



Replacement Check List

For rules filed within the
1st Quarter
January – March 31, 2017

THE ARIZONA ADMINISTRATIVE CODE

Within the stated calendar quarter, this Chapter contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

Title 2. Administration

Chapter 10. Department of Administration - Risk Management Division

Supplement Release Date: 17-1

Sections, Parts, Exhibits, Tables or Appendices modified
R2-10-504

REMOVE Supp. 11-3
Pages: 1 - 10

REPLACE with Supp. 17-1
Pages: 1 - 10

The agency's contact person who can answer questions about the expired rules in Supp. 17-1:

Agency: Governor's Regulatory Review Council
Address: 100 N. 15th Ave #402
Phoenix, AZ 85007
Phone: (602) 542-2058

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may change and is provided as a public courtesy.

PUBLISHER
Arizona Department of State
Office of the Secretary of State, Public Services Division

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
PUBLIC SERVICES DIVISION
March 31, 2017

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2017 is cited as Supp. 17-1.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Arizona Administrative Register online at www.azsos.gov/rules, click on the Administrative Register link.

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 2. ADMINISTRATION

CHAPTER 10. DEPARTMENT OF ADMINISTRATION - RISK MANAGEMENT DIVISION

(Authority: A.R.S. § 41-621 et seq.)

Chapter heading revised at request of Department, Office File No. M11-239, filed July 8, 2011 (Supp. 11-3).

Laws 1983, Ch. 98, 121, transferred authority for Risk Management Services to the Director of Administration effective July 27, 1983.

Article 1 consisting of Sections R2-10-101 through R2-10-105; Article 2 consisting of Sections R2-10-201 through R2-10-204; Article 3 consisting of Sections R2-10-301 through R2-10-304 adopted effective July 27, 1983.

Former Sections R2-10-01 through R2-10-05, R2-10-50 through R2-10-53, R2-10-100 through R2-10-103 renumbered and readopted with conforming changes.

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ARTICLE 1. COVERAGE AND CLAIMS PROCEDURE**R2-10-101. Definitions**

The following definitions apply in this Chapter unless the context otherwise requires:

1. "Agency" means a state department, board, or commission.
2. "Agency loss prevention committee" means a panel of individuals established by the head of an agency to develop and oversee the agency's loss prevention program.
3. "Agency loss prevention coordinator" means an individual chosen by the head of an agency to implement the agency's loss prevention program and who is the agency's liaison with Risk Management.
4. "Attorney General's Office" means the Liability Management Section of the Attorney General's Office assigned to defend claims covered by A.R.S. § 41-621.
5. "Client" means an individual in custodial care of a provider through contract or court order with a state agency through programs listed in A.R.S. § 41-621(B).
6. "Confined space" has the meaning of 29 CFR 1910.146(b) Occupational Safety and Health Standards for General Industry, The Industrial Commission of Arizona, Division of Occupational Safety and Health, February 1, 1998, which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporation by reference are available for inspection at the Industrial Commission of Arizona, 800 West Washington, Phoenix, Arizona and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.
7. "Contaminant" means a substance that is radioactive, infectious, carcinogenic, toxic, irritant, corrosive, sensitizer or an agent that damages the lungs, skin, eyes, mucous membranes, and other body organs.
8. "Deductible" means the amount of a loss that the agency will pay before Risk Management is obligated to pay anything.
9. "Department" means the Department of Administration, an agency of the State of Arizona.
10. "Emergency" means an immediate health threat.
11. "Environment" means navigable waters, surface waters, groundwater, drinking water supply, land surface or subsurface strata, and ambient air, within or bordering on this state.
12. "Environmental Contractor" means a company hired by the state to conduct environmental site investigations and remediation work.
13. "Environmental property claim" means a demand or payment resulting from chemical or biological damage to the environment.
14. "Ergonomics" means a science of the relationship between human capability and the work environment, which the Department uses to design a job, task, equipment, or tool to conform comfortably within the limits of human capability.
15. "Feasibility study" means a remediation plan based upon a site investigation to clean up a contaminated site by an environmental contractor.
16. "Geophysical survey" means a radar, magnetic, electric, gravity, thermal, or seismic survey.
17. "Groundwater" means water beneath the ground in sediments or permeable bedrock.
18. "Hazardous substance or waste" means hazardous waste as defined in A.R.S. § 49-921(5).
19. "Health threat" means evidence that exposure to a specific type and concentration of contaminant is harmful to human health. This evidence shall be based on at least 1 study conducted by the National Institute of Occupational Safety and Health or the Environmental Protection Agency in accordance with established scientific principles.
20. "Incident" means an event involving an agency employee, facility, or equipment that results in an occupational injury or illness, personal injury, or loss of or damage to state property, or an event involving the public that exposes the state to a liability loss.
21. "Loss prevention" means any action or plan intended to reduce the frequency and severity of property, liability, or workers' compensation losses.
22. "Passenger van" means any motor vehicle designed, modified, or otherwise capable of being configured to carry not less than 8 passengers and no more than 15 passengers.
23. "Personal protective equipment" means any clothing, material, device, or equipment worn to protect a person from exposure to, or contact with, any harmful material or force.
24. "Provider" means an individual or entity licensed to provide services to state clients as outlined in A.R.S. § 41-621(B) that is not contractually required to indemnify and hold the state harmless.
25. "Remedial action" or "remediation" means the process of cleaning up a hazardous substance or waste site by an environmental contractor.
26. "Risk Manager" means the Administrator for the State Risk Management Program.
27. "Risk Management" or "RM" means the State Risk Management Program.
28. "Self-insurance" means state provided loss protection for an agency or employee funded through RM's revolving fund.
29. "Site assessment" means the process of completing and assessing a site investigation and a feasibility study.
30. "Site investigation" means a detailed examination by an environmental contractor of an area of a building or ground suspected of being contaminated with a hazardous substance or waste.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Former Section R2-10-101 repealed, new Section R2-10-101 adopted effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended effective September 15, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-102. Reporting Procedures

