

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R2-5-902 | New Section |
| R2-5-904 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 41-763(6)
Implementing statute: A.R.S. § 41-783(14)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 5 A.A.R. 2878, August 20, 1999.
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Gordon Carrigan, Human Resources Generalist
Address: Department of Administration
1831 W. Jefferson, Rm.104
Phoenix, AZ 85007
Telephone: (602) 542-4784
Fax: (602) 542-2796
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The proposed sections R2-5-902 and R2-5-904 will replace the temporary exempt rules that expired 6/30/99. They contain procedures for conducting a reduction in force, including the bases for reduction, class status, type of employment, calculation of retention points, offer of position, employee review requests, and provision for severance pay for employees willing to volunteer for a reduction in force. The proposed rules are essentially the same as the exempt rules that were promulgated pursuant to Laws 1997 Chapter 288 and repealed automatically June 30, 1999.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.**
None

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7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
8. **The preliminary summary of the economic, small business, and consumer impact:**
The rules directly affect state service employees through layoff procedures that reduce salaries paid by the state. The result would have an economic impact by reducing spendable income and could impact consumers depending upon the level of services that are affected by the number of persons selected for reduction. The extent of the impact as measured in financial terms cannot be projected due to the unknown reductions that could take place.
9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Claudia R. Smith
Address: Department of Administration
1831 W. Jefferson, Room 128
Phoenix, AZ 85007
Telephone: (602) 542-4894
Fax: (602) 542-2796
10. **The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
A public proceeding for oral comments on the rules has been scheduled for Wednesday, September 22, 1999, in the Grand Canyon Room in the basement of the Capitol, 1700 W. Washington, Phoenix, AZ 85007 at 3 p.m. Anyone wishing to provide comments prior to the meeting may submit written comments between 8 a.m. and 5 p.m., Monday through Friday, up until 5 p.m. September 21, 1999, at the location in #4 above.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None.
12. **Incorporations by reference and their location in the rules:**
None.
13. **The full text of the rules follows:**

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION

ARTICLE 9. SEPARATIONS

Sections

- R2-5-902. Reduction in Force
R2-5-904. Voluntary Separation Program

ARTICLE 9. SEPARATIONS

R2-5-902. Reduction in force

A. General.

1. An agency head shall submit to the Director a proposal to conduct a reduction in force when required by:
 - a. A lack of funds or work;
 - b. The abolition of 1 or more positions;
 - c. A material change in job duties or agency organization;
 - d. The introduction of a cost reduction initiative;
 - e. A receiving agency has no need for the position or positions transferred; or
 - f. The lack of a vacant position to which an agency may revert an employee on promotional probation.
2. The Director may limit a reduction in force to a single agency. An agency may limit a reduction in force to an organizational unit or agency operations within a geographic area.
3. An agency head shall submit an agency proposal for a reduction in force at least 30 working days prior to the effective date of the proposed reduction in force. The proposal shall indicate the reason for the reduction, the affected

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organizational unit and the geographic, area if applicable, and the effective date of the reduction. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency shall provide notice as soon as it is aware of the necessity for a reduction in force.

4. If an agency abolishes a program or an institution permanently terminates operation, with the phasing out of operations over a minimum period of 3 months, the head of the agency, board, or commission considering reduction in force activity shall develop and communicate to affected employees the agency's voluntary separation program plan to permit staggered phase-out and transfer, reduction, or separation of personnel as appropriate.
5. An agency head shall submit a proposal for a voluntary separation program at the same time the agency head submits a reduction in force proposal to the Director.
6. An agency proposal shall be consistent with A.R.S. § 41-763.03 and § 41-763.04, this section, and R2-5-904.
7. A permanent status employee separated as a result of a reduction in force is entitled, upon written application, to be considered for reemployment in the class held at the time of separation due to the reduction in force. The employee shall be given 1st consideration for positions in the class based upon prior seniority and performance for 1 year from the date of separation.
8. A permanent status employee reduced in grade as a result of a reduction in force is entitled to be considered for re-promotion to the class held immediately prior to the reduction in force or any intervening class as provided in Article 2.

B. Administration of reduction in force.

The Director shall review and approve or modify a reduction in force and voluntary separation program within 20 working days of receipt. Except as provided in subsection (A)(4), the Director shall administer a reduction in force in the following manner:

1. An agency shall separate employees who are not permanent status employees in the class affected by the reduction in force in the following order before any reduction in force action is taken affecting permanent status employees:
 - a. Provisional employees;
 - b. Clerical pool employees;
 - c. Temporary employees;
 - d. Seasonal employees;
 - e. Original probationary limited employees;
 - f. Original probationary employees; and
 - g. Limited appointment employees.
2. An agency shall use retention points to identify permanent status employees within a class series affected by a reduction in force for transfer, reduction, or separation based on the employee's relative standing on the retention point list.
3. An agency shall base retention points upon performance and length of state service calculated in accordance with the instructions in subsections (C), (D) and (E). Service in positions that became covered under 41 A.R.S. Chapter 4 shall be considered state service.
4. An employee on promotional probation or detail to special duty shall compete for retention only in their permanent status class series.
5. An employee in an underfill position shall compete for retention only in their permanent status class series.
6. Permanent part-time employees shall compete for retention only against other permanent part-time employees in the same class series.

C. Calculation of retention points for performance. An agency shall average the scores of a maximum of the 3 most recent performance evaluations in the 24 months concluded prior to the date of request for the reduction in force as the basis for determining retention points. An agency head shall resolve any grievance on the most recent performance evaluation prior to computing retention points. An agency using an approved alternate employee performance evaluation system shall convert the performance evaluation scores of affected employees to the 8-point scale established by the Director prior to the calculation of retention points. If an employee has not had a performance evaluation in the past 24 months, the employee shall receive 30 retention points. An employee shall receive retention points for performance as follows:

1. A score of "8" receives 60 retention points.
2. A score of "7" but less than "8" receives 48 retention points.
3. A score of "6" but less than "7" receives 36 retention points.
4. A score of "5" but less than "6" receives 24 retention points.
5. A score of "4" but less than "5" receives 12 retention points.
6. A score of "3" but less than "4" receives 1 retention point.
7. A score of less than "3" receives 0 retention points, and the employee shall be placed at the bottom of retention lists.

D. Calculation of retention points for length of service.

Each permanent status employee shall earn 1 retention point for each credited month of state service in the current class series during the 60 months prior to the reduction in force implementation date as follows:

1. In order to receive credit, the employee must have been in a pay status for at least 1/2 of the employee's working days in that month.

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2. Periods of service as a state service employee prior to a separation shall not be counted except when the separation was of less than 2 years' duration, and the separation was not the result of disciplinary action.
3. The following periods during the 60 months prior to the reduction in force shall count:
 - a. State service as a provisional, seasonal, temporary, limited, or clerical pool employee which are credited toward satisfying a subsequent original probationary requirement;
 - b. Military leave with or without pay;
 - c. Service on mobility assignment;
 - d. Continuous uninterrupted service in a position that is transferred to state service by legislative action or otherwise from a budget unit of the state; and
 - e. Family and Medical Leave Act leave with or without pay.
- E.** Resolution of ties. An agency shall break ties in total retention points in the following manner and order:
 1. The employee with the highest average performance evaluation during the past 24 months shall break the tie.
 2. If a tie continues to exist, the employee with the highest total retention points for state service shall break the tie.
 3. If a tie continues to exist, an agency shall retain the employee with the earlier state service hire date of record.
 4. If a tie continues to exist, an agency shall break it by lot.
- F.** Offer of position. An agency shall make a position offer to an employee with the highest number of points on the retention point list in descending order as follows:
 1. Retention in the current position.
 2. Provided a position exists and an employee possesses the required knowledge, skills, and abilities for the class, an agency shall make the single best offer, in terms of pay grade, within the agency of:
 - a. A position at the same pay grade or lower in the same class series as the employee's present permanent status position;
 - b. A position at the same pay grade or lower in the class series in which the employee has previously held permanent status during the past 5 years; or
 - c. If positions described in subsections (2)(a) and (2)(b) are both available, the position covered by (2)(a).
 3. An employee must possess the knowledge, skill, and ability required when the position was last filled, unless the Director grants an exception.
 4. An agency shall give written notice at least 5 working days in advance to each employee identified for transfer, reduction, or separation. If circumstances beyond the agency's control do not permit at least 5 working days' notice, the agency shall provide notice as soon as it is aware of the necessity to transfer, reduce, or separate the employee.
 5. The notice shall include:
 - a. the reason for and effective date of the action;
 - b. the job offer, if any, to include the salary, location of the position, and supervisor's name;
 - c. the availability of reduction in force procedures and records for review;
 - d. the employee's right to request a review of the action; and
 - e. the employee's reemployment rights, if applicable.
 6. Any job offer shall contain a time limitation of not less than 3 working days in which the employee may accept the offer. Failure of an employee to reply in writing within the stated time limitation, or failure to accept a job offer, shall constitute a resignation. An employee may accept a job offer and retain the right to request a review of the reduction in force.
 7. If no position exists, an agency shall separate an employee without prejudice.
- G.** Employee request for review.
 1. Within 3 working days of receipt of a reduction in force notice, unless a longer time period is authorized by an agency head, an employee may submit a written request to the agency head for a review of the procedure resulting in the employee's transfer, reduction, or separation due to a reduction in force. The request for review shall be based upon an error, contain specific information concerning the error involved, and include a proposed resolution of the problem. The agency head shall review the request and respond to the employee within 5 working days after receipt of the request.
 2. An agency head may postpone any portion of a reduction in force until completion of an employee requested review.

R2-5-904. Voluntary Separation Program

A. General.

1. An agency head shall submit to the Director a proposal for a voluntary separation program for permanent status employees when submitting a proposal for a reduction in force. The program shall include:
 - a. The job classification and position number of each position designated for reduction in force;
 - b. The name, Social Security number, current rate of pay, job classification, and position number of permanent status employees eligible for the voluntary separation program. Permanent status employees in a position scheduled for elimination due to a reduction in force or holding permanent status in the same class in the same designated area of the agency as a position that is scheduled for elimination due to a reduction in force qualify;

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- c. The number of funded, vacant positions within the agency by job classification, and the efforts the agency has made to place employees designated for reduction in force in other positions in the same pay grade within the agency or other state agencies;
- d. Expected outcome of the voluntary separation program;
- e. An available funding statement;
- f. The duration of the program;
- g. The benefits the agency shall provide to each voluntarily separated employee; and
- h. The agency voluntary reduction procedures which shall include as a minimum:
 - i. Within 5 working days of the agency's receipt of the Director's approval, an agency head shall notify an employee of eligibility to participate in the program and a copy of the voluntary separation program information about employee eligibility, program duration, severance pay calculation, length of shared insurance premiums extension, method of payment, and program procedures;
 - ii. A method of selecting among volunteers for separation when more than 1 employee is eligible that includes a review process in which the agency head's decision is final;
 - iii. A specified time for an employee to consider and accept the voluntary separation severance pay and shared insurance premium payments; and
 - iv. A requirement that an eligible employee who volunteers for separation sign a written agreement that the employee agrees to the voluntary separation and that outlines the separation date, amount of payment, length of shared insurance premium payments, exceptions, method of payment, and information pertinent to any return to work in state service or employment with a contractor who provides services to the state.
- 2. An agency shall offer a voluntary separation program to all eligible employees and shall provide, subject to funding availability, severance pay in the amount of 1 week of pay for each year of service, prorated for service in increments of less than 1 year, and eligibility to continue enrollment in health, dental, and life insurance programs for up to 6 months after separation provided the employee pays the employee contribution.
- 3. A permanent status employee who is in a position in a class in an organizational unit or agency operations within a geographic area that is scheduled for elimination due to a reduction in force, or an employee who holds permanent status in the same class in the same designated area of the agency may volunteer for separation and shall receive compensation as provided by the approved voluntary separation program.
- 4. An agency head shall submit the agency proposal for the voluntary separation plan at least 30 working days prior to the intended effective date of the proposed reduction in force. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency shall provide notice as soon as it is aware of the necessity for a reduction in force.
- 5. An agency proposal shall be consistent with A.R.S. § 41-763.03 and this section.

