

ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

ARTICLE 1. GENERAL PROVISIONS

ARTICLE 2. REGISTRATION PROVISIONS

R4-30-102, R4-30-247 & R4-30-301.01

1. Identification of rulemaking.

This final rulemaking submitted by the Board of Technical Registration makes amendments as follows:

1. Replace the requirement that a parallel inspector provide a signed affidavit, requiring a notary, with a requirement to provide a signed affirmation, which does not require a notary, in A.A.C. R4-30-102(2).
2. Add additional language to A.A.C. R4-30-247(C)(4) clarifying that a home inspector applicant need only provide a detailed explanatory statement regarding disciplinary action, license denial or a conviction if it occurred only within the last five years immediately preceding the application.
3. Update the Standards of Professional Practice adoption date so the Board references the most current standards in R4-30-301.01(A) and add section (5) to R4-30-301.01(B) stipulating that a home inspector cannot perform or offer to perform a home inspection while also acting as a real estate agent or broker.
4. Add additional language to A.A.C. R4-30-204(C)(1) to include auto-approval of examination authorization for fundamental examinations and strike R4-30-204(C)(6) regarding closing exam authorization applications for multi-divisional examinations.

a. The conduct and its frequency of occurrence that the rule is designed to change:

1. Amendment to R4-30-102(2): Parallel inspectors must seek out and pay for notary services to sign affidavits that are given to home inspector applicants.

Every home inspector applicant must produce a signed parallel inspector affidavit, from each parallel inspector, at time of application.

2. Amendment to R4-30-247(C): All applications in which an applicant has indicated they have past disciplinary actions, convictions and/or license denials must go before the Board for a final determination regardless of the age of the said actions, convictions and denials.
3. Amendment to R4-30-301.01(A): All home inspections performed in Arizona must meet the minimum standards referred to under R4-30-301.01. The current referenced standards are over twenty years old.
4. Addition of R4-30-301.01(B)(5): Nothing prevents a home inspector from performing or offering to perform a home inspection while also acting in the capacity of a licensed real estate agent or broker in the same transaction.
5. Amendment of R4-30-204(C): Currently all fundamental examination applicants must apply through the Board for approval prior to sitting for a fundamental examination.

b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

1. Amendment to R4-30-102(2): The requirement that a parallel inspector provide notarized affidavits to home inspector candidates adds both a time and monetary burden for parallel inspectors to do their duty. It may also hold up a candidate wishing to apply for certification with the Board. This will continue if the rule is not amended.
2. Amendment to R4-30-247(C): Applicants with past disciplinary actions, convictions and license denials must wait for their applications to go before the Board for a final determination, regardless of when the action, conviction or denial occurred. This wait, while within the Board's statutory timeframes, may seem unnecessary to protect the health, safety and welfare of the public and prevent, in the immediate, the applicant becoming certified and earning a living. This will continue if the rule is not amended.

3. Amendment to R4-30-301.01(A): All home inspections performed in Arizona must meet the minimum standards pursuant to R4-30-301.01, which are over twenty years old. This will continue if the rule is not amended.
4. Addition of R4-30-301.01(B)(5): A home inspector currently may perform or offer to perform a home inspection while also acting as a real estate agent or broker as long as the home inspector makes a full disclosure to the client. This will continue if the rule is not amended.
5. Amendment of R4-30-204(C): Arizona is in the minority of states that require board pre-authorization to sit for a national fundamentals examination, requiring applicants to submit an application and application fee to the Board. This will continue if the rule is not amended.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

1. Amendment to R4-30-102(2) would reduce the burden, both in time and money, on parallel inspectors having to provide notarized affidavits to home inspector candidates by instead requiring only a signed affidavit. This will also likely expedite the process in which a parallel inspector provides a home inspector candidate with the signed document required for application to the Board.
2. Amendment to R4-30-247(C) would reduce, or possibly eliminate, the number of applications going before the Board for a final determination in regards to an applicant's past disciplinary actions, convictions and license denials, if said occurrences are over five years old.
3. Amendment to R4-30-301.01(A) will effectively update the 20-year old Home Inspector Professional Standards with new standards that are current with contemporary industry standards. All home inspections performed in Arizona must meet the minimum standards pursuant to R4-30-301.01.
4. Addition of R4-30-301.01(B)(5) will allow the Board to discipline a home inspector who performs or offers to perform a home inspection while also acting as a real estate agent or broker.

5. Amendment of R4-30-204(C) will allow a majority of applicants wishing to sit for a fundamentals examination to do so without preauthorization through the Board.

2. Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rule making.

1. Amendment to R4-30-102(2) will directly affect and benefit parallel inspectors and home inspector candidates.
2. Amendment to R4-30-247(C) will directly affect and benefit home inspector applicants with a history of disciplinary action(s), conviction(s) and/or license denials over five years old.
3. Amendment to R4-30-301.01(A) will directly affect and benefit the public and directly affect certified home inspectors.
4. Addition of R4-30-301.01(B)(5) will directly affect and benefit the public and directly affect and not benefit certified home inspectors who offer both home inspection services and real estate services in the same transaction.
5. Amendment of R4-30-204(C) will directly affect and benefit fundamental exam authorization applicants.

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:**

i. Cost:

The number of fundamental examination applications the Board will receive after the changes are made will drop, reducing the Board's revenue. The Board

brought in approximately \$28,000 from FE exam applications in fiscal year 2023.

ii. Benefit:

These updates will reduce/eliminate steps/approvals for applicants to sit for a fundamentals exam, reducing/eliminating administrative processes for the Board.

iii. Need for additional Full-time Employees:

No additional Full-time employees needed.

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

None

4. General description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking.

These changes will reduce burdens for future engineer, geologist, home inspector and land surveyor candidates and will help them enter the workforce sooner.

5. Statement of probable impact of the proposed rule on small businesses. The statement shall include:

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

Small businesses that employ employees that perform home inspections. Small businesses that provide home inspector training.

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

Small businesses that perform home inspections may need to make changes in their business practices to ensure home inspectors conduct home inspections to meet the newly updated minimum standards; this may require up-front costs.

c. Description of methods prescribed in section A.R.S. § 41-1035 that the agency may use to reduce the impact on small businesses, with reasons for the agency's decision to use or not use each method:

i. Establishing less stringent compliance or reporting requirements in the rule for small businesses;

Cannot use. There cannot be a less stringent version of the minimum standards; to ensure protection of the public, the standards must be universal.

ii. Establishing less stringent schedules deadlines in the rule for compliance or reporting requirements for small businesses;

Cannot use. There are no schedule deadlines in the rules.

iii. Consolidate or simplify the rule's compliance or reporting requirements for small businesses;

Cannot use. There cannot be a simplified version of the minimum standards; to ensure protection of the public, the standards must be universal.

- iv. **Establish performance standards for small businesses to replace design or operational standards in the rule; and**

Cannot use. Minimum standards establish performance standards.

- v. **Exempting small businesses from any or all requirements of the rule.**

Cannot use. See answers to i-iv above.

- d. **The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

Private persons and consumers will benefit from the Board adopting current industrial standards for certified home inspectors as it would help ensure protection of the public. The cost to businesses that perform home inspections and home inspections schools may have an initial upfront cost to updating home inspection software and training procedures to conform to the new standards.

6. Statement of the probable effect on state revenues.

If R4-30-204(C) is amended; the Board will see a decrease in revenue received for exam authorization applications.

7. Description of any 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 nonselected alternatives.

No other methods of achieving updated minimum standards are available beyond what the Board has provided in this rule package.

- 8. A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.**

The Board did not obtain data on which a rule is based in this rule package.