

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

Editor's Note: The following Notice of Final Exempt Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 4243.)

[R13-220]

PREAMBLE

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|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R2-20-107 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 16-940, *et seq.*
Implementing statute: A.R.S. § 16-956(C).
- 3. The effective date of the rule and the agency's reason it selected th effective date:**
November 21, 2013
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
Not applicable
- 5. The agency's contact person who can answer questions about the rulemaking:**

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- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation for the rulemaking:**

R2-20-107:

Amends R2-20-107(A) to allow the Commission to hold a debate in a district without a participating candidate in the election.

Adds R2-20-107(D) to provide direction to a nonparticipating candidate on requesting a debate when his or her opponents are also nonparticipating candidates.

Relabels R2-20-107(D) as R2-20-107(E).

Relabels R2-20-107(E) as R2-20-107(F).

Relabels R2-20-107(F) as R2-20-107(G).

Relabels R2-20-107(G) as R2-20-107(H).

Relabels R2-20-107(H) as R2-20-107(I).

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Relabels R2-20-107(I) as R2-20-107(J).

Relabels R2-20-107(J) as R2-20-107(K).

Amends R2-10-107(K) to clarify the procedures are established by Commission staff.

- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
- 8. A showing of good cause why the rulemaking 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:**
Not applicable
- 10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking and the final rulemaking package (if applicable):**
There were no substantive changes between rules as initially proposed and as finally adopted by the Commission.
- 11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
The Commissioners considered the rule in open meetings and took actions they deemed appropriate.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. Whether the rule requires a permit, whether a general permit is used and if not, the reason why a general permit is not used:**
Not applicable
 - b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
Not applicable
 - c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
- 13. A list of any incorporated by reference material and its location in the rule:**
Not applicable
- 14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changes between the emergency and the exempt rulemaking packages:**
Not applicable
- 15. The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Section
R2-20-107. Candidate Debates

ARTICLE 1. GENERAL PROVISIONS

R2-20-107. Candidate Debates

- A.** The Commission shall sponsor debates among statewide and legislative office candidates prior to the primary and general elections unless there is no participating candidate in the election for a particular office. Except as set forth in subsection (D) below, the Commission shall not be required to sponsor a debate if there is no participating candidate in the election for a particular office.
- B.** In the primary election period, the Commission shall sponsor political party primary election debates for every office in which:

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1. There are at least two candidates of the political party's nomination, and
 2. At least one of the candidates is a participating candidate.
- C.** The following candidates will not be invited to participate in debates as follows:
1. In the primary election, write-in candidates for the primary election, independent candidates, no party affiliation or unrecognized party candidates.
 2. In the general election, write-in candidates.
- D.** In the event that there is no participating candidate in a primary or general election but there is an election involving candidates subject to invitation pursuant to this rule, the following apply:
1. Primary Election. In the event that there is no participating candidate in a primary election, but the election includes two candidates who are subject to invitation pursuant to this rule, a candidate subject to invitation may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
 2. General Election. In the event that there is no participating candidate in a general election, but the election includes two candidates who are subject to invitation pursuant to this rule, a candidate subject to invitation may request that the Commission sponsor a debate pursuant to this rule. If the requesting candidate is the sole participant in the debate the format shall be as prescribed in R2-20-107(K).
 3. A nonparticipating candidate who requests a debate pursuant to this rule shall complete a form prescribed by the Commission, file it with the Commission and deliver a copy to all opponents of the requesting candidate at least 80 days before the primary election for a primary election debate, or 70 days before the general election for a general election debate. If an invited candidate agrees to participate he or she shall sign the commission form and return it to the Commission form within 10 days of the form's delivery agreeing to participate. In the event the candidate agrees to participate he or she shall execute a form prescribed by the Commission which shall be returned to the Commission within 10 days of notice.
 4. If a candidate requests that the Commission sponsor a debate and fails or refuses to attend the debate, or a candidate agrees to participate in a debate and subsequently fails or refuses to attend the debate sponsored by the Commission, each candidate who fails or refuses to attend the debate shall reimburse the Commission for the cost of debate preparations not to exceed \$10,000 for a non-participating candidate for the legislature and \$25,000 for a non-participating candidate for statewide office. In the event that a candidate requests a general election debate or agrees to participate in a general election debate but does not advance to the general election, the candidate shall not be liable for the reimbursement.
- DE.** Pursuant to A.R.S. § 16-956(A)(2), all participating candidates certified pursuant to A.R.S. § 16-947 shall attend and participate in the debates sponsored by the Commission. No proxies or representatives are permitted to participate for any candidate and no statements may be read on behalf of an absent candidate.
- EE.** Unless exempted, if a participating candidate fails to participate in any Commission-sponsored debate, the participating candidate shall be fined \$500.00. For purposes of this Section, each primary or general election shall be considered a separate election.
- FG.** A participating candidate may request to be exempt from participating in a required debate by doing the following:
1. Submit a written request to the Commission at least one week prior to the scheduled debate, and
 2. State the reasons and circumstances justifying the request for exemption.
- GH.** After examining the request to be exempt, the Commission will exempt a candidate from participating in a debate if at least three Commissioners determine that the circumstances are:
1. Beyond the control of the candidate;
 2. Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
 3. Good cause, as defined in A.R.S. § 16-918(E).
- HI.** A participating candidate who fails to participate in a required debate may submit a request for excused absence to the Commission.
1. The candidate's request for excused absence shall:
 - a. State the reason the candidate failed to participate in the debate, and
 - b. State the reason the candidate failed to request an exemption in advance, and
 - c. Be submitted to the Commission no later than five business days after the date of the debate the candidate failed to attend.
 2. After examining the request for excused absence, the Commission may excuse a candidate from the penalties imposed if at least three Commissioners determine that the circumstances were:
 - a. Beyond the control of the candidate;
 - b. Of such nature that a reasonable person would find the failure to attend justifiable or excusable; or
 - c. Good cause, as defined in A.R.S. § 16-918(E).
- IJ.** When a participating candidate is not opposed in the general election, the candidate shall be exempt from participating in a Commission-sponsored debate for the general election.
- JK.** In the event that a participating candidate is opposed in the primary election or general election but is the only candidate taking part in a primary election period or general election period debate, as applicable, the debate will be held and will