B. Administration.

Within 20 working days of receipt, the Director shall review and approve or modify an agency's proposed voluntary separation program.

C. Exceptions.

An agency head may offer shorter terms of shared insurance premium payments if funding is not available. An agency head may offer lesser amounts of severance pay if sufficient funds are not available. The program shall not offer shared insurance premium payments to an employee who retires or accepts employment that offers an employer sponsored insurance program.

D. Repayment.

An employee shall repay the state any money paid to the employee as a result of participation in the voluntary separation program if the employee returns to state service or applies for retirement or early retirement within 6 months of the employee's voluntary separation date.

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

PREAMBLE

1. Sections Affected

Article 6
R2-12-601
R2-12-602

Rulemaking Action

New Article
New Section
New Section

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

Authorizing statutes: A.R.S. 41-126 and 41-127

Implementing statutes: A.R.S. 41-126 and 41-127

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening; 5A.A.R. 2878, August 20, 1999.

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

Name: Connie Copeland, Director
Business Services

Address: Office of the Secretary of State
Business Services Division
1700 West Washington, 7th Floor
Phoenix, AZ. 85007

Telephone: (602) 542-5561

Fax: (602) 542-7386

5. An explanation of the rule, including the agency's reason for initiating the rule:

In accordance with A.R.S. § 41-127, the Secretary of State may establish data processing fees to update technology in order to provide services to businesses and the general public.

In accordance with A.R.S. § 41-126(C), the Secretary of State shall adopt rules to establish a fee for expedited services requested by businesses and the general public.

6. A reference to any study that the agency proposes to rely on its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, and analysis of the study and other supporting material:

None.

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

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

The Data Processing Fees are established for the Office of the Secretary of State to make data processing acquisitions in order to keep abreast of current technology and innovations to meet the growing needs of the public.

The Expedited fee is established to accommodate businesses and the general public whose needs require expedited service.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Connie Copeland, Director
Business Services

Address: Office of the Secretary of State
Business Services Division
1700 West Washington, 7th Floor
Phoenix, AZ. 85007

Telephone: (602) 542-5561

Fax: (602) 542-7386

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceedings is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

A public hearing will be held October 1, 1999, from 9 a.m. to 11 a.m. in the conference room, Secretary of State's office, 1700 West Washington, 7th floor, Phoenix.

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

Not applicable.

12. **Incorporation by reference and their location in the rules:**

Not applicable.

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

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

ARTICLE 6. DATA PROCESSING FEES AND EXPEDITED SERVICE FEE

Section

R2-12-601. Data Processing fees

R2-12-602. Expedited Services

ARTICLE 6. DATA PROCESSING FEES AND EXPEDITED SERVICE FEE

R2-12-601. Data Processing Fees

The following filing fees for UCC-1 financial statements, and UCC-2 amendments, assignments, and continuations established by A.R.S. § 41-126(6)(a) through (d), including a surcharge established within maximum limits authorized by A.R.S. § 41-127(B), shall be required at the time of the filing.

1. Financial statements - \$5.00
2. Amendments - \$5.00
3. Assignments - \$5.00
4. Continuations - \$5.00

R2-12-602. Expedited Services Fee

A \$25 fee for expedited services established within maximum limits authorized by A.R.S. § 41-126(C), shall be required at the time of the expedited service.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 9. AGRICULTURAL COUNCILS

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R3-9-301 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 3-1083
Implementing statute: A.R.S. § 3-1086(B)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule.**
Notice of Rulemaking Docket Opening: 5 A.A.R. 2010, June 18, 1999.
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|------------------------------------------------------------------------------------------|
| Name: | Shirley Conard, Rules Specialist |
| Address: | Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, Arizona 85007 |
| Telephone: | (602) 542-0962 |
| Fax: | (602) 542-5420 |
| E-mail: | shirley.conard@agric.state.az.us |

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

This rulemaking establishes the reporting requirements for gin operators; brings the rule up-to-date with the 1996 legislation (A.R.S. § 3-1086) by changing the location for submitting the reports and fees from the Arizona Department of Agriculture to the Arizona Cotton Research and Protection Council; requires the gin number, the name of county where the reporting gin is located, and the FSA farm number; and makes clear that the gin operator must report the estimated number of ginned bales on the February 15th report and the actual number of ginned bales on the March 15th report.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.

None.

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

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

This rulemaking affects each gin operator who has ginned for Arizona cotton producers during the current crop year.

A. Estimated Costs and Benefits to the Arizona Cotton Research and Protection Council.

The rulemaking changes brings the rule in line with 1996 legislation and updates information required on the reporting forms. The Council is not economically affected by the implementation and enforcement of this rulemaking.

B. Estimated Costs and Benefits to Political Subdivisions.

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. Businesses Directly Affected By the Rulemaking. (Gin Operators)

Gin operators are not economically impacted by this rulemaking.

D. Estimated Costs and Benefits to Private and Public Employment.

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. Estimated Costs and Benefits to Consumers and the Public.

Consumers and the public are not directly affected by the implementation and enforcement of this rulemaking.

F. Estimated Costs and Benefits to State Revenues.

This rulemaking will have no impact on state revenues.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Shirley Conard
Address: Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: shirley.conard@agric.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: September, 20, 1999
Time: 10 a.m.
Location: Arizona Department of Agriculture

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1688 West Adams, Room 206
Phoenix, Arizona 85007

Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business and consumer impact statement must be received by 12 p.m., September 20, 1999. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting, the Department's coordinator, Patrick Stevens, (602) 542-4316 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

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

None.

12. Incorporations by reference material and their location in the rules:

None.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

ARTICLE 3. ARIZONA COTTON RESEARCH AND PROTECTION COUNCIL

Sections

R3-9-301. Fees - Ginning and Remittance Forms

ARTICLE 3. ARIZONA COTTON RESEARCH AND PROTECTION COUNCIL

R3-9-301. Fees - Ginning and Remittance Forms

~~Report forms approved by the Arizona Cotton Research and Protection Council shall be completed by each~~ Each gin operator who has ginned for Arizona producers during the current crop year shall complete the following reports and submit them with the appropriate fees, and shall be submitted with fees, if applicable, to the Arizona Department of Agriculture Arizona Cotton Research and Protection Council within the times specified below; ~~Report forms requiring disclosure of specified information are as follows:~~

1. ~~On or before February 15th of each year, the gin operator shall submit a report to the Department for each bale of cotton ginned pursuant to A.R.S. § 3-1086(B). The report shall include the following Council that includes:~~
 - a. ~~The name and gin number of the reporting gin;~~
 - b. ~~The business mailing address, and telephone number, and county of the reporting gin;~~
 - c. ~~The name of the authorized agent for the gin;~~
 - d. ~~The months reported and the crop year;~~
 - e. ~~The Agricultural Stabilization and Conservation Service farm number;~~
 - f. ~~The name and mailing address of each crop producer;~~
 - f. The Farm Service Agency (FSA) farm number.
 - g. ~~The An estimate of the number of bales to be ginned by March 15 from cotton grown at a location or below 2,700 feet;~~
 - h. ~~The An estimate of the number of bales to be ginned by March 15 from cotton grown at a location above 2,700 feet;~~
 - i. ~~Whether the cotton is long or short staple.~~
2. ~~In addition to the information set forth in subparagraphs (1)(a) through (1)(d), the gin operator shall submit a report to the Department, within 30 days from the time the cotton was ginned, indicating any ginning performed after February 15 and through June 1. On or before March 15th of each year, the gin operator shall submit a report to the Council that includes the information in subsections (1)(a) through (1)(f) and the following:~~
 - a. The total number of bales ginned and the PLOWER certification numbers from cotton grown at or below 2,700 feet.
 - b. The total number of bales ginned from cotton grown above 2,700 feet.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-23-110 | Amend |
| R4-23-408 | Amend |

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

Authorizing statutes: A.R.S. § 32-1904(A)(1).
Implementing statutes: A.R.S. § 32-1901(59).

- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 2 A.A.R. 3043, May 31, 1996.
Notice of Rulemaking Docket Opening: 3 A.A.R. 2974, October 24, 1997.
Notice of Rulemaking Docket Opening: 4 A.A.R. 2628, September 18, 1998.

- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Dean Wright, Compliance Officer
Address:	Board of Pharmacy 5060 N. 19th Ave., Suite 101 Phoenix, AZ 85015
Telephone:	(602) 255-5125 Ext. 131
Fax:	(602) 255-5740
E-mail:	rxcop@uswest.net

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

This rule was initiated to comply with the time-frame requirements of A.R.S. § 41-1072. The rule adds new definitions for "computer system", "computer system audit", "CRT", "dispensing pharmacist", "sight-readable", "single-drug audit", and "single-drug usage report" to R4-23-110. The rule addresses format and style changes necessary under the current administrative procedures act and other necessary language changes to provide a clear, concise, and understandable document.

The rule makes changes to R4-23-408 that address the minimum requirements for the use of a computer system to process, store, and retrieve original and refill prescription order information and maintain patient profiles. The rule identifies the specific prescription order information necessary to meet the minimum requirements. The rule addresses specific hard-copy record keeping requirements to augment and backup the computer system. The rule addresses the use of the computer system as a replacement for the hard-copy refill prescription order information required in R4-23-407. The rule specifies a computer system audit process to assure that a specific computer system can maintain accurate refill prescription order information and includes remedies for noncompliance. Instead of writing rules for time-frames for computer certification, the decision was made by the Board to no longer certify pharmacy computer systems but rather require a self-audit process to document a system's ability to comply with the rules. Instead of waiting for Board certification of a computer system, a pharmacy may begin using the system while performing the self-audit. Subsequent routine compliance inspections by Board compliance officers will verify a pharmacy computer system's compliance with Board rules.

The Board believes that approval of these rules will benefit the public health and safety by establishing minimum standards for the use of a computer system to process, store, and retrieve original and refill prescription order information and maintain patient profiles. The Board further believes that specific regulation and enforcement are necessary to regulate and control the use of rapidly evolving technology by pharmacists.

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6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable.

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

Not applicable.