- A.** An agency or provider shall report a property loss, liability claim, or incident that may give rise to a claim under A.R.S. § 41-621 to RM as follows:
1. A physical injury within 1 day of the incident orally, in writing, or by electronic means.
 2. Property damage expected to exceed \$10,000 within 1 day of the incident orally, in writing, or by electronic means.
 3. Property loss expected to exceed \$10,000 within 1 day of the incident orally, in writing, or by electronic means.
 4. All other claims or incidents within 10 days of the incident in writing or by electronic means.

- B.** An agency, officer, agent, or employee of the state receiving a claim, notice, summons, complaint or other process by any claimant or representative shall immediately forward the claim to RM. This applies to all claims for injuries or damages whether the reporting party believes there to be a factual basis for the claim, but excludes contract lawsuits or other matters not covered under A.R.S. § 41-621.
- C.** An agency officer, agent, or employee shall cooperate under A.R.S. § 41-621(M) with RM, the Attorney General's office and their representatives and shall provide all information and materials RM requests to investigate and resolve a claim.
- D.** An agency shall submit a report of a loss on the following RM forms:
1. A loss involving a state-owned vehicle or a state driver on the "Automobile Loss Report". Information required includes: the agency involved, facts of the incident, the vehicles involved, description of injuries to individuals, names of witnesses, and the police agency that investigated the incident.
 2. A loss involving private property damage, or injury to a member of the public as a result of alleged negligence of a state officer, agent or employee other than a loss arising out of use of a motor vehicle, on a "General Liability Report". Information including the agency and employees involved, facts of the incident, name of the claimant, and description of the claimant's injuries, witnesses to the incident, and the name of the police agency that investigated the incident.
 3. A loss to state property, whether personal property (other than motor vehicles) or real property, on the "Property Loss Report". Information includes the agency and employees involved, facts of the incident, description of the damaged property, the party responsible for the loss, names of witnesses, and the police agency investigating the loss.
 4. A loss to employee-owned property covered under A.R.S. § 41-621(A)(4) on the "Property Loss Report". Information necessary to document the loss and calculate the actual dollar value of the claim is required. In addition, the employee shall submit a copy of any written agreement between the employee and the employing state agency authorizing the use of the employee-owned property on the job, and a copy of the Personal Property Inventory form (PROPINV) maintained by the employing state agency.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-103. Liability Claim Procedures

- A.** RM shall investigate all reported liability claims to determine coverage. RM shall notify the appropriate insurance carrier, if applicable, and evaluate the merits of self-insured claims and coordinate defense and settlements under A.R.S. § 41-621.
- B.** State employees shall direct all contacts concerning any liability claim against the state, its agencies, officers, agents, or employees by a third party to RM, the Attorney General's office, or an independent contractor representing either of those offices.
- C.** Unless authorized by law, an agency, officer, or employee shall obtain prior approval from the Risk Manager, Attorney General's office before disclosure of oral discussions, written

reports of claims, or lawsuits to anyone other than state-authorized personnel. Prior permission for each discussion or report is necessary to comply with this subsection.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-104. Self-insured Property Claim Procedures

- A.** RM shall not cover a property loss covered under the terms of the state's self-insurance program for state agencies if the loss is not reported to RM as required by R2-10-102(A), or is reported later than 90 days following discovery of the incident. RM shall cover a property loss only if there is proper documentation as to the cause and dollar amount of the loss. RM shall only cover those claims with documentation submitted to RM within 1 year of the date of discovery. If a loss to a building or structure requires more than one year to repair or replace, the Risk Manager may grant an extension of time to document the amount of the loss. An agency shall submit a request for an extension in writing to the Risk Manager no later than 11 months from the date of loss. The request shall contain clear justification for the delay, and a projected date of completion.
- B.** RM shall investigate all reported property claims to determine coverage (and notify the appropriate excess insurance carrier if applicable) and coordinate settlements under A.R.S. § 41-621.
- C.** RM or, upon request, the agency involved, shall obtain competitive bids for the necessary repairs or replacement. RM shall authorize and approve all repair or replacement.
- D.** RM shall review and approve consulting services, when required of an architect or engineer who are advising the state on the repair, replacement, or construction of state buildings that have been partially or totally damaged and that are to be paid for by RM funds.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12 1989 (Supp.89-1). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-105. Employment Discrimination Claim Procedures

- A.** Upon receipt of a notice of discrimination charge, the agency or employee shall:
1. Within 7 days, send a copy of the charge to RM and the Attorney General's office.
 2. Contact the Attorney General's office for any required legal assistance during the administrative process.
 3. Provide to RM a completed copy of any response, prior to filing. RM shall review the information contained in the response and assist in resolution during administrative process.
- B.** The agency shall provide a copy of a decision or Right to Sue Letter to RM within 7 days.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Former Section R2-10-105 renumbered to Sections R2-10-106 and R2-10-107, new Section R2-10-105 renumbered from R2-10-106 and amended effective December 18, 1992 (Supp.