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

The current operational procedures will include Standard Operating Procedures (SOP) as part of the rules.

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 analysis of each study and other supporting material:

Not applicable

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

Not applicable

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

The proposed rulemaking addresses terminology and procedural changes. It is expected that these changes will have minimal economic impact to small business, or consumers direct eligible applicants or state agencies and political subdivisions.

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

The current rule establishes the Department's operational procedures for the Governor's Emergency Fund. The proposed rulemaking amends or repeal sections R8-2-301 through R8-2-321, to reflect procedural and terminology revisions. The proposed changes will bring the rule into accord with the operational practices of the Department.

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

None

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

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

Not applicable

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

None

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

None

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

There is no reference material incorporated in these rules

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

Not applicable

15. The full text of the rules follows:

TITLE 8. EMERGENCY AND MILITARY AFFAIRS

CHAPTER 2. DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS

DIVISION OF EMERGENCY MANAGEMENT

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ARTICLE 3. GOVERNOR'S EMERGENCY FUND

Section

- R8-2-301. Definitions
- R8-2-302. Applications for Emergency Assistance
- R8-2-303. Contents of an Application
- R8-2-306. Action on an Application
- R8-2-308. Limitation of Fund Expenditure
- R8-2-309. Time Limit for Filing Claims
- R8-2-310. Retention of Records
- R8-2-311. Establishment of the Incident Period and ~~Termination~~ the Opening and Closing of the Proclamation
- R8-2-312. Duplication of Benefits
- R8-2-313. Allowable Claims Against the Fund
- R8-2-314. Mitigation of Future Damages or Improvements by the Applicant
- R8-2-315. Advance of Funds
- R8-2-316. Final Inspection and Audit
- R8-2-319. ~~Refund from an Applicant~~ Overpayment
- R8-2-320. Appeal of a ~~Director's~~ Decision
- R8-2-321. ~~Scope~~ Repeal

ARTICLE 3. GOVERNOR'S EMERGENCY FUND

R8-2-301. Definitions

In addition to the definitions provided in A.R.S. § 26-301, the following definitions apply to this Article, unless specified otherwise:

1. "Administrative Costs" covers direct and indirect costs incurred, in administering the public assistance grant. Direct costs can be identified separately by project and indirect costs are incurred for common or joint purposes. Examples of the activities that the allowance is intended to cover include: establishing project files, providing copies of documentation, collecting cost data and developing cost estimates, working with the State during project monitoring, final inspection, audits and audit preparation.
2. "Applicant" means any state agency or political subdivision of the state that requests emergency assistance from the state.
23. "Applicant's authorized representative" means the person authorized by the governing body of a political subdivision to request funds, time extensions, and attend to other recovery matters related to a specific emergency proclamation.
34. "Application for Assistance" means a written or verbal request by an applicant to the Director for emergency assistance in responding to and/or recovering from an emergency.
45. "Contingency proclamation" means the document in which the governor authorizes the Director to pay expenses incurred by political subdivisions or state agencies that respond to frequently occurring emergencies that pose a significant and constant threat such as search or rescue, and hazardous materials spills.
56. "County" means the county or counties where an emergency is located.
67. "Department" means the Department of Emergency and Military Affairs provided in A.R.S. § 26-101.
78. "Director" means the Director of the Arizona Division of Emergency Management within the Department of Emergency and Military Affairs.
89. "Division" means Arizona Division of Emergency Management
910. "Eligible work" means actions taken and work performed by an applicant in response to an emergency that are consistent with the intent and purposes set forth in A.R.S. § 35-192 and these rules.
1011. "Emergency" means any occasion or instance for which, in the determination of the Governor, state assistance is needed to supplement state agencies' and political subdivisions' efforts and capabilities to save lives, protect property and public health and safety, or to lessen or avert the threat of a disaster in Arizona.
1012. "Emergency resolution" means a document by which the governing body of a political subdivision declares an emergency.
13. "Facility" means any building, works, system or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.
114. "Fund" means the portion of the general fund used to pay incurred liabilities and expenses authorized as claims against the state to meet contingencies and emergencies when the Governor declares that a state of emergency exists.
1215. "Incident period" means the time interval of an emergency during which damage occurs as documented in the Gov-

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ernor's Declaration of Emergency.

~~13~~16. "Political subdivision" means any county, incorporated city or town, or school, community college, or other tax levying public improvement district.

~~13~~17. "Proclamation" means the document in which the Governor declares that a state of emergency exists pursuant to A.R.S. § 35-192(A) and authorizes an expenditure from the fund.

18. "Reimbursement" means the payment of state funds in accordance with A.R.S. § 35-192.

~~14~~19. "State" means the state of Arizona.

~~15~~20. "State agency" means any department, commission, board, agency, or division of the state, including the Department of Emergency and Military Affairs.

R8-2-302. Applications for Emergency Assistance

- A. An applicant shall act for the purpose of this Article through its chief executive officer or body, or the applicant's authorized representative.
- B. An applicant shall use forms that are ~~in the "Disaster Assistance Guide", ADEM Publication 100, June 1996 (and no future amendments or editions)~~ available on the Division's Department's website. At <http://www.dem.azdema.gov/forms-pubs.html#recovery>, which is incorporated by reference and is on file with ADEM and the Office of the Secretary of State.

R8-2-303. Contents of an Application

- A. An applicant shall set forth in an application the cause, location, and beginning date of the emergency, a description of the damage caused by the emergency and potential health hazards arising from the emergency, the costs incurred for emergency response, and an estimate of the number of people affected by the emergency and costs for recovery.
- B. Before submitting an application to the Director, the applicant shall use its available resources to respond to the emergency and request assistance from other political subdivisions that might respond to the emergency.
- C. The "emergency" must also be clearly demonstrated to be above and beyond the jurisdiction's ability to recover from without state assistance. Examples as to how to demonstrate this element would be: use of mutual aid, documenting multiple events, lack of physical or personnel resources, depleted contingency funds or redirection of operating funds; which must be attested to in writing by the jurisdiction's chief financial officer.

R8-2-306. Action on an Application

- A. The Director shall make a recommendation to the Governor whether to issue a proclamation.
- B. The Director shall notify the applicant ~~immediately by telephone or, if necessary,~~ in writing, of the Governor's decision to issue or not to issue a proclamation. If the Governor issues a proclamation, the Division shall forward a copy to the applicant.
- ~~C. The Governor shall prescribe in the Governor's proclamation the maximum amount for which the state will be liable for the emergency that is the subject of the proclamation.~~
- ~~DC.~~ State payment of claims submitted by a political subdivision pursuant to a proclamation shall not exceed 75% of eligible costs or the amount prescribed in the proclamation, whichever is less. such lesser amount established by the Director. In no event should the aggregate amount of payments exceed the amount set forth in the Governor's proclamation, unless such amount is authorized pursuant to R8-2-308.

R8-2-308. Limitation of Fund Expenditure

Expenditure from the fund, as a result of a particular proclamation, shall not exceed the amount authorized in the proclamation unless an additional amount is authorized by the ~~council~~ Governor's Emergency Council as prescribed in A.R.S. § 35-192.

