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ARTICLE 1. GENERAL PROVISIONS

R3-1-101. Definitions
In addition to the definitions in A.R.S. § 41-1001, the following terms apply to this Chapter:

“Administrative Law Judge” means an individual, or the Director of the Department, who sits as an administrative law judge, conducts an administrative hearing in a contested case or an appealable agency action, and makes decisions regarding the contested case or appealable agency action.

“Department” means the Arizona Department of Agriculture.

“Director” means the Director of the Arizona Department of Agriculture.

“License” includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes. A.R.S. § 41-1001.

“Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license. A.R.S. § 41-1001.

“Person” means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency. A.R.S. § 41-1001.

ARTICLE 3. PUBLIC PARTICIPATION IN RULEMAKING

R3-1-102. Computation of Time
The Department shall compute a period of time for action required in a Department rule or order, as follows:

1. The day of the act, event, or default from which the designated period of time begins to run shall not be included;
2. The last day of the period shall be included unless it is a Saturday, Sunday, or Arizona legal holiday; and
3. If the period of time allowed is 10 days or less, intermediate Saturdays, Sundays, and Arizona legal holidays are not included.

R3-1-103. Licensing; Testing
A. For a license for which an applicant is required to pass an examination, the Department may limit the amount of time the applicant is allowed to complete the licensing examination. In determining whether and to what extent the time-frame for an examination will be limited, the Department shall consider the following:

1. The number of questions on the examination;
2. The difficulty and content of the questions;
3. And if available, historical data on the average amount of time taken to complete the examination.

B. An applicant seeking an accommodation under the American’s with Disabilities Act to the manner in which an examination is
administered shall make a written request to the Department at the time the applicant schedules the examination. The Department may require the applicant to provide medical documentation to confirm the need for the requested accommodation.

C. The Department shall review the request for accommodation and decide this request on a case-by-case basis.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 2657, effective August 7, 2004 (Supp. 04-2).

### ARTICLE 2. PRACTICE AND PROCEDURE - CONTESTED CASES AND APPEALABLE AGENCY ACTIONS

**R3-1-201. Adjudicative Proceedings Before the Department**

The Department shall use the uniform administrative appeals procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern the initiation and conduct of formal adjudicative proceedings before the Department.

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-202. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-203. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-204. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-205. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-206. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-207. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-208. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-209. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-210. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-211. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-212. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-213. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-214. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-215. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-216. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-217. Repealed**

**Historical Note**

Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

**R3-1-218. Rehearing or Review of Decision; Basis**

A. A party may file a motion for rehearing or review under A.R.S. § 41-1092.09.

B. The Director shall grant a rehearing or review of an administrative law judge’s decision for any of the following causes materially affecting the moving party’s rights:
   1. The decision is not justified by the evidence or is contrary to law.
   2. There is newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original proceeding.
C. The Director may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons stated in subsection (B). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.

Historical Note
Adopted effective April 11, 1994 (Supp. 94-2). Amended by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

R3-1-219. Repealed

Historical Note
Adopted effective April 11, 1994 (Supp. 94-2). Section repealed by final rulemaking at 8 A.A.R. 3194, effective July 10, 2002 (Supp. 02-3).

ARTICLE 3. PUBLIC PARTICIPATION IN RULEMAKING

R3-1-301. Rulemaking Record
A person may review an official rulemaking record at the Department’s main office, Monday through Friday, except an Arizona legal holiday, during the hours of 8:00 a.m. to 5:00 p.m. The Department shall provide a copy of a record according to the provisions of A.R.S. § 39-121 et seq.

Historical Note
Adopted effective April 11, 1994 (Supp. 94-2). Amended by final rulemaking at 10 A.A.R. 2657, effective August 7, 2004 (Supp. 04-2).

R3-1-302. Petition to Make, Amend, or Repeal a Rule
A. A person requesting the Department to adopt, amend, or repeal a rule, as prescribed in A.R.S. § 41-1033, shall file a petition with the Director. A petition shall contain:
1. The name, address, and signature of the person submitting the petition;
2. For the making of a new rule, the specific language of the proposed rule;
3. For the amendment of a current rule, the title and content of the rule to be changed, by underlining the proposed language;
4. For the repeal of a current rule, the Section number and title of the rule;
5. A statement describing why the rule should be made, amended, or repealed; and
6. The date the petition is signed.

B. A person may submit additional information in support of a petition, including:
1. Statistical data or other study, clearly referencing any attached exhibits;
2. Identification of a person that would be affected and how the person would be affected; and
3. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or any written comments received from the public.

R3-1-303. Written Criticism of a Current Rule
A person may file a written criticism of a current rule with the Department at any time.

B. A criticism shall clearly identify the rule addressed and the person’s concern regarding the rule.

Historical Note
Adopted effective April 11, 1994 (Supp. 94-2). Amended by final rulemaking at 10 A.A.R. 2657, effective August 7, 2004 (Supp. 04-2).
C. The Department shall acknowledge receipt of a criticism within 20 days and shall retain the criticism in the Department’s files for review under A.R.S. § 41-1056.

D. A criticism is not a petition as prescribed in R3-1-302.

**Historical Note**
Adopted effective April 11, 1994 (Supp. 94-2). Amended by final rulemaking at 10 A.A.R. 2657, effective August 7, 2004 (Supp. 04-2).

**R3-1-307. Petition for Review of a Practice or Policy**
A person may petition the Director to review a practice or substantive policy statement, as prescribed in A.R.S. § 41-1033, that the petitioner alleges to constitute a rule. The petition shall contain:

1. The name, address, and signature of the petitioner;
2. The representative capacity of the petitioner, if applicable;
3. The practice or substantive policy statement at issue, identified by Department division, number, title, date, or concise description;
4. A statement describing with specificity why the petitioner alleges the practice or substantive policy statement constitutes a rule; and
5. The date the petition is signed.

**Historical Note**
New Section made by final rulemaking at 10 A.A.R. 2657, effective August 7, 2004 (Supp. 04-2).