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

The rule increases protection of public health and safety by establishing minimum standards for the use of a computer system to process, store, and retrieve original and refill prescription order information and maintain patient profiles. In the last 20 plus years, the use of computer systems by pharmacies has gradually increased to where today it is very rare, fewer than 1% in Arizona, to find a pharmacy that does not use a computer system. A computer system provides many benefits to pharmacy and the public it serves. The foremost benefit is time. A computer system allows prescription processing and refill record accessing in less time than a manual system. A computer system provides better labels, better receipts, better patient and drug specific information for both the pharmacist and the consumer. Both pharmacist and patient have come to depend on the computer system. The rule deals with minimum standards for the use of a computer system in a pharmacy and benefits the Board of Pharmacy by promoting consistent compliance. Arizona pharmacies and pharmacists benefit because the rule is concise and compliance standards are crystal clear. Arizona citizens benefit by receiving a standard of care based on contemporary technology and rules.

Although the rule does not require the use of a computer system, fewer than 1% of Arizona pharmacies do not use a computer system, a pharmacy may need to upgrade their computer system to meet the minimum standards established by the rule. This is an obvious economic impact for those pharmacies. The rule has a grandfather clause to allow pharmacies with existing systems to continue to use the system under certain circumstances. Since the majority of the pharmacies in Arizona are chain pharmacies, the rule will actually have little economic impact. The chain pharmacies are on the cutting edge of the technology in pharmacy computer systems. The rule establishes certain hard-copy backup requirements. This will require pharmacist time to provide the record and the expense of the hard-copy record itself. These requirements will have minimal economic impact and may affect a 3rd of the pharmacies in the state. The majority of the pharmacies affected already keep such hard-copy records. Most pharmacies can incorporate this requirement into existing records. The rule allows the use of almost total electronic record keeping in those pharmacies that have that capability.

The rule will have very little economic impact because the standards established for maintaining refill prescription order information have been in place since November 1983. The rule takes those standards and uses them to establish minimum standards for all computer systems. A pharmacy computer system that is already certified by the Board to comply with the existing rule for maintaining refill prescription order information will have no trouble complying with the amended rule. The Board will no longer certify computer systems. The rule establishes procedures a person must follow to assure a computer system's compliance with the minimum standards. The rule also establishes enforcement remedies for non-compliance. Instead of certifying a computer system before use, Board compliance officers will verify, after startup, a computer system's compliance with the standards established in rule.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix, AZ 85015

Telephone: (602) 255-5125, Ext. 131

Fax: (602) 255-5740

E-mail: rxcop@uswest.net

10. **The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Comments may be written or presented orally. Written comments must be received by 5 p.m., Monday, September 20, 1999. An oral proceeding on the proposed rule is scheduled for:

Date: September 20, 1999

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Time: 10 a.m.
Location: 5060 N. 19th Ave., Suite 101
Phoenix, AZ 85015

A person may request information about the oral proceeding by contacting the person listed in question #4.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
None.
13. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-408. Computer System Requirements

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

“Active ingredient” means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

“Authentication of product history” means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

“AZPLEX” means an Arizona pharmacy law examination written and administered by the Board staff or a Board-approved national pharmacy law examination written and administered in cooperation with NABP.

“Batch” means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

“Beyond-use date” means a date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used.

“Biological safety cabinet” means a containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P.O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board and the office of the Secretary of State.

“Class 100 environment” means an atmospheric environment in compliance with the Federal Standard 209 Clean Room and Work Station Requirements: Controlled Environment, publication FED-STD-209D, U.S. Government Services Administration 450 Golden Gate Avenue, San Francisco, CA, June 15, 1988 edition which includes January 28, 1991, changes, (and no future amendments or editions), incorporated by reference and on file with the of the Secretary of State.

“Community pharmacy” means any place under the direct supervision of a pharmacist where the practice of pharmacy occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

“Component” means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

“Computer system” means an automated data processing system that uses a programmable electronic device to store, retrieve, and process data.

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“Computer system audit” means an accounting method, involving multiple single-drug usage reports and audits, used to determine a computer system’s ability to store, retrieve, and process original and refill prescription dispensing information.

“Container” means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

“Correctional facility” has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

“CRT” means a cathode ray tube or other mechanism used to view information produced or stored by a computer system.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good compounding practices” means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Current good manufacturing practice” means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

“Cytotoxic” means a pharmaceutical that is capable of killing living cells.

“Day” means a calendar day unless otherwise specified.

“Delinquent license” means a pharmacist or intern license the Board suspends for failure to renew or pay all required fees on or before the date the renewal is due.

“Dispensing pharmacist” means in the process of dispensing a prescription medication, the pharmacist who, after the complete preparation of a prescription medication and before delivery of a prescription medication to a patient or patient’s agent, verifies, checks, and initials a prescription medication, as required in R4-23-402(A).

“Drug sample” means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug. No person shall sell, purchase, or trade or offer to sell, purchase, or trade a drug sample.

“Extreme emergency” means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

“FDA” means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

“Inactive ingredient” means any component other than an “active ingredient” present in a drug.

“Internal test assessment” means performing quality assurance or other procedures necessary to ensure the integrity of a test.

“Limited-service correctional pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

 Holds a current Board permit under A.R.S. § 32-1931;

 Is located in a correctional facility; and

 Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

“Limited-service mail-order pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices by mailing or delivering the prescription medication or prescription-only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

“Limited-service nuclear pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

“Limited-service pharmacy permittee” means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

“Long-term care consultant pharmacist” means a pharmacist providing consulting services to a long term care facility.

“Lot” means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures it uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

“Lot number” or “control number” means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control, packaging, and distribution of a batch or lot of a drug can be determined.

“Materials approval unit” means any organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

“Mediated instruction” means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

“NABP” means National Association of Boards of Pharmacy.

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“NABPLEX” means National Association of Boards of Pharmacy Licensure Examination.

“NAPLEX” means North American Pharmacist Licensure Examination.

“Outpatient” means a person who is not a residential patient in a health care institution.

“Outpatient setting” means a location that provides medical treatment to an outpatient.

“Patient profile” means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

“Pharmaceutical care” means the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes, related to the cure or prevention of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

“Pharmacy law continuing education” means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

“Prepackaged drug” means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed by a pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

“Provider pharmacist” means a pharmacist who supplies medication to a long term care facility and maintains patient profiles.

“Radiopharmaceutical” means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon-containing compounds or potassium-containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

“Radiopharmaceutical quality assurance” means the performance and interpretation of appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

“Radiopharmaceutical services” means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

“Red C stamp” means a device used with red ink to imprint an invoice with a red letter C at least 1 inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

“Remodel” means to structurally alter the pharmacy area or location.

“Remote drug storage area” means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

“Resident” means a person admitted to and residing in a long term care facility.

“Score transfer” means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

“Sight-readable” means that an authorized individual shall be able to examine the record and read the information from the CRT, microfiche, microfilm, printout, or other method acceptable to the Board or its designee.

“Single-drug audit” means an accounting method that determines the numerical and percentage difference between a drug’s beginning inventory plus purchases and ending inventory plus sales.

“Single-drug usage report” means a computer system printout of single-drug usage information as required in R4-23-408(B)(2).

“Sterile pharmaceutical product” means a dosage form free from living micro-organisms.

“Strength” means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

“Supervision” means a pharmacist shall be present, assume legal responsibility, and have personal oversight of activities relating to the acquisition, preparation, distribution, and sale of prescription medications by pharmacy interns or supportive personnel.

“Supplying” means selling, transferring, or delivering to a patient or a patient’s agent 1 or more doses of:

A nonprescription drug in the manufacturer’s original container for subsequent use by the patient; or

A compressed medical gas in the manufacturer’s or compressed medical gas distributor’s original container for subsequent use by the patient.

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“Supportive Personnel” means individuals trained to perform, under the supervision of a pharmacist, activities related to the preparation and distribution of prescription medications consistent with policy and procedures required in R4-23-403.

“Transfill” means a manufacturing process by which 1 or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

“Wholesale distribution” means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, “emergency medical reasons” includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug pursuant to a prescription;

Distributing a drug sample by a manufacturers' or distributors' representative; or

Selling, purchasing, or trading blood or blood components intended for transfusion.

“Wholesale distributor” means any one engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-408. Computer System Requirements

A. ~~As an alternative to the procedures set forth in R4-23-407, an automated data processing system (“system”) may be used for the storage and retrieval of refill information for prescription orders, patient profiles and drug interactions if the following conditions have been met:~~

- ~~1. A system must provide for the retrieval (via CRT display or hard copy printout) of original prescription order information for those prescription orders which are currently authorized for refilling. Such information shall include, but not be limited to:
 - a. ~~Date of issuance of the original prescription order;~~
 - b. ~~Full name and address of the patient;~~
 - c. ~~Name and address of the practitioner;~~
 - d. ~~DEA registration number of the practitioner in the case of Schedule III and IV controlled substances;~~
 - e. ~~Name, strength, dosage form and quantity prescribed;~~
 - f. ~~Quantity dispensed; and~~
 - g. ~~Total number refills authorized.~~~~
- ~~2. A system must provide for the retrieval (via CRT display or hard copy printout) of the current refill history of prescription orders. Refill history shall include, but not be limited to:
 - a. ~~Name of drug;~~
 - b. ~~Date of refill;~~
 - c. ~~Quantity dispensed;~~
 - d. ~~Name or identification code of manufacturer or distributor in the case of a generically written prescription or a generic substitution;~~
 - e. ~~Name or initials of the dispensing pharmacist for each refill; and~~
 - f. ~~Total number of refills dispensed to date.~~~~
- ~~3. Documentation of the correctness of refill information entered into a system must be provided by the pharmacist using a system. Documentation includes one of the following:
 - a. ~~A hard copy printout of each days' refill data which has been verified, dated and signed by each refilling pharmacist; or~~
 - b. ~~A bound log book or separate file of daily statements which have been signed by each refilling pharmacist and which state that refill data has been reviewed by him and is correct.~~~~
- ~~4. The documentation referred to in (A)(3)(a) above must be provided to the pharmacy using a system by a refilling pharmacist within 72 hours of the date of dispensing.~~
- ~~5. A pharmacy using a system shall keep its hard copy printout, bound log book or separate file for a period of three years from the date of dispensing.~~
- ~~6. A system must provide for retrieval (via CRT display or hard copy printout) shall include the following:
 - a. ~~Name of prescribing practitioner;~~
 - b. ~~Name and address of the patient;~~
 - c. ~~Quantity dispensed for each refill;~~
 - d. ~~Date of dispensing for each refill;~~
 - e. ~~Name or identification code of the dispensing pharmacist; and~~
 - f. ~~Number of the original prescription order.~~~~