92-4). Amended effective January 12, 1995 (Supp. 95-1).
Amended by final rulemaking at 6 A.A.R. 1717, effective
April 20, 2000 (Supp. 00-2).

R2-10-106. State-owned Property Coverage and Limitations

- A.** The Department provides property loss coverage for state-owned buildings on a replacement-cost basis for items actually replaced or repaired. Property loss coverage for state-owned personal property is replacement cost less depreciation. Personal property claims less than \$100 are not covered.
- B.** RM shall not include the cost of labor in property loss reimbursement if state employee labor cost for repair or replacement is allocated from appropriated funds. RM shall determine whether to use state employees or contractors for repair work based upon availability.
- C.** Property loss coverage includes all state-owned property except: roads, bridges, tunnels, dams, dikes, and retaining walls.

Historical Note

Adopted effective June 12, 1989 (Supp. 89-2). Former Section R2-10-106 renumbered to R2-10-105, new Section R2-10-106 renumbered from R2-10-105(A) and (B) and amended effective December 18, 1992 (Supp. 92-4).

Amended effective January 12, 1995 (Supp. 95-1).
Amended by final rulemaking at 6 A.A.R. 1717, effective
April 20, 2000 (Supp. 00-2).

R2-10-107. Liability Coverage and Limitations

- A.** The following coverage and limitations apply in this Chapter:
1. The Department provides liability coverage within the limitations of A.R.S. § 41-621 for an officer, agent, or employee while driving a state-owned or other vehicle in the course and scope of employment.
 - a. Each agency shall ensure that an individual operating a vehicle on state business has a valid driver's license.
 - b. Coverage shall be on a primary basis for a state-owned, leased, or rented vehicle and on an excess basis for any other vehicle.
 - c. The state shall not provide coverage for damage or loss of a personal vehicle.
 2. An officer, agent, or employee operates a state-owned vehicle within the course and scope of employment if driving:
 - a. On authorized state business,
 - b. To and from work,
 - c. To and from lunch on a working day,
 - d. To and from meals while on out-of-town travel.
 3. An officer, agent, or employee does not operate a personal vehicle within the course and scope of employment when driving:
 - a. To and from work,
 - b. To and from lunch in the area of employment and not on authorized state business,
 - c. On other than state-authorized business.
- B.** A volunteer acting at the direction of a state official, within the course and scope of state-authorized activities, is covered under A.R.S. § 41-621.
- C.** A claim alleging a civil rights violation is covered through RM, except there is no coverage for payment of that portion of a settlement or judgment for position status adjustments.
- D.** The state shall cover an agent, officer, or employee for liability on an excess basis while using the agent, officer, or employee's personal aircraft within the course and scope of employment with the state under the following guidelines:

1. An agent, officer, or employee shall carry a minimum of \$1,000,000 in aircraft liability coverage.
2. RM shall approve an agent, officer, or employee pilot prior to flying on state business. To obtain this approval, an agent, officer, or employee shall complete an RM pilot application form that requests the pilot's name, airman's certificate number, driver's license number, aircraft description, rating, and flying hours, and submit it to RM for review with a certificate of insurance evidencing the required limits of coverage on a personal aircraft. To maintain RM approval, an agent, officer, or employee pilot shall submit an updated pilot application form and certificate of insurance annually.
3. RM shall send a letter to an agent, officer, or employee approving or rejecting an application to fly a personal aircraft on state business. The approval letter shall be presented to the appropriate department head and a copy sent to the agency's loss prevention coordinator.
4. An agent, officer, or employee shall maintain a current FAA pilot certification.
5. An agent, officer, or employee shall meet the pilot warranties in the aircraft insurance policy owned by the state.
6. An agent, officer, or employee shall hold all licenses, certificates, endorsements, and other qualifications, including proficiency checks and recent experience, required by the FAA or other federal, state, or local statutes and rules to act as pilot-in-command or as a required crew member for the aircraft being flown. The pilot-in-command shall meet current requirements for carrying passengers.
7. Course and scope of employment with the state does not include:
 - a. Personal use of an aircraft;
 - b. An aircraft for hire, reward or commercial use;
 - c. Agricultural operations;
 - d. Carrying external loads;
 - e. Performing aerial acrobatics.
8. An agent, officer, or employee shall carry no more passengers on an aircraft than the number defined in the aircraft insurance policy purchased by RM.
9. The Department shall not cover damage or loss of the agent, officer, or employee-owned aircraft.
10. The guidelines in this Section apply to a non-state employee pilot flying on behalf of an agent, officer, or employee on authorized state business.
11. All aircraft used for state business shall comply with all statutes and rules of the FAA and other federal, state, and local jurisdictions for flight.

