Arizona State Land Department (“ASLD”) because it owns lands that had IGFRs extinguished during 2005, 2006 and 2007. Some or all of these lands may be eligible to have their IGFRs restored under this rulemaking. If the IGFRs are restored, ASLD will be able to generate income from otherwise unproductive lands.

b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking

Irrigation Districts within active management areas will benefit from this rulemaking because if IGFRs within their districts are restored, the owners and lessees of these lands will purchase water from the districts, resulting in increased revenues for the districts.

Nearby cities and towns will receive more sales tax revenues because the owners and lessees of the lands will purchase farming equipment and materials for agricultural production. In addition, additional agricultural jobs will be created, which will increase tax revenues.

The proposed rulemaking will benefit the cities and towns that own lands that had their IGFRs extinguished during 2005, 2006 and 2007. By allowing the IGFRs to be restored, these cities and towns will have the opportunity to put the lands back into agricultural production, creating additional revenues for the cities and towns.

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

The probable costs to businesses directly affected by the proposed rulemaking will include a fee of \$250.00 for the Department to process an application to restore an IGFR. The benefits to businesses will include the ability to bring vacant lands back into agricultural production, which will provide revenue to businesses that own or lease the lands. Dust control problems associated with these lands also will be alleviated.

4. Probable impact on private and public employment in business, agencies, and political subdivisions of this state directly affected by the proposed rulemaking.

The probable impacts on private and public employment in businesses, agencies, and political subdivisions that are directly affected by the proposed rule are positive. Reestablishing agricultural production on these lands will create job opportunities and revenue for the agricultural community by allowing crops to be grown.

5. Probable impact of the proposed rulemaking on small business.

a. Identification of the small businesses subject to the proposed rulemaking.

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Small businesses that own land that had an IGFR extinguished during 2005, 2006 and 2007, including small farms and small development companies.

b. Administrative and other costs required for compliance with the proposed rulemaking.

The probable costs to small businesses directly affected by the proposed rulemaking will include a fee of \$250.00 for ADWR to process an application to restore an IGFR.

c. A description of the methods that the agency may use to reduce the impact on small business.

Not applicable

d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rule-making.

Benefits to private persons and consumers will include the reestablishment of agricultural production on vacant lands. Possible dust control issues will be alleviated and the negative aesthetic value for the communities where the lands are located will be improved.

6. Probable effect on state revenues.

An application fee of \$250.00 per IGFR to be restored will be collected and used by ADWR to implement the requirements of the proposed rulemaking.

The restoration of IGFRs for these lands will result in the state of Arizona receiving more sales tax revenues because the owners and lessees of the lands will purchase water, farming equipment and farming materials. In addition, jobs will be created in the agricultural community, which will increase tax revenues.

7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using non-selected alternatives.

None

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

Minor grammatical or formatting changes were made at the request of G.R.R.C. staff.

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

The Department received one written comment from the Arizona Farm Bureau Federation supporting the rule package as drafted. The Department thanked the Arizona Farm Bureau Federation for its support.

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

None

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

None

**14. Was the rule previously made as an emergency rule?**

No

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

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 15. DEPARTMENT OF WATER RESOURCES**

**ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY**

Section

R12-15-723. Extinguishment Credits

**ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY**

**R12-15-723. Extinguishment Credits**

**A.** Except as provided in subsection (D) of this Section, the owner of a grandfathered right may extinguish the right in exchange for extinguishment credits by submitting the following:

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

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4. No change
  - a. No change
  - b. No change
5. No change
6. No change
- B.** No change
- C.** No change
- D.** No change
  1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
- E.** No change
- F.** No change
- G.** No change
  1. No change
  2. No change
- H.** No change
- I.** A person may apply to the Director on or before December 31, 2015 for the restoration of all or a portion of an irrigation grandfathered right extinguished under this Section during calendar year 2005, 2006 or 2007 if all of the following conditions are met:
  1. The person owns the land to which the right or portion of the right was appurtenant;
  2. The land to which the right or portion of the right was appurtenant is physically capable of being irrigated and the infrastructure for delivering water to the land for irrigation purposes remains intact and is operable;
  3. The person holds extinguishment credits that were issued for the extinguishment of a grandfathered right in the AMA in which the land is located and that have not been pledged to a certificate or designation under subsection (E) or (F) in the following amount, as applicable:
    - a. If the person seeks to restore the entire irrigation grandfathered right, an amount of extinguishment credits equal to the amount of extinguishment credits issued by the Director in exchange for extinguishment of the irrigation grandfathered right; or
    - b. If the person seeks to restore a portion of the irrigation grandfathered right, an amount of extinguishment credits equal to the result obtained by multiplying the percentage of the right sought to be restored by the amount of extinguishment credits issued by the Director in exchange for the extinguishment of the right.
- J.** An application to restore all or a portion of an irrigation grandfathered right under subsection (I) shall be on a form provided by the Director and include all of the following:
  1. A fee of \$250.00;
  2. The irrigation grandfathered right number of the right sought to be restored;
  3. If a certificate of extinguishment credits was issued by the Director for the extinguishment credits described in subsection (I)(3), the original certificate or an affidavit stating that the certificate is lost;
  4. A copy of a deed showing that the applicant owns the land to which the right or portion of the right sought to be restored was appurtenant and, if the application seeks to restore only a portion of the right, the legal description of the land to which that portion of the right was appurtenant;
  5. A certification by the applicant that the conditions described in subsection (I) are met; and
  6. An agreement in writing that if the right or portion of the right is restored, the flexibility account for the land to which the right or portion of the right is appurtenant shall have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and that any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the applicant.
- K.** The Director shall approve an application to restore all or a portion of an irrigation grandfathered right submitted under subsection (I) if the application includes the fee and the information required under subsection (J) and the Director determines that the information is correct. If the Director approves an application to restore all or a portion of an irrigation grandfathered right, all of the following apply:
  1. The irrigation water duty for the land to which the right or portion of the right is restored shall be the same as it was when the right was extinguished, unless the irrigation water duty is changed in a management plan adopted after the right was extinguished or is modified pursuant to A.R.S. § 45-575;
  2. The flexibility account for the land to which the right or portion of the right is appurtenant shall have an account balance of zero at the beginning of the calendar year in which the right or portion of the right is restored and any credits registered to the flexibility account after the right is restored may not be conveyed or sold to any person, including the

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- applicant.
- 3. The applicant shall forfeit the extinguishment credits described in subsection (I)(3); and
- 4. The restored irrigation grandfathered right may be extinguished in exchange for extinguishment credits under this Section. For purposes of calculating the amount of extinguishment credits under R12-15-724(B), R12-15-725(B), R12-15-726(B) or R12-15-727(B), the calendar year of extinguishment is the calendar year in which the restored irrigation grandfathered right is extinguished.
- L. The Director shall review an application to restore an irrigation grandfathered right under subsection (I) pursuant to the licensing time-frame provisions in R12-15-401. The application shall have an administrative completeness review time-frame of 30 days, a substantive review time-frame of 90 days, and an overall time-frame of 120 days.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION ADMINISTRATION

Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2051.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 16, 2010.

[R11-153]

PREAMBLE

1. Sections Affected

Article 6  
 R17-1-601  
 R17-1-602  
 R17-1-603  
 R17-1-604  
 R17-1-605  
 R17-1-606  
 R17-1-607  
 R17-1-608  
 R17-1-609

Rulemaking Action

New Article  
 New Section  
 New Section  
 New Section  
 New Section  
 New Section  
 New Section  
 New Section  
 New Section  
 New Section

2. The statutory 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 statutes: A.R.S. §§ 28-331, 28-363, and 41-791(B)(3)(a)(i)

3. The effective date of the rules:

September 13, 2011

The Department requests that this rulemaking be effective immediately on filing with the Office of the Secretary of State, as permitted under A.R.S. § 41-1032, since the rules facilitate preservation of the peace, health, and safety of the public, the solicitors, and Department employees by allowing the Department to better manage the growing number of requests received for solicitation activities and more effectively address the increasing number and variety of complaints received from the public, other solicitors, and Department employees.