R8-2-309. Time Limit for Filing Claims

- A. ~~Before the ending date of the Governor's proclamation~~ Following the Governor's proclamation reasonable work completion time limits shall be established by the Division Department. If the applicant feels, the Director shall assess whether an extension of time is needed for an applicant to complete work and submit claims arising from an emergency, a request for time extension, stating good cause for request, shall be submitted to the Division prior to identified time limit. If the Director it is determined that good cause exists, an extension of time will be granted and the applicant will be notified of the decision in writing. Is needed, the Director shall recommend that the Governor grant an extension. Time limits are as follows:
- B. Six months for temporary measures and emergency work and 12 months for permanent measures. If no effort has been made to begin work within this timeline, the project can be cancelled and funding withdrawn. If work has begun, a request for time extension should be submitted, as per subsection (A), and needs to include a timeline for project completion. A second extension request will be considered if there are extenuating circumstances outside the applicant's ability to control and/or work is near completion.
- C. All damages attributed to a declared disaster must be identified by the eligible applicant within 60 days of the date of the Governor's Declaration. A final list of projects will be documented for concurrence and signature by both the applicant and a Division representative at the end of that 60 day period. Any damages identified after the 60 days will not be consid-

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ered for reimbursement under the declared event.

- D.** All required information pertaining to the accurate development, review and approval of Project Worksheets identified under subsection (B) must be provided to the Division by the eligible applicant within six months from the date of declaration. Any information not received within that time-frame will not be considered as eligible costs reimbursable under the declared event; with the exception of hidden damages discovered after construction begins.

R8-2-310. Retention of Records

The applicant shall maintain for ~~five~~ three years all records relating to claims submitted by the applicant in accordance with ~~A.R.S. § 41-1346~~ A.R.S. § 41-151 and shall make the records available for inspection and audit by the Department auditor and the auditor general.

R8-2-311. Establishment of the Incident Period and ~~Termination the Opening and Closing of the Proclamation~~

- A.** The Director shall recommend to the Governor, for inclusion in the Governor's proclamation, the beginning and ending dates of the incident period. If the Director determines that the incident period has a beginning or ending date different from that stated in the proclamation, the Director shall recommend to the Governor that the proclamation be amended to reflect the correct dates.
- B.** At the Director's recommendation, the Governor shall terminate the proclamation when the following occur:
1. The recovery work is complete,
 2. The Division completes a final inspection of all work for which the applicant submits a claim,
 3. The applicant submits a claim to the Director for all work which the applicant seeks reimbursement,
 4. The Division pays all authorized claims,
 5. The required audits are complete, and
 6. The applicant receives amount due or pays amount owed.
- C.** After the audit and final payment of ~~the~~ all eligible applicant's claims, the Governor shall issue a termination proclamation.

R8-2-312. Duplication of Benefits

- A.** The state is not liable for any claim arising from an emergency for which the applicant receives funds from another source.
- B.** The state is not liable for any claim arising from an emergency unless the applicant applies for and is denied funding from other available sources before submitting the claim to the state.
- C.** If an applicant is within the Designated Disaster area of a Presidential Major Disaster Declaration, the state is not liable for any claim deemed ineligible by the Federal Emergency Management Agency (FEMA) under a Presidential Major Disaster Declaration. Claims denied by FEMA will not be considered eligible under the corresponding State Declaration unless otherwise outlined under R8-2-313(B).
- ED.** If the Director or an applicant determines that the applicant received duplicate funds for a claim from the state and from another source, the applicant shall refund the amount received from the state within 60 days of written notification.

R8-2-313. Allowable Claims Against the Fund

- A.** The Director shall allow expenditures from the fund for a claim arising from an emergency only if:
1. The amount claimed is a direct result of response or recovery operations to the emergency,
 2. The applicant is legally and financially responsible for providing response or recovery operations in the emergency, and
 3. The facility is other than a residential structure, and
 - ~~34.~~ The amount claimed is authorized under the provisions of subsection (B) or (D).
 5. Once remediation is complete, projects will comply with appropriate state or federal environmental requirements, building, safety or other appropriate regulatory requirements.
- B.** The Director shall allow the following costs to be paid as claims against the fund:
1. Overtime salaries or wages and benefits of the applicant's budgeted personnel directly engaged in eligible emergency work;
 2. Salaries or wages and benefits of the applicant's budgeted personnel directly engaged in eligible permanent work;
 - ~~23.~~ Salaries or wages and benefits of non-budgeted employees directly engaged in eligible emergency or permanent work;
 - ~~34. Communications~~ Communication costs directly related to the emergency and directly requested by an eligible applicant;
 45. Travel and per diem costs directly related to the emergency for personnel requested by an eligible applicant;
 56. Materials and supplies consumed directly requested by an eligible applicant, except those listed under subsection (C)(2);
 67. Rental of privately owned equipment at documented contractual rates directly requested by an eligible applicant;