Historical Note

Renumbered from R2-10-105(C) through (J) and amended effective December 18, 1992 (Supp. 92-4).
Amended effective January 12, 1995 (Supp. 95-1).
Section corrected to reflect amendment on file with the Office of the Secretary of State effective January 12, 1995 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-108. Deductibles and Waivers

- A.** Agency Claim Settlement or Judgment More Than \$150,000.
1. The Department shall charge each agency a deductible of not more than \$10,000 on each claim settlement or judgment approved for payment of \$150,000.00.
 2. RM shall waive the deductible if the agency provides a response to RM containing an agency action plan to be taken to eliminate or limit similar future risk to the state, and:

- a. The agency action plan is submitted to RM within 60 days of the agency's notification of claim approval or payment. The agency action plan shall include the following:
 - i. Findings outlining the cause or causes of the claim;
 - ii. Actions that will be implemented to prevent recurrence of similar losses or claims;
 - iii. Development of action items and time lines for completion; and
 - iv. Appointment of an agency contact to act as a liaison for all matters relating to the plan.
 - b. RM approves the agency action plan as reasonable and effective; and
 - c. The agency implements the plan within 30 days of RM approval, and provides periodic status reports as outlined in the approved Agency Action Plan.
3. If the agency fails to comply with all the conditions outlined in subsection (A)(2), RM shall charge a deductible of \$10,000 on the subject judgment or claim as well as each subsequent claim resulting from that cause or exposure until the agency fully complies with subsection (A)(2).
- B.** RM may waive any deductible to any agency for just cause. Just cause may exist when the application of a deductible is not warranted due to the circumstances of the claim, or is in the best interest of the state.
- C.** If a dispute arises between RM and the agency pertaining to this Section, one or more meetings shall be held at progressively upward, incremental Department of Administration management levels until the agency and RM reach a solution.

Historical Note

Adopted effective September 15, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2). Amended by final rulemaking at 12 A.A.R. 4384, effective January 6, 2007 (Supp. 06-4).

R2-10-109. Computation of Time

In computing any period of time prescribed or allowed in this Chapter, the day from which the designated period begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal state holiday. When the period of time is less than 7 days, intermediate Saturdays, Sundays, and legal state holidays shall be excluded in the computation.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

ARTICLE 2. LOSS PREVENTION

R2-10-201. Submission of Building Plans

If an agency anticipates the cost to construct, alter, or repair a state-owned or leased building to exceed \$25,000, the agency shall submit building plans to RM prior to a pre-planning conference with an architect to allow RM to offer recommendations for loss prevention measures.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-1). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-202. Purchase of Specialized Hazard Control Equip-

ment

- A.** An agency shall notify the RM Loss Prevention Manager prior to starting the procurement process for any specialized safety or security equipment or system exceeding \$10,000. RM shall assist each agency to determine whether the equipment or system will adequately perform its specialized function and is in compliance with applicable codes.
- B.** RM shall submit any comments or recommendations regarding specialized safety or security equipment or system to the agency within 10 days from the date RM receives notification of a planned procurement.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-203. Hazard Reporting

Any agency, officer, agent, or employee shall advise a supervisor, loss prevention coordinator, or loss prevention committee chairperson of any suspected or potential hazards that may require inspection, investigation, or requires action to correct. A supervisor shall report an identified hazard that cannot be corrected to the agency head. The agency head shall notify RM of any hazard that cannot be corrected by the agency or that requires further evaluation and assessment before corrective action can be taken.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-204. RM Loss Prevention Consultative Services

- A.** The Risk Manager shall schedule, evaluate, and assess each state agency's loss prevention programs and facilities to identify program deficiencies or hazardous conditions that might lead to loss. Following an evaluation or assessment, RM shall submit a written report to the agency head and loss prevention coordinator, with recommendations to eliminate or control physical hazards or correct unsafe practices and procedures.
- B.** An agency shall respond in writing to RM recommendations detailing the agency's corrective action plan within 60 days. The agency shall review the recommendations to determine cost feasibility and integration into agency plans. The agency shall notify RM of the corrective action it intends to take. An agency shall report in writing every 30 days until the agency completes corrective action or Risk Management determines the agency has taken all reasonable corrective action.
- C.** Subsection (B) does not apply to an RM recommendation in response to an agency request for a hazard assessment.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-205. Development and Implementation of Agency Loss Prevention Programs

- A.** An agency head shall develop and implement an agency loss prevention program that integrates loss prevention and safety

policy into all agency activities. The agency shall incorporate into the loss prevention program the requirements of this Section, applicable state and federal standards, state worker and property protection measures, and programs, practices, and procedures to protect the state from third-party liability claims.

- B.** An agency head, in coordination with RM, shall develop and implement policies, practices, and procedures to reduce the frequency and severity of a future incident if:
1. The agency has or may have a loss; and
 2. Federal or state rules, or National Consensus Standards have not been developed, or do not apply to protect the state from such losses.
- C.** RM shall publish criteria and program information as guidance for an agency to use in its loss prevention program and shall interpret and explain state, federal, and National Consensus Standards.