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 16 A.A.R. 2520, December 31, 2010

Notice of Proposed Rulemaking: 17 A.A.R. 46, January 21, 2011

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: John Lindley, Administrative Rules Analyst

Address: Administrative Rules  
 Department of Transportation  
 1801 W. Jefferson St., Mail Drop 517M  
 Phoenix, AZ 85007

Telephone: (602) 712-8804



Fax: (602) 712-3373

E-mail: [jlindley@azdot.gov](mailto:jlindley@azdot.gov)

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.azdot.gov/MVD/MVDrules/index.asp](http://www.azdot.gov/MVD/MVDrules/index.asp).

**6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The Arizona Department of Transportation engages in this rulemaking to provide formal guidelines for all solicitation activities sought to be conducted on Department property. Although similar solicitation guidelines are set forth in rules promulgated by the Arizona Department of Administration, ADOT buildings are not subject to the ADOA regulations as provided under A.R.S. § 41-791(B)(3)(a)(i). The Department's need for its own rules on this subject is therefore immediate, due to a sharp increase in the number of requests received from persons and organizations seeking permission to conduct solicitations at high volume Motor Vehicle Division Customer Service offices located throughout the state, as well as a corresponding increase in the number of complaints the Department has received about the intrusive nature of certain solicitation activities and their propensity to disrupt and unreasonably delay the business activities of the Department and its customers.

Complaints received by the Department dealt not only with the intrusiveness of certain solicitation activities, but also alleged dishonest activities involving the collection of money. The Department has determined that a complete ban of solicitation activities involving the collection of monetary contributions or the exchange of money for goods or services is necessary, since these particular forms of solicitation activities continue to pose the greatest risk to Department customers, remain the most disruptive to the Department's regular business operations, and place the Department's customers at too great a risk of fraud and/or theft. This ban affects only the actual exchange of money or the collection of contributions, charitable or otherwise. These rules otherwise place no ban on speech, charitable, or political activities conducted in accordance with the reasonable time, place, and manner restrictions contained in these rules. Solicitation activities approved by the Department may include handing out information, advocating viewpoints, or directing the public to a solicitor's web site where further business may be conducted.

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

The agency did not review or rely on any study for this rulemaking.

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

Not applicable

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

The rules will prohibit solicitation activities that involve the collection of monetary contributions or the exchange of money for goods or services on Department property. ADOT has determined that a complete ban of this particular form of solicitation activity is necessary because it is the most disruptive to the Department's regular business operations and places its customers at too great a risk of fraud and/or theft.

The anticipated economic impact to the various organizations no longer permitted to conduct solicitation activities involving the collection of monetary contributions or the exchange of money for goods or services on Department property will vary greatly depending on the type of organization. The Department anticipates that some of the solicitation organizations affected by the proposed rules may temporarily experience a minimal to moderate economic impact due their loss of potential sales or contributions while having to seek an alternative venue. The activities prohibited under these rules will have no economic impact to signature gatherers for political petitions or any state-authorized or state-sponsored employee programs.

The Department anticipates that consumers of Department products and services in many communities will experience an unquantifiable benefit from the additional controls and protections the rules will provide, which should ensure that consumers are not inundated by solicitors each time they enter or exit a Department building to accomplish personal business.

The anticipated economic impact to the solicitors who remain eligible to apply for a solicitation permit will be minimal, and will include the costs involved with completing the application process; providing the Department with copies of all solicitation materials; and supplying the appropriate equipment for solicitation activities.

The anticipated economic impact to the Department should be moderate and results from having to provide the resources necessary for rulemaking; administrative costs involved with reviewing, approving, or denying solicitation requests; making appropriate notifications; and conducting administrative hearings when applicable. However, the Department expects to benefit substantially by reducing the number of approved solicitors and the amount of resources necessary for the Department's Office of Inspector General to investigate the numerous solicitation-related complaints that are currently being made on a regular basis by Department customers and employees. The proposed rules should also provide much needed relief to individual office supervisors and other Department staff, who now have to expend valuable time away from their regular duties in order to mediate interactions between solicitors and Department customers, which may contribute to longer customer wait times as well.