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7. ~~A system which has a central record keeping location must be capable of transmitting information to a user pharmacy within 48 hours of its request. A user pharmacy shall verify the transmittal capability of its system upon request.~~
8. ~~A user pharmacy shall have an auxiliary procedure for documentation of refill data to be used in the event of system down-time. Such a procedure shall insure that all refill data is retained for on-line data entry as soon as the system is available for use again. In addition to the requirements of R4-23-407, a pharmacy may use a computer system to process, store, and retrieve original and refill prescription order information, maintain patient profiles, and screen for drug-related problems, if the computer system meets the following requirements:~~
 1. A computer system shall provide for the retrieval (via CRT display and hard-copy printout) of original prescription order information for all prescription orders. The information shall include:
 - a. Date of issuance of the original prescription order;
 - b. Date of dispensing of the original prescription order;
 - c. Full name and address of the patient;
 - d. Name and address of the practitioner;
 - e. DEA registration number of the practitioner in the case of a controlled substance;
 - f. Name, strength, dosage form, and quantity of drug prescribed;
 - g. Quantity dispensed;
 - h. Name or identification code of manufacturer or distributor in the case of a generically written prescription or a generic substitution;
 - i. Total number of refills authorized;
 - j. Name, initials, or other electronic identification of the dispensing pharmacist; and
 - k. Serial number of the prescription order.
 2. A computer system shall provide for the retrieval (via CRT display and hard-copy printout) of original and refill prescription order information for those prescription orders which are currently authorized for refilling. In addition to the information required in subsection (A)(1), the information shall include:
 - a. Quantity dispensed for each refill;
 - b. Date of dispensing for each refill; and
 - c. Name, initials, or other electronic identification of the dispensing pharmacist.
 3. A computer system shall provide for the retrieval (via CRT display and hard-copy printout) of the current refill history of prescription orders. Refill history for each prescription order shall include:
 - a. Name, strength, and dosage form of drug;
 - b. Date of refill;
 - c. Quantity dispensed;
 - d. Name or identification code of manufacturer or distributor in the case of a generically written prescription or a generic substitution;
 - e. Name, initials, or other electronic identification of the dispensing pharmacist; and
 - f. Total number of refills dispensed to date.
 4. A dispensing pharmacist is responsible for the accuracy of original prescription order and dispensing information entered into a computer system. Each pharmacist using a computer system shall document the identity of the dispensing pharmacist.
 5. The documentation required in subsection (A)(4) includes 1 of the following:
 - a. The computer system record (via CRT display and hard-copy printout) of each dispensing pharmacist's name, initials, or other electronic identification and a bound log book or separate file of daily statements that are signed by each dispensing pharmacist and state that refill data has been reviewed by the dispensing pharmacist and is correct.; or
 - b. For computer systems certified before the effective date of this subsection whose software can not provide computer record identification of the dispensing pharmacist, a daily refill log identifying the dispensing pharmacist and hard copy original prescription orders containing the manually-written initials of the dispensing pharmacist. The daily refill log shall contain the manually-written signature of each dispensing pharmacist and for each refill prescription order:
 - i. The serial number;
 - ii. The date dispensed; and
 - iii. The manually-written initials of the dispensing pharmacist.
 6. A pharmacy using a computer system shall maintain the computer system records and other required documentation for 3 years from the date of dispensing.
 7. A claim of "wrong pharmacist initials in the computer system" becomes prima facie evidence of failure to maintain proper records.
- B.** ~~Any pharmacist who intends to use a system must notify D.E.A. of his intent. As an alternative to the procedures in R4-23-407, a pharmacy may use a computer system to process, store, and retrieve refill information for prescription orders, maintain patient profiles, and screen for drug-related problems, if the computer system meets the following:~~

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1. A computer system shall comply with all the requirements of subsection (A);
 2. A computer system shall provide for the retrieval (via CRT display and hard-copy printout) of single drug usage information for a date specific period. The information shall include:
 - a. Name of prescribing medical practitioner;
 - b. Name and address of the patient;
 - c. Quantity of drug dispensed;
 - d. Date of dispensing;
 - e. Name, initials, or other electronic identification of the dispensing pharmacist or documentation as provided in subsection (A)(5)(b); and
 - f. Serial number of the prescription order;
 3. A computer system that has a central record keeping location shall transmit information to a user pharmacy no later than 48 hours after receiving a request for information. A user pharmacy shall verify the transmittal capability of its computer system when requested by the Board or its designee; and
 4. A user pharmacy shall have an auxiliary procedure for documentation of refill information to use in the event of computer system down-time. The procedure shall insure that:
 - a. Refills are authorized by the original prescription order.
 - b. The maximum number of refills is not exceeded, and
 - c. All refill information is retained and entered on-line as soon as the computer system is available for use again.
- C.** A system must be approved by the Board prior to its use. The filling and refilling of prescriptions shall comply with the requirements of R4-23-402(A)(9) and subsection (A) of this rule prior to system approval by the Board. The pharmacist-in-charge of a pharmacy that intends to use a computer system under subsection (B) shall notify the drug enforcement administration and the Board of the intent. Within 6 months of the date a pharmacy begins using a computer system under subsection (B), the pharmacist-in-charge shall finish a computer system audit. A computer system audit shall consist of a minimum of 7 single-drug audits. The drugs audited shall include 2 schedule II, 2 schedule III, 2 schedule IV or V controlled substances, and 1 non-controlled substance prescription-only drug, except in those pharmacies where very few or no controlled substances are stocked and dispensed the audited drugs may all be non-controlled prescription-only drugs. The specific drugs are selected by the pharmacist-in-charge based on experience and the records of the audited pharmacy. A computer system audit period shall cover not less than 90 days and not more than 180 days. The computer system audit shall be kept in the pharmacy for inspection by the Board or its designee.
- D.** If a pharmacy computer system used under subsection (B) is found non-compliant with the requirements of subsection (B), the pharmacy shall bring the computer system into compliance within 3 months. If the computer system is still non-compliant with subsection (B) after 3 months, the pharmacy shall immediately comply with the manual record keeping requirements of R4-23-407.
- E.** If a pharmacy using a computer system under subsection (B) is found non-compliant with the requirements of subsection (C), the pharmacy shall immediately comply with the manual record keeping requirements of R4-23-407.
- F.** If a pharmacy performing manual record keeping because of subsections (D) or (E) wishes to again use a computer system under subsection (B), the pharmacist-in-charge shall provide the Board or its designee with proof of a computer system's compliance with subsection (B) before stopping manual record keeping. Proof of a computer system's compliance shall include a satisfactory computer system audit as required in subsection (C).
- G.** A pharmacy using a computer system certified by the Board for computer record keeping of refill prescription information before the effective date of this subsection is exempt from the requirements of subsection (C).
- H.** A computer system that does not comply with all the requirements of subsection (A) may be used in a pharmacy if:
 1. The computer system was in use in the pharmacy before the effective date of this Section, and
 2. The pharmacy complies with the manual record keeping requirements of R4-23-407.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

PREAMBLE

1. Sections Affected

Article 1
Article 1
R4-34-101
R4-34-101

Rulemaking Action

Repeal
New Section
Repeal
New Section

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R4-34-102	Repeal
R4-34-102	New Section
R4-34-103	Repeal
R4-34-103	New Section
R4-34-104	Repeal
R4-34-104	New Section
R4-34-105	Repeal
R4-34-106	Repeal
R4-34-107	Repeal
Article 2	Repeal
Article 2	New Section
R4-34-201	Repeal
R4-34-201	New Section
R4-34-202	Repeal
R4-34-202	New Section
R4-34-203	Repeal
R4-34-203	New Section
R4-34-204	Repeal
R4-34-204	New Section
R4-34-205	Repeal
Article 3	Repeal
Article 3	New Section
R4-34-301	Repeal
R4-34-301	New Section
R4-34-302	Repeal
R4-34-302	New Section
R4-34-303	Repeal
R4-34-303	New Section
R4-34-304	Repeal
R4-34-305	Repeal
R4-34-306	Repeal
R4-34-307	Repeal
R4-34-308	Repeal
R4-34-309	Repeal
Article 4	Repeal
Article 4	New Section
R4-34-401	Repeal
R4-34-401	New Section
R4-34-402	Repeal
R4-34-402	New Section
R4-34-403	Repeal
R4-34-404	Repeal
Article 5	Repeal
Article 5	New Section
R4-34-501	Repeal
R4-34-501	New Section
R4-34-502	Repeal
R4-34-502	New Section
R4-34-503	Repeal
R4-34-503	New Section
R4-34-504	New Section
R4-34-505	New Section
R4-34-506	New Section
Article 6	Repeal
Article 6	New Section
R4-34-601	Repeal
R4-34-601	New Section
R4-34-602	Repeal

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R4-34-602	New Section
R4-34-603	Repeal
R4-34-603	New Section
R4-34-604	Repeal
R4-34-604	New Section
R4-34-605	Repeal
R4-34-605	New Section
R4-34-606	Repeal
R4-34-606	New Section
R4-34-607	Repeal
R4-34-607	New Section
R4-34-608	Repeal
R4-34-609	Repeal
R4-34-610	Repeal
Article 7	Repeal
Article 7	New Section
R4-34-701	Repeal
R4-34-701	New Section
R4-34-702	Repeal
R4-34-702	New Section
R4-34-703	Repeal
R4-34-703	New Section
R4-34-704	Repeal
R4-34-704	New Section
R4-34-705	New Section
R4-34-706	New Section
Article 8	Repeal
Article 8	New Section
R4-34-801	Repeal
R4-34-801	New Section
R4-34-802	Repeal
R4-34-802	New Section
R4-34-803	New Section
R4-34-804	New Section
R4-34-805	New Section
Article 9	Repeal
Article 9	Reserved
R4-34-901	Repeal
Article 10	New Section
R4-34-1001	New Section
Article 11	Repeal

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

Authorizing statute: A.R.S. § 41-2144

Implementing statutes: A.R.S. Title 41, Chapter 16

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 3 A.A.R. 1935, July 18, 1997.

Notice of Public Information: 3 A.A.R. 2120, August 8, 1997.

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

Name: N. Eric Borg, Director

Address: Department of Building and Fire Safety
99 East Virginia, Suite #100
Phoenix, Arizona 85004

Telephone: (602) 255-4072, Ext. 244

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Fax: (602) 255-4962

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

Based upon a 5 year review report, the new rules are more clear and concise. The Board is repealing the old rules, but placing much of the current language in the new rules, using a more logical sequence. The new rules are clear and concise and the Board has removed duplication. As required by A.R.S. § 41-1073, the Board has added rules that set forth the time-frames for issuing a license or permit. The Board has also made rules pertaining to sales transactions and trust or escrow accounts.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable

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

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The current rule package submittal is primarily a "clean-up" package attempting to clarify the rules and make them user friendly. There are only 2 substantive additions to the rules that may have any significant impacts. The 1st is a requirement that licensees provide copies of transaction documents and closing statements to buyers and sellers as per Article 3. The 2nd area deals with the responsibility for site preparation when contracting for an installation of a manufactured/mobile home as per Article 8. These will create somewhere between no impact to a "minimal" impact on all persons impacted by the new rules.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: N. Eric Borg, Director

Address: Department of Building and Fire Safety
99 East Virginia, Suite #100
Phoenix, Arizona 85004

Telephone: (602) 255-4072, Ext. 244

Fax: (602) 255-4962

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceedings are scheduled.

A person may submit written comments concerning the proposed rules by submitting them no later than 5 p.m. September 20, 1999, to the person listed in question #4.

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

Not applicable.

12. Incorporations by reference and their location in the rules:

ANSI 119.2, recreational vehicles, 1999 Edition and all appendices.

In R4-34-102(A), R4-34-602(A), and R4-34-703(C)(1).

ANSI 119.5, park trailers, 1998 Edition and all appendices.

In R4-34-102(B), R4-34-602(A), and R4-34-703(C)(1).

HUD standards 24 CFR 3280 as amended April 1, 1998.

In R4-34-102(C), R4-34-601, R4-34-607(A), R4-34-607(C)(1), R4-34-607(D)(1), R4-34-702(A), R4-34-703(A), R4-34-704(A)(3), and R4-34-804(C)(1).

HUD regulations 24 CFR 3282 as amended April 1, 1998, Manufactured Home Procedural and Enforcement Regulations published pursuant to the "Act" as defined in A.R.S. § 41-2142(2).