Historical Note

Adopted effective Aug. 12, 1985 (Supp. 85-4). Amended effective June 12, 1989 (Supp. 89-2). Section repealed, new Section adopted effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-206. Agency Loss Prevention Program Management

- A.** An agency shall issue a policy letter to all agency employees that expresses the agency commitment to prevent or control losses. The letter shall solicit the support of agency personnel to the goals and objectives of loss prevention. The agency shall include the letter in the agency loss prevention program document, which shall be available for review by all agency personnel.
- B.** An agency head shall appoint a qualified management level or professional employee as loss prevention coordinator. The loss prevention coordinator shall conduct and coordinate the agency's loss prevention program. The loss prevention coordinator shall be an ex-officio member of the agency's loss prevention committee and report to the agency head on matters pertaining to administration of the loss prevention program and safety within the agency. The loss prevention coordinator interprets and applies policies and procedures, chairs and coordinates the agency safety committee, reviews agency loss claims, and makes recommendations to prevent future losses. The loss prevention coordinator shall provide technical information to employees and agency management concerning Arizona Department of Safety and Health (ADOSH) and Arizona Department of Environmental Quality (ADEQ) requirements as well as RM policies, procedures, and the rules in this Chapter.
- C.** Each agency head shall establish an agency loss prevention committee to develop, implement and monitor the agency's loss prevention program. The agency shall appoint to the committee management level personnel representing each major division within the agency. An agency with multi-level organizational structures shall ensure that committee membership is representative of the functional and geographical divisions of the agency.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2).

R2-10-207. Agency Loss Prevention Program Elements

Each agency loss prevention committee or individuals designated by the agency head shall develop, implement, and monitor the fol-

lowing loss prevention program elements of an occupational health and safety program (as applicable to their agency):

1. The agency loss prevention policy statement;
2. New employee and continuous in-service training programs that include:
 - a. Safety and loss prevention education regarding property protection, liability exposure, and workplace safety;
 - b. Agency-specific safety training regarding emergency plans, actions, and first-aid; and
 - c. Job-specific safety training to employees performing tasks where:
 - i. Frequent or severe accidents have occurred; or
 - ii. There is a potential for frequent or severe accidents.
3. Documentation and recordkeeping of employee training;
4. An emergency plan for each agency location that establishes procedures to follow in the event of serious injury, fire, or other emergency that can be reasonably foreseen at the specific agency location. The emergency plan shall:
 - a. Designate an employee responsible for formulating, implementing, testing, and maintaining the emergency plan;
 - b. Contain procedures for notification of emergency response personnel and safe evacuation of personnel from the location, including an evacuation diagram that shall be visibly posted throughout each location;
 - c. Contain procedures for obtaining first-aid, medical treatment, and emergency transportation in the event of serious injury; and
 - d. Require that the plan be periodically tested and evaluated and identified deficiencies corrected;
5. Procedures for scheduled safety inspections of buildings, grounds, equipment, and machinery. An agency shall document the results of each inspection and forward notice of any deficiencies to the loss prevention coordinator for corrective action. The agency loss prevention committee or coordinator shall follow-up on inspection recommendations to ensure action is taken to remedy a noted deficiency. The agency loss prevention committee or coordinator shall bring an uncorrected deficiency to the attention of the agency head;
6. Procedures for accident and incident investigations:
 - a. An agency shall develop procedures for reporting an accident or incident involving personnel, property, automobile, liability, industrial injury, environmental damage, and a mishap or near miss to the agency's loss prevention coordinator or loss prevention committee. The loss prevention coordinator and loss prevention committee shall review the accident and incident reports and identify the corrective action necessary to prevent recurrence;
 - b. Procedures for reporting, investigating, and recording maintenance of a work-related accident or incident shall include:
 - i. Timely and accurate reporting of each work-related accident or incident;
 - ii. Investigation of each accident or incident to gather pertinent information, determine cause, and recommend a solution to prevent recurrence of a similar accident or incident;
 - iii. Compiling, analyzing, and evaluating all data derived from the investigation to determine the frequency, severity, and location of an accident or incident and communicating the information to appropriate agency personnel; and