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

R17-1-602, Applicability; Exemptions, subsection (A) was clarified by referencing A.A.C. R2-11-309 rather than listing separately all Arizona Department of Administration (ADOA) exempted programs. Subsection (B) was amended to more closely mimic the exemption language provided by ADOA under A.A.C. R2-11-309(B). The Department determined that the ADOA recognized association language originally proposed would not be helpful, but rather hinder the clarity of the rule.

R17-1-605, Permit Limitations, subsection (A) was changed to clarify that the Director will not accept an application submitted more than 60 days before a proposed solicitation.

R17-1-605, Permit Limitations, subsection (D) was changed to clarify that when extenuating circumstances exist requiring a solicitor to exceed the maximum limit of two solicitor representatives per approved location, the solicitor must request permission to exceed this limitation in writing.

R17-1-610, Assumption of the Risk, was removed. After further review, the Department determined that indemnification of the state against liability for any act of the solicitor or person acting on behalf of the solicitor, would be more appropriately contained in the application requirements under R17-1-603(C)(8).

The following clarification was made in response to questions posed by members of the Governor's Regulatory Review Council, at their August 30, 2011, study session, regarding the Department's intended use of solicitation materials when submitted to the Department:

**R17-1-603. Application for Permit**

- C. A completed application is one that is legible and contains, at a minimum, all of the following information:
  - 6. Copies of all solicitation materials to be used so the Department can verify that the purpose of the solicitation does not violate R17-1-607(B)(3) or (B)(4).

The following clarification was made in response to questions posed by members of the Governor's Regulatory Review Council, at their August 30, 2011, study session, regarding whether or not the prohibited monetary exchanges include cash, credit, and debit card transactions:

**R17-1-607. Solicitor Responsibilities; Prohibited Activities**

- B. A solicitor shall not:
  - 3. Collect monetary contributions of any kind, including credit or debit card numbers, whether for charitable purposes or not;
  - 4. Offer goods or services for sale, or engage in any other activity involving the exchange of money for a product or service, including collecting credit or debit card numbers;

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

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

The Department received no comments regarding the rules.

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

None

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

None

**14. Were these rules previously made as emergency rules? If so, please indicate the Register citation:**

No

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

**TITLE 17. TRANSPORTATION**

**CHAPTER 1. DEPARTMENT OF TRANSPORTATION  
ADMINISTRATION**

**ARTICLE 6. SOLICITATION**

Section

- R17-1-601. Definitions
- R17-1-602. Applicability; Exemptions
- R17-1-603. Application for Permit

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- R17-1-604. Application Processing: Time-frames
- R17-1-605. Permit Limitations
- R17-1-606. Permit Issuance; Denial; Appeal; Hearing
- R17-1-607. Solicitor Responsibilities; Prohibited Activities
- R17-1-608. Signage Requirements
- R17-1-609. Removal; Revocation; Appeal; Hearing

**ARTICLE 6. SOLICITATION**

**R17-1-601. Definitions**

The following terms and phrases apply to this Article, unless otherwise specified:

“Animal guide or service animal” means an animal that:

Completes a formal training program.

Assists its owner in one or more daily living tasks associated with a productive lifestyle, and

Is trained to not pose a danger to the health and safety of the general public.

“Application” means a solicitation request form that is completed and submitted to the Department by a person seeking to conduct a solicitation on Department property.

“Department” means the Arizona Department of Transportation.

“Department property” means real property and buildings under the jurisdiction of the Director, excluding a highway, highway right-of-way, excess right-of-way, property leased by the Department to a third party, and any sidewalk or paved area along the street frontage of the property that is not physically distinguishable from an adjacent municipal or other public sidewalk.

“Director” means the Director of the Arizona Department of Transportation or the Director’s designee.

“Excess right-of-way” means real property under the jurisdiction of the Director that is:

Determined by the Director to be no longer needed or used for transportation purposes, and

Held by the Department for disposition under the provisions of A.R.S. § 28-7095.

“Permit” means an original application form signed by the Director as authorization for a solicitor to conduct a specified solicitation.

“Person” has the meaning prescribed under A.R.S. § 1-215.