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78. Contributions toward the purchase of equipment if the necessary equipment is not available from federal, state, or local sources, and if the contribution does not exceed the cost of renting the item at prevailing local rates. Contribution will be reduced by less the fair market value when the item is no longer needed for the declared disaster;
89. Owning and operating the applicant's equipment using rates established by the applicant or FEMA, whichever is less approved by the Director;
910. Work performed by private contractors. Contracts must be of reasonable cost and competitively bid and adhere to all jurisdictional procurement procedures. Jurisdictions may not enter into contracts with any private entity that has been debarred or suspended. Emergency Procurement, as defined in A.A.C. R2-7-E302, means "any condition creating an immediate and serious need for materials, services, or construction in which the state's best interests are not met through the use of other source-selection methods. The condition must seriously threaten the functioning of state government, the preservation or protection of property, or the health or safety of a person". Any procurement need that does not meet this definition would require following standard procurement process/procedures.
4011. Work performed under ~~an~~ a mutual-aid agreement between local governments or between a local government and a state agency is eligible for reimbursement by the requesting agency. The providing entity shall submit documented costs, that is to the requesting agency for reimbursement. Completely documented by the local government or state agency performing the work. Eligible work must be paid to the responding jurisdiction by the requesting jurisdiction, and the requesting jurisdiction is then eligible for a cost-share reimbursement by the State; and
412. Prison labor including amounts paid to prisoners in accordance with established rates, guards (required number based on guard/prisoner ratio) and costs of transporting and feeding prisoners.
13. Snow Removal: a political subdivision could make Application for State Assistance if they had met the following condition: If a winter storm event pushes the jurisdiction's cumulative snowfall total for a winter season above the average of the last five season's annual snowfall, then the jurisdiction could be eligible for assistance providing the event that pushes the cumulative total above the threshold is above and beyond the capability of the affected jurisdiction. (see R8-2-303) (Snowfall measurement data source will be the National Weather Service and historical snowfall data source will be the National Climatic Data Center.)
- C. The Director shall not allow the following costs to be paid as claims against the fund:
1. Salaries or wages and benefits of elected or appointed officials responsible for directing governmental activities;
 2. Administrative Costs, office supplies and equipment;
 3. Rental of administrative office space;
 4. Depreciation, insurance, storage, and similar fixed overhead costs;
 5. Repairs and fuel for privately owned rented equipment, except where the rental agreement provides that the applicant will be responsible for repairs and fuel in addition to the rental fee;
 6. Work performed under agreement between a state agency or local government and a federal agency where the work is paid for by federal funds;
 7. Costs incurred under contracts based on cost plus a percentage of costs, unless the Director determines that the performance of immediate emergency work would be unduly delayed and would likely result in an imminent hazard to health or safety, in which case the Director may authorize an exception; and
 8. Prison labor costs for ~~food~~, lodging, ~~and guards~~.
- D. To submit a claim for a cost that cannot be classified under subsection (B), an applicant shall make a written request to the Director for an exception. The Director shall grant a request for an exception if the request explains the nature of the exception; ~~and~~ justifies why it is needed, ~~and meets all other program guidelines as outlined in R8-2-301 through R8-3-344 R8-2-320.~~ The Director shall immediately inform the applicant in writing of the decision to grant or deny the request for an exception.
- E. When a facility damaged as a result of an emergency is repaired or replaced, the Director shall allow only the costs required to return the facility to the condition it was before the emergency, incorporating current standards and design requirements.
- R8-2-314. Mitigation of Future Damages or Improvements by the Applicant**
- A.** The applicant shall comply with any mitigation requirements specified by the Director for repair or replacement projects subject to repeated damage from flooding or other threats to life or property.
- B.** The applicant shall identify and request cost effective mitigation opportunities for the damaged element of the facility that would mitigate future impact from a similar event.
- C.** With approval by the Director, the applicant may restore pre-disaster function and make improvements for which the applicant is financially responsible. Claims against the Fund are limited to the State share for the project estimate for the repairs necessary to return the facility to the condition it was before the emergency. A written request for improvements is to be submitted as soon as possible following receipt of approved project which will include a statement recognizing

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financial responsibility for the improvements.