In R4-34-102(D), R4-34-601, R4-34-607(A), R4-34-607(C)(1), R4-34-607(D)(1), R4-34-702(A), R4-34-703(A), R4-

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34-704(A)(3), and R4-34-804(H)(1).

Uniform Building Code (ICBO), 1997 Edition including the appendices.

In R4-34-102(E)(1), R4-34-703(B)(1), R4-34-705(B)(1), R4-34-804(C)(1), R4-34-804(D)(5) and (6), R4-34-804(E)(7), R4-34-804(G), R4-34-804(I)(1), R4-34-806(B), R4-34-806(E)(1)(c), and R4-34-806(E)(2)(b).

Uniform Mechanical Code (APMO), 1997 Edition including the appendices.

In R4-34-102(E)(2), R4-34-703(B)(1), R4-34-804(C)(1), R4-34-804(I)(1), and R4-34-806(B).

Uniform Plumbing Code (IAPMO), 1994 Edition including the appendices.

In R4-34-102(E)(3), R4-34-703(B)(1), R4-34-706(B)(4), R4-34-804(C)(1), R4-34-804(I)(1), R4-34-805(C) and (D)(2), R4-34-805(E), and R4-34-806(B).

National Electrical Code (NFPA-70), 1999 Edition.

In R4-34-102(F), R4-34-703(B)(1), R4-34-706(B)(3), R4-34-804(C)(1), R4-34-804(I)(1), R4-34-805(B), and R4-34-806(B).

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

~~**ARTICLE 1. MANUFACTURING AND CONSTRUCTION STANDARDS AND CODES**~~

ARTICLE 1. GENERAL

Sections

- ~~R4-34-101. General~~
- R4-34-101. Definitions
- ~~R4-34-102. Manufactured homes~~
- R4-34-102. Codes Incorporated by Reference
- ~~R4-34-103. Recreational vehicles and subassemblies~~
- R4-34-103. Exceptions
- ~~R4-34-104. Factory built buildings and subassemblies~~
- R4-34-104. Workmanship Standards
- ~~R4-34-105. Alterations standards~~
- ~~R4-34-106. Reconstruction of units~~
- ~~R4-34-107. Rehabilitation of mobile homes~~

~~**ARTICLE 2. INSTALLATION STANDARDS AND CODES**~~

ARTICLE 2. LICENSING

Sections

- ~~R4-34-201. General~~
- R4-34-201. General
- ~~R4-34-202. Manufactured home or mobile home installation standards and codes~~
- R4-34-202. Manufacturers
- ~~R4-34-203. Accessory structures~~
- R4-34-203. Retailers
- ~~R4-34-204. Repealed~~
- R4-34-204. Installers
- ~~R4-34-205. Installation of factory built buildings~~

~~**ARTICLE 3. PLAN APPROVALS**~~

ARTICLE 3. SALES TRANSACTIONS AND TRUST OR ESCROW ACCOUNTS

Sections

- ~~R4-34-301. General~~
- R4-34-301. Transaction Copies

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- R4-34-302. ~~Quality assurance manuals~~
- R4-34-302. Advertising
- R4-34-303. ~~Drawings and specifications~~
- R4-34-303. Brokered Transactions
- R4-34-304. ~~Alteration or reconstruction approvals~~
- R4-34-305. ~~Plant certification~~
- R4-34-306. ~~Ground anchoring approvals~~
- R4-34-307. ~~Accessory structures approvals~~
- R4-34-308. ~~Factory built building installation plan requirements~~
- R4-34-309. ~~Factory built building installation application form~~

~~**ARTICLE 4. INSPECTION AND TECHNICAL SERVICE**~~

ARTICLE 4. SURETY BONDS

Sections

- R4-34-401. ~~Manufacturing locations~~
- R4-34-401. Surety Bond Forms
- R4-34-402. ~~Dealer facilities~~
- R4-34-402. Cash Deposits
- R4-34-403. ~~Installation of manufactured homes, mobile homes, accessory structures, and factory built buildings~~
- R4-34-404. ~~Technical service~~

~~**ARTICLE 5. LICENSE SCOPES**~~

ARTICLE 5. FEES

Sections

- R4-34-501. ~~Manufacturers~~
- R4-34-501. General
- R4-34-502. ~~Dealers~~
- R4-34-502. License Bond Amounts
- R4-34-503. ~~Installers~~
- R4-34-503. HUD Monitoring Inspection
- R4-34-504. HUD Label Administration
- R4-34-505. Plans and Supplements
- R4-34-506. Intergovernmental Agreement Permits

~~**ARTICLE 6. FEES**~~

ARTICLE 6. MANUFACTURING CONSTRUCTION AND INSPECTION

Sections

- R4-34-601. ~~License fee and bond amount~~
- R4-34-601. Manufactured Homes
- R4-34-602. ~~Fees~~
- R4-34-602. Recreational Vehicles
- R4-34-603. ~~Inspection and technical service fees~~
- R4-34-603. Factory-Built Buildings and FBB Subassemblies
- R4-34-604. ~~Reimbursement of travel cost~~
- R4-34-604. Alterations
- R4-34-605. ~~Plan and supplement approval fees~~
- R4-34-605. Reconstruction
- R4-34-606. ~~Installation permits and insignia fees~~
- R4-34-606. Rehabilitation of Mobile Homes
- R4-34-607. ~~HUD monitoring inspection fees~~
- R4-34-607. Manufacturing Inspection and Certification
- R4-34-608. ~~HUD label administrative fees~~
- R4-34-609. ~~Administrative function fees~~
- R4-34-610. ~~Mobile home rehabilitation permit, insignia of approval, inspection fee, and waiver fee~~

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~~ARTICLE 7. LICENSING~~

ARTICLE 7. PLAN APPROVALS

Sections

- ~~R4-34-701. General~~
- R4-34-701. General
- ~~R4-34-702. Manufacturers~~
- R4-34-702. Quality Assurance Manuals
- ~~R4-34-703. Dealers and brokers~~
- R4-34-703. Drawings and Specifications
- ~~R4-34-704. Installers~~
- R4-34-704. Alterations or Reconstruction
- R4-34-705. Accessory Structures and Ground Anchoring
- R4-34-706. Factory-Built Building Installation

~~ARTICLE 8. BOND REQUIREMENTS~~

ARTICLE 8. PERMITS AND INSTALLATION

Sections

- ~~R4-34-801. Surety bond forms~~
- R4-34-801. Permits
- ~~R4-34-802. Cash deposit provisions~~
- R4-34-802. General Installation
- R4-34-803. Soil and Materials
- R4-34-804. Utilities
- R4-34-805. Accessory Structures

~~ARTICLE 9. ADMINISTRATIVE PROCEDURES~~

ARTICLE 9. RESERVED

Sections

- ~~R4-34-901. Rehearing~~

~~ARTICLE 10. RENUMBERED~~

ARTICLE 10. ADMINISTRATIVE PROCEDURES

Sections

- R4-34-1001. Rehearing or review

~~ARTICLE 11. RENUMBERED~~

~~ARTICLE 1. MANUFACTURING AND CONSTRUCTION STANDARDS AND CODES~~

ARTICLE 1. GENERAL

~~R4-34-101. General Repealed~~

For purposes of this Chapter, the following definitions apply:

1. "OMH" means Office of Manufactured Housing, a division of the Department of Building and Fire Safety.
2. "OA" means the Office of Administration, a division of the Department of Building and Fire Safety.

R4-34-101. Definitions

1. "Act" means the National Manufactured Home Construction and Safety Standards Act of 1974 and Title VI of the Housing and Community Development Act of 1974 (P.L. 93-383, as amended by P.L. 95-128, 95-557, 96-153, 96-339, 100-242, and 102-550).
2. "Agency" means in a brokered transaction the consensual relationship that exists between the agent and the seller or purchaser of a used home when either the purchaser or the seller authorizes the licensed retailer or broker to act as an agent and the agent agrees to this authorization in writing. A licensed salesperson may establish an agency relationship on behalf of the salesperson's licensed and employing retailer.
3. "Agency disclosure" means a document that specifies the party or parties which the agent is representing in a brokered transaction either as a seller's agent, purchaser's agent, or a dual agent representing both.
4. "Agent" means a licensed retailer or broker who is authorized to act on behalf of either the seller or purchaser of a used home or as a dual agent representing both.

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5. “Board” means the Board of Manufactured Housing.
6. “Branch location” means an office, unit, station, facility, or space at a fixed location other than a principal office, however designated, at which any business that may be conducted at the principal office is transacted.
7. “Brokered transaction” means a transaction in which a properly licensed retailer acts as an agent for the seller or purchaser, or both.
8. “Co-brokered transaction” means a transaction in which the listing retailer and the selling retailer are not the same person.
9. “Factory-built building” or “FBB” has the meaning in A.R.S. § 41-2142.
10. “HUD” means U.S. Department of Housing and Urban Development, 451-7th Street S.W., B-133, Washington, D. C. 20410-8000.
11. “Incidental, as used in A.R.S § 41-2178(B)(1),” means that the acquisition of the used manufactured home, mobile home, factory-built building, or subassembly was not the primary purpose of the sales transaction.
12. “Lease with option to purchase” means a lease under which the lessee has the right to purchase the property for a specified price and terms.
13. “New” means a unit or subassembly not previously sold, bargained, exchanged, or given away to a Purchaser.
14. “Offer to purchase in a brokered transaction” means a written proposal to purchase a listed used home which a broker presents to a seller for acceptance or rejection.
15. “Open subassembly” means that the components of the subassembly can be readily inspected without being disassembled.
16. “Purchase contract in a brokered transaction” means a written agreement between a purchaser and seller of a used home that indicates the sales price and terms of the sale.
17. “Reconstruction” means construction work performed on a manufactured home, mobile home, recreational vehicle, or factory-built building for the purpose of restoring the unit to a usable condition, but does not include work limited to remodeling, replacing, or repairing appliances or components that will not significantly alter the systems or the structural integrity of the living area.
18. “Respond” means furnish the Office of Manufactured Housing or Office of Administration with a written explanation detailing any reasons why a complaint is not justified or the signature of the complainant indicating that the complainant is satisfied with the resolution of the verified complaint.
19. “Retailer” means a dealer or broker as prescribed A.R.S. § 41-2142(9) and (5).
20. “Standards” means the state rules and codes as they relate to manufactured homes, mobile homes, factory-built buildings, recreational vehicles, subassemblies, and accessory structures.
21. “Supplement” means a submittal of not more than 2 sheets that may indicate floor plan dimensional sizes, does not change more than 25% of a system or configuration, and is incorporated as part of the originally approved plan.
22. “Technical service” means engineering assistance and interpretative application or clarification of compliance and enforcement of A.R.S. Title 41, Chapter 16, Articles 1, 2, and 4 and this Chapter.
23. “Typical plan” means a plan representative of a design that may be duplicated numerous times.
24. “Used home” means a used unit as prescribed in A.R.S. § 41-2142(39) that is a previously titled manufactured home, mobile home, or factory-built building designed for use as a residential dwelling.