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- iv. Maintaining records of employee injury under A.A.C. R20-5-629;
- 7. A maintenance program for state-owned vehicles, equipment, and grounds under the control of that agency that includes:
 - a. A preventive maintenance program with a written schedule of routine inspection, adjustment, cleaning, lubrication, and testing of equipment including boilers and machinery, fire protection, security and emergency equipment, and motor vehicles;
 - b. Safety procedures such as “lock-out-tagout” and “buddy procedures” for jobs subject to a serious accident such as those involving working in a confined space, operating dangerous equipment and machinery, and working on electrical equipment; and
 - c. Personal protective equipment for a specific job or area including training on proper fit, use, care, maintenance, inspection, cleaning, and storage;
- 8. A fire protection program that complies with the Arizona State Fire Code, located in A.A.C. Title 4, Chapter 36. This program shall incorporate best practices and standards that protect state of Arizona employees, the general public, and resources entrusted to the agency.
- 9. Systems and procedures to protect the personal security of each employee and prevent loss of or damage to state property, including:
 - a. Security escorts, exterior lighting, identification badges, and electronic access systems;
 - b. Labeling systems, inventory control procedures, property removal procedures, and key control systems; and
 - c. Building and ground security systems, alarms systems, electronic surveillance, perimeter fencing, and security patrol services.
- 10. A land, facility, equipment, or process environmental protection program that includes:
 - a. Procedures to ensure compliance with all applicable local, state, and federal environmental laws;
 - b. Identification of equipment, processes, and practices that may cause water pollution, air pollution, or land and property contamination;
 - c. Procedures to prevent or control emissions and discharges in excess of local, state, and federal laws and rules; and
 - d. Procedures to investigate, report, and remediate any discharge or contamination in excess of local, state, or federal laws and rules;
- 11. An industrial hygiene program that encompasses an existing or potential health hazard within an agency, or that agency personnel may be exposed to during the course of work. The program shall include a documented survey of agency facilities and work practices to identify areas of concern such as noise, air contamination, ergonomic factors, lighting and confined spaces. The program shall include procedures to notify employees of health hazards, medical monitoring when applicable, and personal protective equipment requirements including training, fit testing, and care. The industrial hygiene program shall include the following program elements as applicable:
 - a. Hazard communication;
 - b. Laboratory safety (Chemical Hygiene Plan);
 - c. Hearing conservation;
 - d. Confined space entry;
 - e. Handling and disposing of hazardous waste;
 - f. Back protection;
 - g. Ergonomics;
 - h. Asbestos management;
 - i. Building air quality;
 - j. Chemical exposure assessment;
 - k. Personal protective equipment;
 - l. Respiratory protection;
 - m. Bloodborne pathogen protection; and
 - n. Tuberculosis protection;
- 12. Motor vehicle safety program. For the purpose of this Section, an authorized driver is an employee whose job position description questionnaire or similar document requires the use of a vehicle; an employee who operates a state vehicle; or an employee who operates a leased, rented or personal vehicle where the state provides 100% of that vehicle lease, rental or operational costs.
 - a. Standards: Each agency shall develop standards to ensure that an authorized driver who drives on state business is capable of operating a motor vehicle in a safe manner. At a minimum, the program shall include the following standards:
 - i. An authorized driver shall use and ensure use of seat belts by all occupants, as required by law.
 - ii. An authorized driver shall possess a valid driver’s license of the appropriate class with any required endorsements.
 - iii. An authorized driver who operates a personally owned vehicle on state business shall maintain the statutorily required liability insurance.
 - b. Defensive driver training: The agency shall develop and implement programs and procedures to ensure that authorized drivers attend defensive driver training no later than three months from initial hire date or appointment to a position requiring the operation of a motor vehicle. All other authorized drivers who have not attended defensive driver training within the 36 months prior to August 5, 2007 shall attend defensive driver training within 12 months of this date. Defensive driver training and defensive driver refresher training shall cover, at a minimum, the following topics:
 - i. Defensive driving techniques,
 - ii. Traffic and vehicle regulations,
 - iii. Driver and passenger restraints,
 - iv. Inclement weather and night-vision driving hazards,
 - v. Dealing with emergencies,
 - vi. Alcohol and drug use hazards and laws,
 - vii. Vehicle insurance and financial responsibility, and
 - viii. Motor Vehicle Record (MVR) Check. RM may provide Defensive Driver/Van Safety training assistance or coordination upon request of the agency or the agency may elect to develop and implement agency-specific training.
 - c. Defensive driver refresher training: The agency shall have a designated responsible party to ensure that authorized drivers attend defensive driver refresher training at a minimum every four years.
 - d. Records: The agency shall ensure records are maintained regarding training under subsections (b), (c) and (e) that reflect topics, date of training, instructor name and qualifications of instructor, length of training, location of training, participant’s name, and job title.