R8-2-315. Advance of Funds

All requests for an advance of funds must be made in writing and shall be signed by the applicant's authorized representative and forwarded to the Director. The Director shall assess a request for an advance to determine whether the request is reasonable and for eligible work that has been completed. The Director shall grant a request for an advance for work not completed only if an applicant has demonstrated that the work cannot be completed without an advance. The amount of an advance will be based upon damage assessment, eligible expenditures to date and the estimated eligible expenditures for the next 60-day period.

R8-2-316. Final Inspection and Audit

Upon completion of all work by an applicant, the Division shall inspect all the work that the applicant claims. The applicant shall provide the Division with access to all claimed work and shall permit review of all records relating to the work. After completion of the final inspection, the Department's chief auditor shall conduct an audit of the applicant's claims. The Director shall use this audit to determine the allowability eligibility of claimed costs and final payment due to the applicant or overpayment due to the Division.

R8-2-319. Refund from an Applicant Overpayment

- A. If the Director determines that an applicant is required to refund an amount overpayment, as demonstrated by the audit outlined in R8-2-316, the Director shall provide the applicant written notice of the amount owed. The applicant shall reimburse the Division within two months of the date of notification.
B. An applicant may request a review, as set forth in R8-2-320, of a determination under subsection (A) that an amount must be refunded. If the review results in a decision that the applicant is required to reimburse the Division, the applicant shall refund the amount required within two months of the decision.

R8-2-320. Appeal of the Director's Decision

- A. Any party aggrieved by a decision rendered by the Director may appeal the decision, in writing, not later than 15 days after receipt of notice of the Director's decision.
B. When an appeal is filed, the Director shall contact the Office of Administrative Hearings to schedule the case with the office in accordance with A.R.S. § 41-1092.02.

R8-2-321. Scope Repeal

The provisions of this Article apply to contingencies arising from hazardous materials incidents.

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TITLE 12. NATURAL RESOURCES

CHAPTER 8. ARIZONA STATE PARKS BOARD

Editor's Note: The following Notice of Final Exempt Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 4243.)

[R13-218]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Exhibit A Rulemaking Action Amend
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption: Authorizing statute: A.R.S. § 41-511.05(8) Implementing statute: A.R.S. § 41-511.05(8)
3. The effective date of the rule and the agency's reason it selected the effective date: January 1, 2014
4. A list of all notices published in the Register as specified in R1-1409(A) that pertain to the record of the exempt rulemaking: Notice of Exempt Rulemaking: 19 A.A.R. 3148, October 11, 2013
5. The agency's contact person who can answer questions about the rulemaking: Name: Rich Evans

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

R12-8-109, Fees and Permits, set the fees for visitor use and commercial use at Arizona State Parks. Each year, the Arizona State Parks Board reviews its fee structure and approves adjustments for the ensuing calendar year. In its analysis, Arizona State Parks reviews fee structures of surrounding states; reviews operating and development costs of the State Park System; reviews the public demand for park services and subsequent impacts of visitor use on park resources. State Parks actively pursues public input into the fee structure through regional meetings throughout the state.

At the November 20, 2013, Board meeting, the Agency's 2013 Fee Schedule with the proposed fee changes was presented to the Board for consideration. The Board approved the changes as recommended, effective January 1, 2014.

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 analysis of each study and other supporting material:

Not applicable

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

Not applicable

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

Not applicable

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

Effective January 1, 2014, Active Duty, National Guard or Reserve members of the United States Military, Arizona residents who are United States Military Retired or Service Disabled Veterans and their families will receive a 50% discount of regular Day-Use entrance fees at Arizona State Parks. *"The program allows for the qualifying person 50% off the purchase of Entrance/Day-Use for themselves and up to three additional adults accompanying them in a private vehicle."* This program does not apply to Kartchner Caverns State Parks tour tickets, special use fees, special program fees, special events fees, special event admission fees, any applicable reservation fees, camping fees or overnight parking fees. Programs and events provided by third party operators, vendors or concessionaires are exempt from providing the discount. Arizona State Parks operated by third-party partners must follow Arizona State Parks fee policies as set forth in the Intergovernmental Agreement. Not applicable to Boyce Thompson Arboretum State Park.