R4-34-102. Manufactured homes Repealed

~~Manufactured homes shall be manufactured in accordance with the U.S. Department of Housing and Urban Development, 24 CFR 3280 as amended 1990, Manufactured Home Construction and Safety Standards which are incorporated herein by reference and on file with the Office of the Secretary of State. Copies of these standards are available from the U.S. Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410. Incorporated materials do not include any later amendments or editions of the listed codes.~~

R4-34-102. Codes Incorporated by reference

All referenced standards and codes are incorporated by reference, on file with the Secretary of State, and do not include any later amendments or editions.

A. “ANSI” - ANSI 119.2, recreational vehicles, 1999 Edition including all appendices and the following exceptions:

1. Section 2-10-6.3. Nozzles used for the dispensing of fuel shall be listed for use with unleaded fuel, of a trigger and handle type, made with an aluminum cast body, and identified by its manufacturer as capable of withstanding moderate abuse. Nozzles shall be compatible with pumps, if provided;
2. Section 2-10-6.4. Fuel pumps shall be of the manual or 12-volt electrical type. The pump and hose shall be identified by its manufacturer as being listed and compatible with the fuel type to be used; and
3. Section 3-4.7. Recreational vehicles having vaportight separation between the special transportation area and the living space are exempt from the requirement of 3-4.7.

Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018.

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- B.** “ANSI” - ANSI 119.5, park trailers, 1998 Edition, indicating all appendices and the following exceptions:
1. Section 552-43(a) where the calculated load of the park trailer exceeds 30 amperes, 120 volt, a 2nd power-supply cord shall be permitted. Where the two-cord supply system is installed they shall not be interconnected on either the live side or the load side. The grounding circuits and grounding means shall be electrically interconnected; and
 2. Definition of “Gross Trailer Area” is modified to read, “The largest horizontal projection of the park trailer in the set-up mode. In calculating the square footage of a trailer, measurements shall be taken on the exterior of the trailer. The square footage includes all siding, corner trim, and molding, storage space, and areas enclosed by windows, but not roof overhangs.”
Copies of these standards are available from American National Standards Institute.
- C.** “HUD standards” - 24 CFR 3280 as amended April 1, 1998, Manufactured Home Construction and Safety Standards. Copies of these standards are available from the U.S. Department of Housing and Urban Development, 451-7th Street S.W., B-133, Washington, D. C. 20410-8000.
- D.** “HUD regulations” - 24 CFR 3282, as amended April 1, 1998, Manufactured Home Procedural and Enforcement Regulations, published pursuant to the “Act” as defined in A.R.S. § 41-2142(2). Copies are available from the U.S. Department of Housing and Urban Development.
- E.** Copies of these codes are available from the International Conference of Business Officials, 5360 South Workman Mill Road, Whittier, California 90601:
1. Uniform Building Code (ICBO), 1997 Edition including the appendices and the exception that if a water or gas connection does not conform with Uniform Building Code requirements in Chapter 16 on anchoring plumbing to a foundation for resistance to uplift and sliding forces, an installer or contractor shall use a flexible connector approved for the water connection. Approved materials in the Uniform Plumbing Code shall be used. The installer or contractor shall use a flexible connector not more than 6 feet long and of the rated size necessary to supply the total demand of the unit;
 2. Uniform Mechanical Code (APMO), 1997 Edition including the appendices; and
 3. Uniform Plumbing Code (IAPMO), 1994 Edition including the appendices.
- F.** National Electrical Code (NFPA-70), 1999 Edition. Copies of these standards are available from the National Fire Protection Agency (NFPA), 1 Batterymarch Park, Quincy, MA 02269-9101

R4-34-103, Recreational vehicles and subassemblies Repealed

- A.** In addition to applicable federal and state motor vehicle safety standards, recreational vehicles and subassemblies shall be manufactured pursuant to the following:
1. The drawings and specifications required by R4-34-303(C).
 2. Recreational vehicles of 3000 pounds or greater gross vehicle weight, and designed to be towed, shall have break-away switches as specified by A.R.S. § 28-952(A)(3) and (B).
 3. The overall length of a recreational vehicle shall not exceed 40 feet.
 4. A permanent serial number shall be affixed to each unit during the first stage of manufacturing. Its location and application shall be shown in the drawing package required by R4-34-303(C).
 5. Each manufacturer shall affix a state insignia of approval to each completed unit. The insignia shall indicate the unit serial number and plan approval number and be located on the unit as indicated in the drawing package required by R4-34-303(C).
 6. Portable camping trailers, motor homes, travel trailers and truck campers as defined in A.R.S. Title 41, Chapter 16, Article 1, shall be manufactured in compliance with ANSI A119.2, Recreational Vehicles, 1993 Edition and all appendices therein. These standards are on file with the Office of the Secretary of State. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018. Incorporated materials do not include any later amendments or editions of the listed codes.
 7. Park trailers shall be manufactured in compliance with ANSI A119.5, Park Trailers, 1993 Edition and all appendices therein except that the definition of “Gross Trailer Area” in Chapter 1, Section 1-3, is modified to read, “The largest horizontal projection of the park trailer in the set-up mode. In calculating the square footage of a trailer, measurements shall be taken on the exterior of the trailer. The square footage includes all siding, corner trim, and molding, storage space, and areas enclosed by windows, but not roof overhangs.” These standards are on file with the Office of the Secretary of State. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018. Incorporated materials do not include any later amendments or editions of the listed codes. “Park Trailer” means a recreational vehicle that is built on a single chassis, mounted on wheels, designed to be connected to utilities necessary for operation of installed fixtures and appliances, has a gross trailer area of not less than 320 square feet and not more than 400 square feet, except that it does not include fifth wheel trailers.
- B.** A van is deemed to be a recreational vehicle if it meets any of the definitions in A.R.S. § 41-2142(29) and has one or more of the following permanently attached:
1. Gas or electric cooking appliances;

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2. Mechanical refrigerator;
3. Toilet facilities;
4. Heating and air conditioning systems other than automotive;
5. 110/125 volt electric system, and
6. LP-gas.

~~C. Upon written request, the Assistant Director of the OMH may approve alternate design and construction specifications which meet the pertinent requirements in subsection (A).~~

R4-34-103. Exceptions

- A.** Under A.R.S. § 41-2144(D) a petition for an exception to codes and standards referred to in this Article shall:
1. Specify the standard or code sections affected;
 2. Justify the requested exception with documented evidence of the local conditions that support the requested exception;
 3. Specify the boundaries of the area affected by the local conditions;
 4. State why the exception is necessary to protect the health and safety of the public; and
 5. Provide an estimate of the economic impact that the requested exception will have on the petitioning jurisdiction, other affected governmental entities, the public, unit owners, and licensees, and the facts upon which the estimate is based.
- B.** An exception ordered by the Board only applies within the jurisdiction that petitioned for the exception. The jurisdiction shall comply with any conditions specified in the exception order.
- C.** An exception order is effective on the date specified in the order, which will be at least 60 days after a Departmental Substantive Policy has been issued to all licensed installers describing the exception, the area within which it applies, and any provisions applicable to its use.

R4-34-104. Factory built buildings and subassemblies Repealed

- ~~A. Factory built buildings and subassemblies shall be manufactured pursuant to the following:~~
1. ~~The codes and standards incorporated by reference in this Section are on file with the Office of the Secretary of State. Copies of these codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. Incorporated materials do not include any later amendments or editions of the listed codes:~~
 - a. ~~Uniform Building Code (ICBO) — 1991 Edition including the appendices except:~~
 - i. ~~Part I, Chapters 2 and 3;~~
 - ii. ~~Appendix Chapter 1;~~
 - iii. ~~Appendix Chapter 7;~~
 - iv. ~~Appendix Chapter 12, Division I and III;~~
 - v. ~~Appendix Chapter 23, Division II;~~
 - vi. ~~Appendix Chapter 31, Division I;~~
 - vii. ~~Appendix Chapter 55;~~
 - viii. ~~Appendix Chapter 57; and~~
 - ix. ~~Appendix Chapter 70.~~
 - b. ~~Uniform Mechanical Code (APMO) — 1991 Edition including the appendices except: Part I, Chapters 2 and 3.~~
 - c. ~~Uniform Plumbing Code (IAPMO) — 1991 Edition and all appendices except:~~
 - i. ~~Part I;~~
 - ii. ~~Part II, Chapter 10, Section 1004 — Materials. Paragraph (a) is changed to read:~~
 - (a) ~~Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel or other approved materials. Asbestos-cement, CPVC, PB, PE, or PVC water pipe manufactured to recognized standards may be used for cold water distribution system outside a building. CPVC and PN water pipe and tubing may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices, shall be of a like material, except where otherwise approved by the Administrative Authority.~~
 - iii. ~~Appendix E, and~~
 - iv. ~~Appendix I.~~
 - d. ~~National Electrical Code (NFPA-70) — 1990 Edition.~~
 - e. ~~A.R.S. Title 41, Chapter 9, relating to Public Accommodation and Services.~~
 2. ~~A complete set of drawings and specifications pursuant to R4-34-303(B).~~
 3. ~~Each unit shall have a permanent serial number affixed during the first stage of manufacturing. Sections of a multiple section unit shall be separately identified. Location and application of serial number shall be indicated in the drawing package required pursuant to R4-34-303(B).~~

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4. Each manufacturer shall affix a state insignia of approval to each completed section. The insignia shall indicate the unit serial number and plan approval number and be located on the unit as indicated in the drawing package required pursuant to R4-34-303(B).
5. Manufacturers of factory-built buildings who wish to participate in HUD's voluntary Technical Suitability of Products Program for Category III Housing shall have a data plate affixed as prescribed by the HUD Handbook 4950.1 Rev-1 Paragraph 2-13, Technical Suitability of Products Program processing procedures, August 1979, which provides as follows: Identification of Factory-Built Housing Units, 2-13.
 - a. A serial number shall be assigned to each unit to be fabricated under HUD requirements, and shall be entered in the permanent records of the manufacturer before the start of fabrication. Records of serial numbers shall be made available to the HUD inspector upon request. The serial number and the Structural Engineering Bulletin number or Area Letter of Acceptance number shall be displayed conspicuously (by stencil, placard, etc.) on the unit at all stages of construction as notice that the work is to meet the requirements of pertinent HUD documents.
 - b. Completed housing units shall be identified by a serial numbered, permanent type marker plate affixed to the structure prior to shipment from the factory. The permanent data plate shall show the manufacturer's name and address, the Structural Engineering Bulletin or Area Letter of Acceptance number, the date of completion in the factory, the design loads for wind and snow and the Seismic Zone, and other data at the manufacturer's option. The data plate shall be installed near the main electrical panel or other readily accessible location.
 - e. Factory-produced dwelling units which are not identified by serial numbers as described above shall not be considered for mortgage insurance.
 - d. Components such as panels, joists, and beam and column assemblies shall either:
 - i. Be manufactured in a plant whose total production of products of such nature meets Structural Engineering Bulletin or Area Letter of Acceptance requirements; or
 - ii. Be identified individually by number of Acceptance Document (SEB, ALA, or MEB).
- B. Upon written request, the Assistant Director of OMH may approve alternate design and construction specifications which meet the minimum requirements in R4-34-104(A)(1).

R4-34-104. Workmanship Standards

- A. All work shall be performed in a professional and workmanlike manner.**
- B. All work shall be performed in accordance with any applicable building code and professional industry standards.**
- C. If there is a conflict between the workmanship standards and building code requirements, the latter will prevail.**

R4-34-105. Alterations standards

- A. Alterations shall be consistent with the applicable standards and codes set forth in this Chapter for the manufacture of the unit being altered. The alterations shall be described in drawings and specifications as required by R4-34-304.
- B. Upon written request, the Assistant Director of OMH may approve alteration plans of alternate design and specifications which are equivalent to the standards and codes in subsection (A) above.