- e. Passenger van and specialty vehicle training: In addition to subsection (b), the agency shall include a training element for drivers of passenger or cargo vans that are designed, modified, or could otherwise be configured for an occupancy of nine to 15 persons (including the driver). The training component for vans shall include: classroom instruction, behind-the-wheel instruction (on the road, on a closed course or using a driving simulator) and a certificate or card of completion. For a motorized specialty vehicle or specialty mobile equipment, the agency shall ensure that instruction is conducted before initial operation of the vehicle or equipment. The instruction shall be based on nationally recognized industry standards and training time lines or manufacturer's operator instructions. For the purpose of this subsection, a motorized "specialty vehicle" or "specialty mobile equipment" means a conveyance designed for the transport of people or cargo that is not licensed or intended for use on public roadways.
- f. Vehicle maintenance and inspections: The agency shall develop and implement a preventive maintenance and inspection element for vehicles. At a minimum, the agency shall ensure that maintenance and inspection staff use preventive maintenance schedules and repair records. Vehicle inspections shall comply with all state and federal inspection standards for the vehicles being inspected. The agency shall ensure that all state-owned motor vehicles utilized for state business are inspected and maintained in a safe operating condition.
- g. Vehicle incident review: An agency shall ensure that the motor fleet safety program includes a vehicle incident review element. A Vehicle Incident Review Committee shall conduct a review of each incident that involves collision or damage to determine the cause and preventability of the incident, and recommend any corrective action to prevent recurrence. If the committee determines the incident was preventable, the driver shall attend defensive driver refresher training within three months of committee determination. Based on the circumstances, the agency head may direct additional corrective action. An authorized driver involved in any motor vehicle collision on state business shall promptly notify the authorized driver's immediate supervisor.
- h. Driving record review: An agency shall develop and implement procedures for the review of an authorized driver's record maintained by the Motor Vehicle Division (MVD) of the Arizona Department of Transportation (ADOT). The agency shall establish a schedule for reviewing driving records based on agency-specific exposures and RM claims history data. The agency shall ensure that the driving record of each authorized driver is reviewed at least annually. The review shall cover the most recent 39-month period. For driving record reviews, each authorized driver shall, upon request, provide name, driver license number, expiration date and date of birth. A copy of a driving record release form is available upon request from RM. An authorized driver shall promptly notify the authorized driver's immediate supervisor of any license suspension, revocation, or restriction placed on the driver's license or privilege to drive a motor vehicle. If the license of an authorized driver is suspended or revoked, authorization to drive on state business is suspended on the date of driver's license suspension or revocation and remains suspended until the date of driver's license reinstatement. If a review of a driving record reveals one or more convictions totaling six or more points for the 39-month period, the appropriate agency management shall be notified. The driver shall attend defensive driver training or similar action designed to improve the person's driving skills. For the purpose of this Section, RM considers similar action to be successful completion of the MVD Traffic Survival School within 12 months of the record review.
- i. Driving record review guidelines and criteria: Agencies may develop criteria that meet or exceed the requirements of this Section relating to accumulated MVD points or driving behavior. At a minimum, the following criteria are to be followed when evaluating a 39-month driving record and recommending agency action:
- i. 5 or fewer points = Acceptable record: Continue annual driving record and driver insurance status checks.
 - ii. 6 to 7 points = Conditional record: Conduct driving record and driver insurance status checks at least twice a year. Driver attends defensive driver training or similar action designed to improve driving skill.
 - iii. 8 or more points = High-risk record: Request that the agency head limit driving on state business. If an agency head allows the authorized driver to drive on state business, the agency head shall provide to the driver, in writing, the limitations and the duration of the authorization to drive. An agency head shall not circumvent an order or action of the Motor Vehicle Division or any court.
13. A safety and security standard for a construction site where state employees work, that includes:
- a. Site-specific safety rules and procedures for the type of risks expected to be encountered on the site;
 - b. Routine inspection of construction sites to ensure compliance with local, state, and federal safety laws and rules;
 - c. Training of each employee in safe practices and procedures;
 - d. Availability of first-aid, medical, and emergency equipment and services at the construction site, including arrangements for emergency transportation;
 - e. Procedures to prevent theft, vandalism, and other losses at the construction site; and
 - f. Periodic testing and evaluation of the plan and correction of identified deficiencies.

Historical Note

Adopted effective December 18, 1992 (Supp. 92-4).

Amended effective January 12, 1995 (Supp. 95-1).

Amended by final rulemaking at 6 A.A.R. 1717, effective April 20, 2000 (Supp. 00-2). Amended by final rulemaking at 13 A.A.R. 2043, effective August 4, 2007 (Supp. 07-2).

ARTICLE 3. INSURANCE: PURCHASE AND CONTRACTS

R2-10-301. Insurance: Purchase and Contracts

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- A.** An agency seeking to purchase property, liability, or workers' compensation insurance shall request RM's approval in writing at least 90 days before the desired effective date of coverage. RM shall not reimburse an agency for the purchase of property, liability, or workers' compensation insurance that has not been approved by RM.
- B.** An agency shall submit a written request for approval to RM before the agency does one or more of the following:
1. Names a non-state entity as an additional insured in a contract;
 2. Provides a Certificate of Insurance;
 3. Indemnifies, holds harmless, or limits the liability of any party to a contract, lease, or other written agreement; or
 4. Waives the state's right to subrogate with regard to any party to a contract, lease, or other written agreement.
- C.** The written request prescribed in subsection (B) shall be signed by the agency director and include all of the following:
1. The circumstances of the request;
 2. Whether the party to the contract, lease, or written agreement is a sole source for the state;
 3. The level or additional risk of loss to the state resulting from the requested action;
 4. Whether the requested action helps the agency accomplish the agency's mission; and
 5. An explanation of why the action to be approved is in the best interest of the state.
- D.** If a contract requires the state to be named as an additional insured, the contracting agency shall place the name of the contracting agency and the state on the additional insured endorsement.

Historical Note

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5453, effective February 4, 2006 (Supp. 05-4).

R2-10-302. Repealed**Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

R2-10-303. Repealed**Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). Former Section R2-10-303 repealed, new Section R2-10-303 adopted effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

R2-10-304. Repealed**Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-4). Repealed effective December 18, 1992 (Supp. 92-4).