“Solicitation” means any activity, except an activity prohibited under R17-1-607(B)(3) or (4), that can be reasonably interpreted as being for the distribution of information or the promotion of causes or memberships.

“Solicitation area” means a location outside a building on Department property, which may be designated by an office supervisor or the office supervisor’s designee for solicitation activities without interfering with business operations, blocking entry or exit doors, or inhibiting pathways necessary for building access or egress.

“Solicitation material” means advertising circulars, flyers, handbills, leaflets, petitions, or other printed information.

“Solicitor” means a person conducting a solicitation or the person’s agent.

“Work site” means a location within a building on Department property where public employees or officers conduct the daily business of the Department. An office supervisor may designate a cafeteria or break room as a work site if appropriate.

**R17-1-602. Applicability; Exemptions**

- A.** This Article does not apply to any state-authorized or state-sponsored employee programs expressly exempted by the Arizona Department of Administration under A.A.C. R2-11-309(A).
- B.** Employee associations composed principally of employees of state government agencies may apply under this Article for a permit to conduct a solicitation or collect membership fees at a Department work site. Employee associations composed principally of employees of state government agencies are exempt from the requirements of R17-1-607 and R17-1-608, as applicable.

**R17-1-603. Application for Permit**

- A.** A person seeking to conduct a solicitation on Department property shall first apply to the Department for a permit by completing a solicitation request form provided by the Department.
- B.** The person shall submit the completed solicitation request form by mail, fax, or e-mail as provided on the form at least 15 days before the desired effective date of the solicitation.
- C.** A completed application is one that is legible and contains, at a minimum, all of the following information:
  - 1.** The name, address, and telephone number of the applicant. If a permit is requested on behalf of an organization, the application shall also include the name, address, and telephone number of the organization, as well as its primary representative or contact person deemed in charge of and responsible for the proposed solicitation;

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2. The proposed effective date and approximate starting and concluding times of the proposed solicitation;
  3. The names of all persons who will take part in conducting solicitation activities on behalf of the applicant;
  4. The specific office location requested for the proposed solicitation;
  5. The general purpose of the proposed solicitation;
  6. Copies of all solicitation materials to be used so the Department can verify that the purpose of the solicitation does not violate R17-1-607(B)(3) or (4);
  7. Certification by the applicant that the applicant, and any person acting on behalf of the applicant, has not been convicted of a felony or misdemeanor offense involving dishonesty, fraud, theft, assault, battery, or other crime involving physical violence within five years of the date of the application; and
  8. The signature of the applicant acknowledging that he or she agrees to:
    - a. Comply with all requirements under this Article; and
    - b. Indemnify and reimburse the Department for claims and expenses arising out of the solicitor's use of Department property, including any cleanup or damage repair costs associated with the solicitation incurred by the Department.
- D.** The Department, to the extent necessary and as appropriate to the time, place, and manner of each proposed solicitation and the safety issues it may pose, may require an applicant to provide at the applicant's own expense:
1. Adequate liability insurance coverage in the form of a certificate of insurance listing the state of Arizona and the Arizona Department of Transportation as additional insured entities, and
  2. Adequate security services during solicitation activities.
- E.** The Department shall consider the following criteria in determining whether one or more of the actions in subsection (D) is necessary and in the best interest of the state. The listed factors also apply in determining the amount of liability insurance coverage an applicant shall provide:
1. Previous experience with similar solicitation activities,
  2. Data regarding the risk of the proposed solicitation activities,
  3. Security services required for similar solicitation activities in Arizona and the cost of those services, and
  4. The applicant's ability to pay an insurance premium or security service provider.