R4-34-106. Reconstruction of units

- A. The terms "manufacture", "construction", and "constructed" as used in A.R.S. Title 41, Chapter 16, Articles 1, 2 and 4, with reference to manufactured or mobile homes, recreational vehicles or factory-built buildings, includes the reconstruction of such units as defined herein. "Reconstruction" means: construction work performed on a damaged manufactured or mobile home, recreational vehicle, or factory-built building for the purpose of restoring such unit to a usable condition but does not include work limited to remodeling, replacing, or repairing appliances or components which will not significantly alter the systems or the structural integrity of the living areas. For purposes of this rule, a damaged unit means one that has incurred damage rendering the living area or systems of the unit, or any portion thereof, substantially unfit for the original use for which it was intended.
- B. The standards and codes applicable to the reconstruction of units are as follows:
 1. Manufactured or mobile homes -- R4-34-102.
 2. Recreational vehicles -- R4-34-103.
 3. Factory-built buildings -- R4-34-104.
- C. The drawings and specifications required by R4-34-304 shall be approved before reconstruction of a unit is started.

R4-34-107. Rehabilitation of mobile homes

- A. The rehabilitation of mobile homes shall be pursuant to the following requirements:
 1. A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space communicating with each bedroom area and the living area on the living area side, and, when located in a hallway, the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing and the top of the detector shall be located on a wall 4 inches to 12 inches below the ceiling. The detector may be battery powered or may be connected to an electrical outlet box by a permanent wiring method into a

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general electrical branch circuit, without any switch between the over current protection device protecting the branch circuit and the detector.

2. The walls, ceilings, and doors of each compartment containing a gas-fired furnace or water heater shall be lined with 5/16 inch gypsum board, unless the door opens to the exterior of mobile home in which case the door may be all metal construction. All exterior compartments shall seal to the interior of the mobile home.
 3. Each room designated expressly for sleeping purposes shall have an exterior exit door or at least one outside egress window or other approved exit device with a minimum clear dimension of 22 inches and a minimum clear opening of 5 square feet. The bottom of the exit shall not be more than 36 inches above the floor.
 4. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated 20 amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Exterior receptacles other than heat tape receptacles, shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) must be connected in accordance with NEC Section 110-14.
 5. The mobile home's gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least 6 inch mercury or 3 psi gauge for a period of not less than 10 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than 1/10 pound or equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than 10 inches nor more than 14 inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or bubble solution. All gas furnaces and water heaters shall be vented to the exterior in accordance with UMC Chapter 9.
- B. A rehabilitation permit shall be obtained from the Assistant Director of OA prior to any modification of the mobile home.
- C. The mobile home shall be inspected by the OMH to ascertain compliance with subsection (A).
- D. The OA shall issue a certificate of compliance for each mobile home in compliance with subsection (A), and the OMH shall affix an insignia of approval to the exterior wall nearest the point of entrance of the electrical service.
- E. Upon a request the OMH may authorize issuance of a waiver for a unit that does not qualify as a mobile home. The category of the unit may be determined by inspection of the unit or presentation of acceptable documents.
- F. A person served with a correction notice shall make the required corrections within the time period specified in the notice. The time period shall be determined by the OMH based on the severity of the hazard or violation and the time reasonably needed to make the correction. A minimum of 30 days shall be allowed unless an imminent safety hazard is found, or if the correction has been unreasonably delayed. In either event an Order to Vacate shall be issued to the person occupying the mobile home.
- G. A person occupying the mobile home shall be served with an Order to Vacate that mobile home within five days if on inspection the mobile home is found to contain an imminent safety hazard.

ARTICLE 2. INSTALLATION STANDARDS AND CODES

ARTICLE 2. LICENSING

R4-34-201. General Repealed

- A. For purposes of this Article the following definitions apply:
1. "Board" means the Board of Manufactured Housing.
 2. "Standards" means the state installation standards and codes as they relate to the installation of manufactured homes, mobile homes, factory-built buildings, and accessory structures.
- B. Requests for interpretation of the standards and codes shall be made in writing to the Assistant Director of OMH. Within 15 working days from receipt of the request, an interpretation shall be rendered by the OMH or the request shall be forwarded to the Board for interpretation.
- C. An appeal request of an interpretation by the OMH shall be directed in writing to the Chairman of the Board. The Board shall consider the appeal at its next scheduled meeting and render a decision.
- D. Any interpretation rendered by the OMH or the Board shall be communicated by Departmental bulletin to all licensed installers and local jurisdictions participating in the Installation Inspection Program.
- E. A petition for an exception to codes and standards referred to in this Article as authorized by A.R.S. § 41-2144(D) shall:
1. Specify the standard or code sections affected;
 2. Contain justification for the requested exception and documented evidence of the local conditions which support the requested exception;
 3. Specify the boundaries of the area affected by the local conditions;
 4. Contain a statement of why the exception is necessary to protect the health and safety of the public; and

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- 5. Contain estimates of the economic impact the requested exception would have on the petitioning jurisdiction, other affected governmental entities, the public, unit owners, and licensees, and the facts upon which estimate is based.
- F. An exception ordered by the Board shall apply only within the jurisdiction which petitioned for the exemption and only when in accordance with any conditions specified in the exception order.
- G. An exception order will not become effective until its designated date which will be at least 60 days after a Departmental Bulletin has been issued to all licensed installers which describes the exception, the area within which it applies, and any provisions applicable to its use.

R4-34-201. General

- A.** The Assistant Director shall issue a conditional license within 14 days of the Department's receipt of the completed license application and written evidence that the applicant has passed any required license examination.
- B.** Corporate applicants shall submit a copy of the articles of incorporation, and all amendments to the articles filed with the Arizona Corporation Commission, or, if a foreign corporation, it's the application for authority to transact business.
- C.** When a retailer or installer licensee changes its legal entity but remains within the scope of the license an retains the same qualifying party, the licensee may request an exemption from any applicable testing requirement, provided the license is in good standing.
- D.** Upon receipt and review of the applicant's criminal background analysis by the Assistant Director of the Office of Administration, and upon mailing notification to the applicant, the previously issued conditional license is automatically effective as a permanent license to transact business within the scope of the license.

R4-34-202: Manufactured home or mobile home installation standards and codes

- A. Multi-wide manufactured homes manufactured after June 30, 1977, shall be installed according to the manufacturer's instructions as related to the joining together of the sections, utility cross-over connections, requirements of center line and perimeter supports. Perimeter supports for all units shall be in accordance with manufacturer's instructions.
- B. The standards for the installation of manufactured homes or mobile homes are as follows:
 - 1. Prefabricated load bearing support:
 - a. Supports shall be located under the main beams of the chassis at intervals no greater than six feet and no more than two feet from either end of each main beam. When intervals no greater than six feet cannot be complied with due to running gear, supports shall be located as close as practical to the running gear and the remainder of the supports shall conform to the six and two foot requirements.
 - b. Supports shall bear no greater load than 8,000 pounds.
 - c. The supports shall have a minimum vertical concentrated load failure rating of 14,000 pounds.
 - d. The acceptable supports to be used in this installation shall be by any of the methods set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).
 - 2. Prefabricated support heights:
 - a. No more than 25 percent of the supports along the main beams of the chassis, including footing, shall have a height in excess of 36 inches or less than 12 inches.
 - b. The minimum height of the bottom of the floor joist shall be 18 inches above a soil base unless otherwise specified by the manufacturer.
 - 3. Permanent support heights and design. Construction shall be pursuant to the applicable requirements of R4-34-104(A)(1)(a).
 - 4. Footings:
 - a. Prefabricated footings:
 - i. Each footing shall be of such design and construction to withstand the transferred load from the load bearing support to the earth.
 - ii. Footings shall be placed only on surfaces adequately prepared to distribute equalized transfer of applied loads and to minimize settlings of the footings.
 - iii. The minimum size of each footing shall be compatible with the local soil conditions to minimize settling of the unit.
 - b. Permanent footings. Design and construction shall be pursuant to the applicable requirements of R4-34-104(A)(1)(a).
 - c. The acceptable footings to be used in this installation shall be by any of the methods set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).
 - d. General requirements for prefabricated footings:
 - i. Mobile and manufactured homes, manufactured prior to January 1, 1984, may be installed on 12 x 12 inch footings only if piers having a maximum of 11 1/2 inch square base are utilized for supports.
 - ii. Manufactured homes, manufactured on or after January 1, 1984, shall be installed on footings having 144 square inches of surface placed at 3 foot 6 inches on center, or footings having 256 square inches of surface placed in accordance with subparagraph (B)(1)(a) of this Section.

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- iii. Footing materials shall be as follows:
 - (a) Minimum 3/4-inch thick plywood or two layers of 5/8-inch plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact conforming to Uniform Building Code Section 2501(3)(A) and (B);
 - (b) Minimum 2-inch thick and no less than 12 inches wide wood treated for ground contact conforming to the Uniform Building Code Section 2501(3)(A) and (B); or
 - (c) Minimum 3-inch thick precast concrete pad with either 256 or 144 square inches of ground surface. The concrete shall have a minimum of 28 days compressive strength of not less than 4000 pounds per square inch.
 - (d) Hard plastic pad with either 256 or 144 square inches of ground surface. The plastic pad shall withstand a minimum vertical concentrated load failure rating of 14,000 pounds when tested on very dense and coarse gravel soils. Failure shall at a minimum, consist of 4-inch cracks anywhere on the pad, or any curling or bowing of the pad's surface.
 - iv. Plywood shall be stacked with their face grains perpendicular and fastened with corrosion resistant nails, 7/16-inch wide crown staples or screws.
 - v. Wood products that are stacked shall be fastened with corrosion-resistant nails, 7/16-inch wide crown staples or screws.
 - vi. No split penetration from the end of a piece of 2-inch wood, and parallel to the edges of the piece, shall measure greater than 4 inches.
 - vii. When precast concrete pads are stacked, both surface sides shall be no less than:
 - (a) 144 square inches when using 144 square inch footings.
 - (b) 256 Square inches when using 256 square inch footings.
 - viii. When concrete masonry unit (CMU) building blocks are utilized for supports, only 256 square inch ground and top surface footings shall be utilized.
 - ix. Plastic pads shall only be stacked when the pad is provided with an interlocking system.
5. Wedges:
- a. Wedges may be placed only between the load bearing supports and main beams of the chassis.
 - b. Wedges shall be capable of transfer of the applied load.
 - c. Wedges shall be limited to two on any one bearing support.
 - d. The method for installation of wedges is set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).
6. Utility hookups shall be pursuant to:
- a. The Uniform Plumbing Code (UPC), 1991 Edition and all appendices, except Part I, Appendices B, H and I, incorporated herein by reference and on file with the Office of the Secretary of State. Copies of these codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. Incorporated materials do not include any later amendments or editions of the listed codes.
 - i. That manufactured home or mobile home drain connections need not be provided with flexible connectors.
 - ii. With the gas appliance flex connectors capped and the valves in the open position, the system shall be pressurized at 6 inches of mercury (45 ounces of mercury) or 3 psi gauge for 15 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or slope gauge calibrated so as to be read in increments of not greater than one-tenth pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure tests are made.
 - iii. The gas connection to units which do not conform with Uniform Building Code, Chapter 23 requirements for anchorage to foundations for resistance of the uplift and sliding forces shall be flexible connectors approved for such use by the Uniform Plumbing Code. The connector shall not exceed six feet in length and shall be of a rated size to supply the total demand of the unit.
 - iv. The water connection to units which do not conform with the Uniform Building Code, Chapter 23 requirements for anchorage to foundations for resistance of the uplift and sliding forces shall be flexible connectors approved for such use. The connector may be of copper tubing or other material approved by the Uniform Plumbing Code. The connector shall not exceed six feet in length and shall be of a rated size to supply the total demand of the unit.
 - b. The applicable requirements of R4-34-104(A)(1)(d) except:
 - i. Usage of flexible metal conduit shall be as follows: All manufactured or mobile homes shall be installed with a flexible metal conduit of a length no greater than 36 inches and no less than 18 inches to provide flexibility. Liquidtight, flexible metal conduit shall be used when a manufactured home is set at ground level or in wet locations. Flexible metal conduit shall be connected at the location that only the rigid conduit emerges from the ground at a minimum of six inches above ground level.
 - ii. When service equipment is installed on a manufactured home in accordance with Article 230 of the National Electrical Code, the grounding electrode shall be installed in accordance with the manufacturer's instructions or Article 250 of the National Electrical Code.