ARTICLE 4. PROVIDER INDEMNITY PROGRAM (PIP)**R2-10-401. Coverages and Limitations**

- A.** The Department of Administration shall purchase insurance or self-insure the parties and programs as set forth in A.R.S. § 41-621(B) for losses caused by an occurrence or wrongful act which is the result of either the actions of a state client or the actions of an individual provider while providing direct or incidental care of a state client.

- B.** Coverages which shall apply under this program are as follows:
1. Liability coverage for providers and clients is provided pursuant to A.R.S. § 41-621(A).
 2. Coverage is provided on a replacement-cost-less-depreciation basis for the loss of or damage to real or personal property owned by a provider as a result of the actions of a client.
- C.** Coverages that are excluded from this program include:
1. Mysterious disappearance of property;
 2. Intentional, unlawful or illegal acts except claims pursuant to A.R.S. § 12-661;
 3. Automobile physical damage resulting from permissive use by a client;
 4. Benefits covered under any workers' compensation, unemployment compensation, or disability benefits law; and
 5. All claims or lawsuits, including defense costs, which result from physical abuse, sexual abuse or sexual molestation except claims pursuant to A.R.S. § 12-661.

Historical Note

Adopted effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1).

R2-10-402. Repealed**Historical Note**

Adopted effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

R2-10-403. Repealed**Historical Note**

Adopted effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

R2-10-404. Repealed**Historical Note**

Adopted effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

R2-10-405. Repealed**Historical Note**

Adopted effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

R2-10-406. Repealed**Historical Note**

Adopted effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

ARTICLE 5. ENVIRONMENTAL LOSSES**R2-10-501. Investigation, Feasibility Study, and Remediation of the Release of Hazardous Substances**

- A.** RM will provide funding for a site investigation, feasibility study, and remediation of any hazardous materials, operations, or wastes which have resulted in or may result in environmental damage and/or a health threat associated with property and/or facilities owned or operated by the state or at which such operations are conducted or materials/wastes are located.
- B.** RM will provide funding to determine the horizontal and vertical extent of the hazardous substance/waste discovered during the site investigation. This will include:
1. Sample collection and analysis of laboratory results from:
 - a. Soil boring samples
 - b. Trenching samples

- c. Bedrock core samples
- d. Groundwater monitoring well samples
- e. Structural facilities
- 2. Geophysical surveys
- 3. If a feasibility study indicates remediation is necessary, RM will provide funding to the agency for an environmental remediation contractor as explained in R2-10-502.
- C. RM shall not pay for site investigations and feasibility studies for agencies planning to obtain property by any means including lease, purchase, and gift, where there may be potential damage to the air, water, or soil.

Historical Note

Adopted effective January 12, 1995 (Supp. 95-1).

R2-10-502. Contracting for Site Investigation, Feasibility Study, Remediation, and Other Related Environmental Work

- A. If an environmental project is anticipated to exceed \$10,000 (for both the site assessment and the remediation), an agency shall obtain cost proposals from at least three environmental contractors on contract through DOA, State Purchasing Office. Agencies without environmental expertise shall receive assistance from RM in selecting an environmental contractor.
- B. A higher cost proposal may be selected by an agency if a more detailed scope of work is submitted by another environmental contractor justifying the additional cost. A letter of explanation justifying the selection of a higher cost proposal will be sent to RM for consideration before approval is granted by RM to proceed with the site investigation/assessment or remediation.
- C. RM shall have the right to reject the selection of any environmental contractor by a state agency for just cause. Just cause exists when a major deficiency in the proposed scope of work occurs. If the agency disagrees with RM's decision, one or more meetings will be held at progressively upward, incremental management levels until a solution is reached with the Director of the Department of Administration.
- D. The remediation cost proposals will be based upon the alternative that has been recommended by the feasibility study remedial action plan.

- E. A verbal approval on a contract for site investigation, feasibility study, remediation, and other related environmental work (followed by an original hard copy) will be given by RM when an emergency exists.

Historical Note

Adopted effective January 12, 1995 (Supp. 95-1).

R2-10-503. Site Maintenance

RM shall, if the agency so requests, provide funding for site maintenance of closed hazardous substance/waste sites where remediation has been complete as required by the Arizona Department of Environmental Quality (ADEQ) or the Environmental Protection Agency (EPA).

Historical Note

Adopted effective January 12, 1995 (Supp. 95-1).

R2-10-504. Expired

Historical Note

Adopted effective January 12, 1995 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 448, effective January 11, 2017 (Supp. 17-1).

ARTICLE 6. COMPUTATION OF INTEREST ON APPEALED JUDGEMENTS

R2-10-601. Computation Procedures

- A. Interest payable on judgments against the state that are appealed shall be computed by averaging the investment yields on three-month and six-month Treasury Bills as reported in the Federal Reserve's H 15 statistical release of selected interest rates for the period of time the case is on appeal.
- B. Averages are calculated for each individual month of the appeal period and then averaged for the total months of the appeal period, excluding those months in which the case was on appeal for less than 15 days.

Historical Note

Adopted effective January 12, 1995 (Supp. 95-1).