Arizona residents who are 100% Service Disabled Veterans must show identification indicating the 100% Service Disabled Status and proof of Arizona residency at time of purchase of Day-Use entrance fees. *"The program allows for the qualifying Veteran free Entrance/Day-Use for themselves and up to three additional adults accompanying them in a private vehicle."* This program does not apply to Kartchner Caverns State Parks tour tickets, special use fees, special program fees, special events fees, special event admission fees, any applicable reservations fees, camping or overnight parking. Programs and events provided by third party operators, vendors or concessionaires are exempt from providing the discount. Arizona State Parks operated by third-party partners must follow Arizona State Parks fee policies as set forth in the Intergovernmental Agreement. Not applicable to Boyce Thompson Arboretum State Park.

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

None

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

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

Not applicable

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

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Not applicable

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

Not applicable

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

Not applicable

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

No

15. The full text of the rules follows:

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ARTICLE 1. GENERAL PROVISIONS

Section

Exhibit A. ~~November 1, 2013~~ January 1, 2014 Regular Fee Schedule

ARTICLE 1. GENERAL PROVISIONS

Exhibit A. ~~November 1, 2013~~ January 1, 2014 Regular Fee Schedule

ARIZONA STATE PARKS FEE SCHEDULE EFFECTIVE November 1, 2013 <u>January 1, 2014</u>								
1: Adult is defined as an individual 14 years of age and older. 2: Camping fees reflect a "Range" dependent upon specific site location and seasonality. Call individual Park facility for current information. 4: Over-sized Parking is an additional fee for those vehicles or vehicle/trailer units that exceed 55' in total length. 5: Additional Program Fees may apply, see "OTHER FEES." 6: For Cabins & Yurts an additional overnight fee of \$5.00 per per night will be assessed. 7: Camping by Reservation only. Contact the Park Facility directly for availability and details.								
<i>These fees are charged on a "per vehicle" basis that includes up to 4 Adults per vehicle. Additional fees for vehicles containing more than 4 Adults will be assessed.</i>								
50% discount off regular entrance fee for <u>Active Duty, National Guard or Reserve members of the United States Military, Arizona residents who are United States Military Retired or Service Disabled Veterans</u> Regular Military, Reserve, National Guard, and state militia troops and their families.								
100% discount off regular entrance fee for <u>Arizona residents who are 100% Service Disabled Veterans and their families. Does not apply to Kartchner Caverns State Park tour tickets, special use fees, special event fees, special event admission fees, reservation fees, camping or overnight parking.</u>								
PARK NAME	DAILY ENTRANCE			NIGHTLY CAMPING ²				
	Per Vehicle 1-4 Adults ¹	Individual/ Bicycle	Over-Size Parking ⁴	Non-Electric Campsite	Electric Site	Cabana or Boat Site	Cabin ⁶	Yurt ⁶
ALAMO	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00		50 - 75.00	
BOYCE THOMPSON	(Separate Fee Schedule)							
BUCKSKIN MOUNTAIN	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00	20 - 50.00		
BUCKSKIN RIVER ISLAND	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00			
CATALINA	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00			
CATTAIL COVE	5 - 30.00	2 - 5.00	10.00	15 - 25.00	20 - 50.00	15 - 30.00		
Boat-In sites Day Use only	10.00							
DEAD HORSE RANCH	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00		50 - 75.00	
FOOL HOLLOW	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00			
HOMOLOVI	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00			
KARTCHNER (Daily Entrance Fee is waived for reserved tour ticket holders)	5 - 30.00	2 - 5.00		15 - 25.00				
LAKE HAVASU	5 - 30.00	2 - 5.00	10.00	15 - 25.00	20 - 50.00			
LOST DUTCHMAN	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00			
LYMAN LAKE	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00		50 - 75.00	35 - 50.00
ORACLE ⁵	5 - 30.00	2 - 5.00						
PATAGONIA LAKE	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00	15 - 30.00		
PICACHO PEAK ⁵	5 - 30.00	2 - 5.00		15 - 25.00	20 - 50.00			

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RED ROCK ⁵			(educational groups only: 15 – 25.00/group of 1-6 persons)							
ROPER LAKE	5 – 30.00	2 – 5.00	15 – 25.00	20 – 50.00	50 – 75.00					
SLIDE ROCK ⁵	5 – 30.00	2 – 5.00								
SONOITA CREEK ⁷			15 – 25.00							

Children ages 0-6, when accompanied by a paying adult age 18 years or older, will be admitted free as long as the child is not part of an organized group. Group discounts may be available where listed. A group is 15 persons or more with prearranged arrival. All persons in a group, regardless of age, apply toward a group's number. Group discounts do not apply to Program Fees.