**R17-1-604. Application Processing; Time-frames**

- A.** The Department shall provide notice to the applicant that the application is either complete or incomplete within five business days of receiving the application:
1. If the application is complete, the notice to the applicant shall indicate the date the Department stamped the complete application as received; or
  2. If the application is incomplete, the notice to the applicant shall indicate the current date and include an itemized list of all missing information the Department requires of the applicant before the application can be processed.
- B.** An applicant with an incomplete application shall respond to the notice provided by the Department under subsection (A)(2) within 10 days after the date indicated on the notice.
1. The Department may deny the permit if the applicant fails to provide all required information within 10 days after the date of the notice.
  2. On receipt of all required information, the Department shall provide to the applicant the notice prescribed under subsection (A)(1).
- C.** The Director shall render a permit decision within 10 business days after the date an application is determined to be complete. The date of receipt is the date on the notice provided by the Department to the applicant under subsection (A)(1) acknowledging receipt of the complete application.
- D.** For the purpose of A.R.S. § 41-1073, the Department establishes the following permit time-frames:
1. Administrative completeness review time-frame: Five business days.
  2. Substantive review time-frame: 10 business days.
  3. Overall time-frame: 15 business days.

**R17-1-605. Permit Limitations**

- A.** The Director may accept an application and issue a solicitation permit under this Article on a first-come, first-served basis no earlier than 60 days before the proposed solicitation.
- B.** A permit holder may conduct a solicitation only as authorized by the Director under this Article, and only:
1. At the approved location designated on the permit,
  2. Between the hours of 9:00 a.m. and 4:00 p.m., and
  3. On a day the approved location is open for regular business.
- C.** A maximum of three solicitations may be conducted at any one approved location on a particular day.
- D.** A maximum of two solicitor representatives named on the permit may conduct solicitation activities on behalf of the permit holder at any one approved location, unless extenuating circumstances exist and advance written permission to exceed this limitation is granted by the Director on receipt of a written request by the solicitor.

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**R17-1-606. Permit Issuance; Denial; Appeal; Hearing**

- A.** If the Director approves an application for a solicitation permit, the permit:
1. Shall expire after the approved solicitation time period specified on the permit, unless previously revoked;
  2. Shall not be valid for more than 90 days from the effective date approved by the Director;
  3. Shall not be transferred or assigned, in whole or in part, to any person other than the person or organization to whom the permit is issued; and
  4. May be renewed only upon submission of a new application.
- B.** The Director shall deny an application for a permit for one or more of the following reasons:
1. The solicitation is likely to:
    - a. Interfere with the work of an employee or daily business of the Department;
    - b. Create an unreasonable risk of injury to a person or risk of damage to property; or
    - c. Conflict with the time, place, manner, or duration of another solicitation for which a permit is already issued or pending;
  2. The applicant or the solicitation activity fails to comply with the requirements of this Article or any other applicable rule or statute;
  3. The applicant, or the person or organization on whose behalf the application was made, has:
    - a. Within 12 months of the date of application, had a previous solicitation permit revoked by the Department for non-compliance with a provision of this Article or any other applicable rule or statute; or
    - b. Within five years of the date of application, on three separate occasions, had a previous solicitation permit revoked by the Department for non-compliance with a provision of this Article or any other applicable rule or statute.
- C.** If the Director denies an application for a solicitation permit, the Department shall send written notification of the Director's decision to the mailing address listed on the applicant's permit application, within three business days of denying the permit. The written notification shall state:
1. The Department's reason for the denial, citing all applicable supporting statutes or rules;
  2. The applicant's right to request a hearing to appeal the Department's action under A.R.S. Title 41, Chapter 6, Article 6, and Article 5 of this Chapter; and
  3. The time-frame for requesting a hearing with the Department's Executive Hearing Office as prescribed under Article 5 of this Chapter.
- D.** The scope of the hearing shall be limited to a determination of whether the Department possessed grounds to deny the solicitor's permit under subsection (B).