PARK NAME	DAILY ENTRANCE FEES			GROUP FEES	
	Ages 0-6	Ages 7-13	Ages 14 & up	Ages 14 & up	
FORT VERDE ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
JEROME ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
MCFARLAND ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
RED ROCK ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
TOMBSTONE ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
TONTO NATURAL BRIDGE	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
TUBAC PRESIDIO ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
YUMA QUARTER MASTER DEPOT ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	
YUMA TERRITORIAL PRISON ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	

Group discounts are available where listed. A group is 15 persons or more with prearranged arrival. All persons in a group, regardless of age, apply toward a group's number.

PARK NAME	DAILY ENTRANCE FEES			GROUP FEES	
	Ages 0-6	Ages 7-13	Ages 14 & up	Ages 7-13	Ages 14 & up
RIORDAN MANSION ⁵	free	2.00 – 10.00	2.00 – 10.00	20% off current rate	20% off current rate

KARTCHNER CAVERNS

TOURS	Ages	Ages	Ages
	0 – 6	7 – 13	14 & Up
Rotunda Tour	free	9 – 15.00	18.00 – 30.00
Big Room Tour	N/A	9 – 15.00	18.00 – 30.00

COMMERCIAL GROUP TOURS*	Ages	Ages	Ages
	0 – 6	7 – 13	14 & Up
Rotunda Tour	free	20% off current rate	20% off current rate
Big Room Tour	N/A	20% off current rate	20% off current rate

*A commercial tour is pre-arranged by a commercial tour operator who organizes tours in a package with transportation and a destination or tour for one price. A group tour for Kartchner Caverns cave tour is defined as 12 persons or more.

OTHER FEES

Pet Fee for Cabins & Yurts	5.00	per pet per night.
Overnight Parking	5.00	Overnight Parking is described as: "A legally parked, unattended and unoccupied vehicle not in a designated campsite, remaining on the park throughout the night." The overnight parking fee is to be charged in addition to the regular Entrance Fee.

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PASSES									
Arizona State Parks Premium Annual Entrance Pass	200.00	"Valid at all State Parks for day-use activities only. Additional Program and Special Event Fees may apply."							
Arizona State Parks Standard Annual Entrance Pass	75.00	"Valid at all Arizona State Parks facilities for day-use activities. Not valid from April 1 st through October 31 st at Buckskin Mountain/River Island, Cattail Cove and Lake Havasu State Parks on Fridays, Saturdays, Sundays, and recognized State Holidays. Additional Program and Special Event Fees may apply."							
PROGRAM FEES (per person or vehicle)			RESERVATIONS				SPECIAL USE FEES		
Students Program:	Variable	Kartchner Tours:		3.00	Non-Commercial:		25.00 (minimum)		
Event / Program Fees:	Variable	Kartchner Tours Rebooking:		5.00	Commercial:		25.00 (minimum)		
Instructional:	Variable	Camping, Cabin, Yurt, Ramada		5.00	Damage Deposit:		25.00 (minimum)		
		Group:		5.00					
FACILITY USE FEES									
		Ramada		15.00 (minimum)					
		Group Day Use		15.00 (minimum)					
		Group Camping		15.00 (minimum)					
Dump Station Use	15 – 20.00	Use of a parks dump station without being a registered camper will be equal to one nights camping (low end of the individual Park's range)							
PERMITS									
Commercial Retail Permit:	300.00	CONDITIONS OF USE • Pass is valid only for customers entering the park in the commercial vehicle. • Individual pass must be presented each time the commercial vehicle enters the park with passengers. • Pass does not permit any private vehicle to enter the park. • Pass is valid through the calendar year in which it was purchased. • Pass must be used in conjunction with commercial business pass. • One voucher permits up to 4 adults in the same commercial vehicle. • Violation of Conditions of Use may result in revocation of all commercial privileges. • All Commercial Vehicle Access Permits expire December 31 of the year for which they were issued. • Permittee clientele will be responsible for all applicable daily entrance fees when entering the park in a separate vehicle from the permittee. However, a discounted Clientele Voucher is available for all permittee clientele who enter the park in the permittee's vehicle and do not occupy a parking space.							
Commercial Rental Permit:	350.00								
2 nd Commercial Permit:	150.00								
Clientele Voucher:	5.00								
		Vouchers are sold only to Permit holders. Vouchers can only be used at the time of entry, and are non-transferable.							