**R17-1-607. Solicitor Responsibilities; Prohibited Activities**

- A.** After receiving express written permission from the Director for a solicitation on Department property, an approved solicitor shall:
1. Provide a table to be used for all authorized solicitation activity;
  2. Present the original solicitation permit without any modifications or alterations, to an office supervisor at the approved location for inspection and sign-in prior to setting up a table or distributing materials;
  3. Provide at least one form of photo identification to an office supervisor for each person participating in or conducting solicitation activities on behalf of the permit holder;
  4. Maintain a copy of the approved solicitation permit at each authorized location at all times;
  5. Set up a table only in the solicitation area;
  6. Remain at the table in the solicitation area while performing any solicitation activity;
  7. Ensure that no entry or exit doors are blocked at any time;
  8. Ensure that no solicitation activity interferes with building access or egress;
  9. Ensure that no solicitation activity interferes with Department operations; and
  10. Ensure that all solicitors employed by, or acting on behalf of, the permit holder display a name badge that is at least three inches in height and four inches in width. The name badge shall contain:
    - a. The name of the organization conducting the solicitation, if applicable;
    - b. The organization's address;
    - c. The name of the individual solicitor in bold letters; and
    - d. The words "Authorized Representative."
- B.** A solicitor shall not:
1. Conduct any type of solicitation on Department property without the express written permission of the Director as provided under this Article;
  2. Perform any activity not specifically authorized by the permit;
  3. Collect monetary contributions of any kind, including credit or debit card numbers, whether for charitable purposes or not;
  4. Offer goods or services for sale, or engage in any other activity involving the exchange of money for a product or service, including collecting credit or debit card numbers;

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5. Engage in any solicitation activity outside of the solicitation area;
6. Engage in behavior that interferes with the business activities of the Department and its customers, including but not limited to:
  - a. Following or continuing to solicit a person after that person has given a negative response to the solicitation;
  - b. Intimidating, verbally harassing, or shouting at a customer or employee of the Department; or
  - c. Preventing or interrupting the flow of customer traffic to or from a building located on Department property.
7. Use any audio amplification device to attract the public, unless the device is assistive technology relating to a disability;
8. Use any Department materials, supplies, equipment, or other resources to conduct a solicitation;
9. Bring an animal, other than an animal guide or service animal, into the solicitation area;
10. Leave garbage, litter, trash, human or animal waste, or any other kind of waste on Department property unless the waste is deposited in a container the Department maintains for that kind of waste; or
11. Conduct a solicitation on Department property in violation of a permit limitation provided under R17-1-605.

**R17-1-608. Signage Requirements**

- A. A solicitor approved for conducting a solicitation at any Department location shall provide, and prominently display beside each solicitation table, a sign that is clearly visible to the public.
  1. The sign shall:
    - a. Be at least 22” wide and 28” high;
    - b. Be printed in black ink on plain white poster board; and
    - c. Include the following language using a minimum of one inch letters in Times New Roman font: “(Name of company or organization represented) is a private organization. Its representatives are not affiliated with, nor are they employees of, the State of Arizona or the Arizona Department of Transportation. By approval of this solicitation, the State of Arizona does not endorse any product or petition promoted by solicitors/representatives.”
  2. The sign for a solicitor providing voter registration services shall include the following additional language using a minimum of one inch letters in Times New Roman font: “ADOT provides voter registration services inside all Motor Vehicle Division Customer Service offices and on the internet at [www.ServiceArizona.com](http://www.ServiceArizona.com).”
- B. The sign required by the Department under subsection (A) shall contain no additions or modifications.

**R17-1-609. Removal; Revocation; Appeal; Hearing**

- A. The Department may immediately remove, or cause to be removed, items of a solicitation that may damage state property, inhibit building access or egress, or pose safety issues. The Department also may remove, or cause to be removed, any and all solicitors who are found to be damaging state property, inhibiting building access or egress, or posing safety issues.
- B. The Director may revoke a permit and ask a solicitor to leave the premises if the Director determines that:
  1. The solicitor’s permit application contained a false or misleading statement or a material omission, or
  2. The solicitor or solicitation failed to comply with a provision of this Article or any other applicable rule or statute.
- C. If the Director revokes a solicitation permit, the Department shall send written notification of the Director’s decision to the mailing address listed on the solicitor’s permit application, within three business days of revoking the permit. The written notification shall state:
  1. The Department’s reason for the revocation, citing all applicable supporting statutes or rules;
  2. The applicant’s right to request a hearing to appeal the Department’s action under A.R.S. Title 41, Chapter 6, Article 6, and Article 5 of this Chapter; and
  3. The time-frame for requesting a hearing with the Department’s Executive Hearing Office as prescribed under Article 5 of this Chapter.
- D. The scope of a hearing shall be limited to a determination of whether the Department possessed grounds to revoke the solicitor’s permit under subsection (B).