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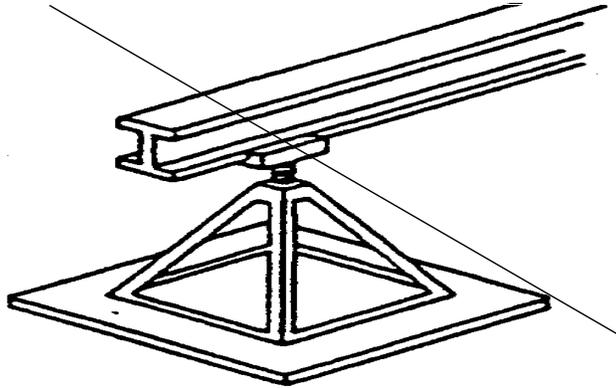
7. ~~Ground anchoring standards:~~
 - a. ~~When a unit is anchored, the anchoring shall be consistent with R4-34-104(A)(1)(a) or to R4-34-102.~~
 - b. ~~Anchoring shall resist, where applicable, flotation, collapse, or lateral movement due to flood waters, equal to or greater than the 100-year forecast of the local flood control authority for the location of the manufactured home or mobile home.~~

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Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 1

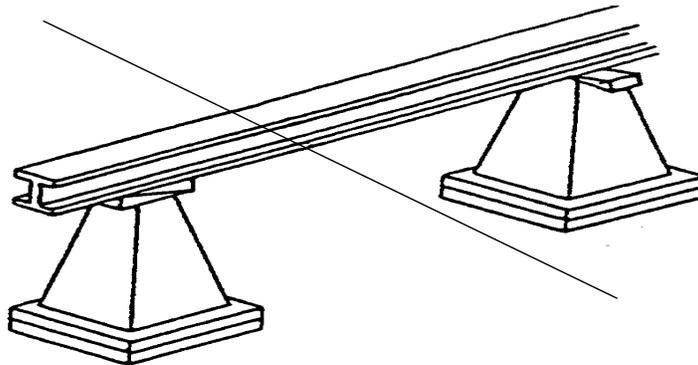


SUPPORT: An adjustable steel pier. The flange on top of the pier shall be staggered so that every other flange is on the opposite side of the beam.

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 2

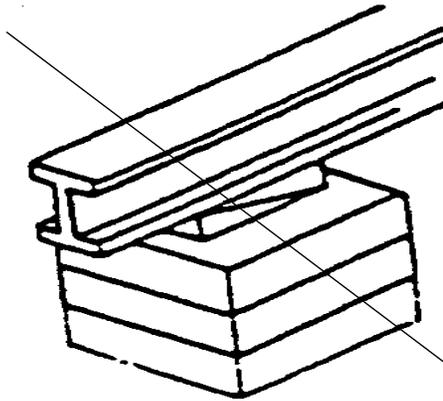


- 1) **SUPPORT:** Precast concrete
- 2) **WEDGES:** There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 3

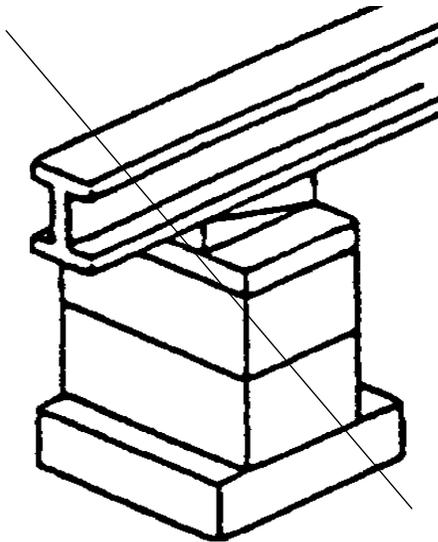


- 1) ~~SUPPORT AND FOOTING: One or no more than two concrete supports stacked vertically.~~
- 2) ~~WEDGES: There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.~~

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 4

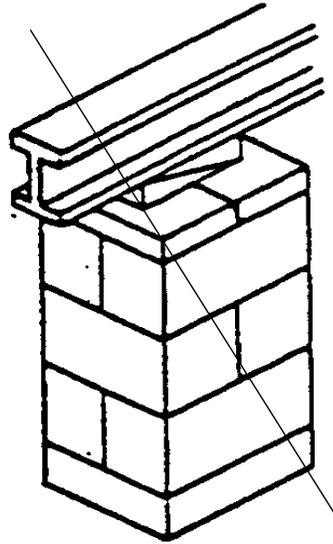


- 1) ~~SUPPORT: No more than two courses of Concrete Masonry units (CMU's) building block per ASTM C90-75 or better.~~
- 2) ~~CAP: Maximum of one solid 2" x 8" x 16" CMU cap per ASTM C145-75 or pressure treated wood cap.~~
- 3) ~~WEDGES: There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.~~

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 5

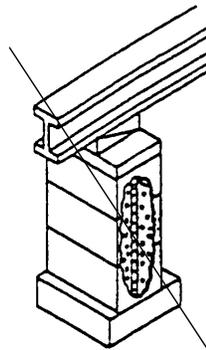


- 1) ~~SUPPORT: More than two courses of Concrete Masonry Unit's (CMU's) building block per ASTM C90-75 or better shall be interlocking.~~
- 2) ~~CAP: Maximum of two solid 2"x 8"x 16" CMU cap per ASTM C145-75 or pressure treated wood cap running crosswise of frame.~~
- 3) ~~WEDGES: There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.~~

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 6



- 1) ~~SUPPORT: More than two courses of Concrete Masonry Unit's (CMU's) building block per ASTM C90-75 or better shall be grouted solid with 1/2" rebar.~~
- 2) ~~CAP: Maximum of two solid 2"x 8"x 16" CMU cap per ASTM C145-75 or pressure treated wood cap.~~
- 3) ~~WEDGES: There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.~~

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R4-34-202. Manufacturers

The Department shall place a manufacturer's license application into 1 of the following license classes, based on the listed activities that limit the scope of each class:

1. M-9A Manufacturer of Factory-Built Buildings and FBB Subassemblies:
 - a. Manufactures factory-built buildings and FBB subassemblies, or
 - b. Reconstructs factory-built buildings and FBB subassemblies.
2. M-9C Manufacturer of Manufactured Homes:
 - a. Manufactures manufactured homes.
 - b. Reconstructs manufactured homes.
3. M-9D Manufacturer of Recreational Vehicles:
 - a. Manufactures recreational vehicles.
 - b. Reconstructs recreational vehicles.
 - c. Converts vehicles to recreational vehicles as defined by A.R.S. § 41-2142(30).
4. M-9E Master Manufacturer:

Performs work within the scope of classes M-9A, M-9C, and M-9D.

R4-34-203. Accessory structures

- A. ~~The installation, assembly, connection or construction of any accessory item shall be pursuant to applicable requirements of R4-34-104(A)(1)(a), (b), (c), and (d).~~
- B. ~~For the purpose of A.R.S. § 41-2142(1), the word "attached" means: fastened to the manufactured home or mobile home at the time of its installation and removable without degradation of the structural integrity of the manufactured or mobile home.~~
- C. ~~A complete set of drawings and specifications meeting the requirements of R4-34-307 shall be submitted for the construction of the following accessory structures other than prefabricated light metal or plastic type units:~~
 1. ~~One-story habitable room,~~
 2. ~~Storage room over 100 square feet,~~
 3. ~~Patio roofs or awnings,~~
 4. ~~Garages or carports,~~
 5. ~~Screened-in or enclosed porches, or~~
 6. ~~Any accessory structure which changes the structural integrity of the unit to which it is attached.~~
- D. ~~Skirtings and retaining walls. Access and ventilation: skirting and retaining walls shall have an 18 inch x 24 inch access crawl hole. Underfloor areas shall be accessible. Ventilation for underfloor areas shall be provided in accordance with R4-34-104(A)(1)(a), Section 2516(c)(6).~~
- E. ~~Underground skirting shall be installed on all ground level installations of manufactured and mobile homes except where installation complies with rule R4-34-202(B)(3) and (B)(4)(b). For the purposes of this subsection, underground skirting is defined as weather and corrosion resistant material used to enclose the space from the bottom of the home to grade and designed to resist the lateral displacement of soil or other materials.~~
 1. ~~The minimum acceptable underground skirting design to be used in installations shall be as found in the Underground Skirting Specifications (See Exhibit 1, General Notes and Diagrams 1 through 4).~~
 2. ~~A registered engineer may propose equivalent materials and designs which must meet the strength, weather and corrosion resistant criteria applicable under the Uniform Building Code referred to in subsection (A) of this Section subject to review and approval by the OMH.~~

EXHIBIT 1

GENERAL NOTES:

1. ~~Provide cross ventilation of crawl space with openings that shall have a net area of not less than 1 square foot for each 150 square feet of floor area. Such openings shall be covered with corrosion resistant wire mesh with mesh openings of ¼ inch in any dimension.~~
2. ~~Provide a minimum 18 x 24 inch access to the crawl space. Where an access to crawl space is also used as a ventilation opening, such access shall always be open and shall be provided with the corrosion resistant wire mesh required in Note 1.~~
3. ~~Plywood skirting sections shall be joined together by ½ inch treated plywood spliced 10 inches wide by three quarters the height of the skirting section, placed on the interior of the skirting, fastened by a ½ inch wide crown galvanized staple or galvanized steel nails, and placed against rebar in center of splice. The corners of the ½ inch plywood shall be jointed together by AWPB-FDN 2 x 4 backers fastened by galvanized steel nails or staples. The ends of the lumber and ½ inch or greater plywood cut after pressure treating, which are to be placed below grade or within 6 inches above backfill, must be field treated with preservative conforming to American Wood Preservative Association Standard M4-84 or equivalent approved by the Office. Treated wood shall extend to the earth and shall be supported by at least ½ inch ½ rebar with coal tar epoxy conforming to Steel Structure Painting Council's specification SSPC paint~~

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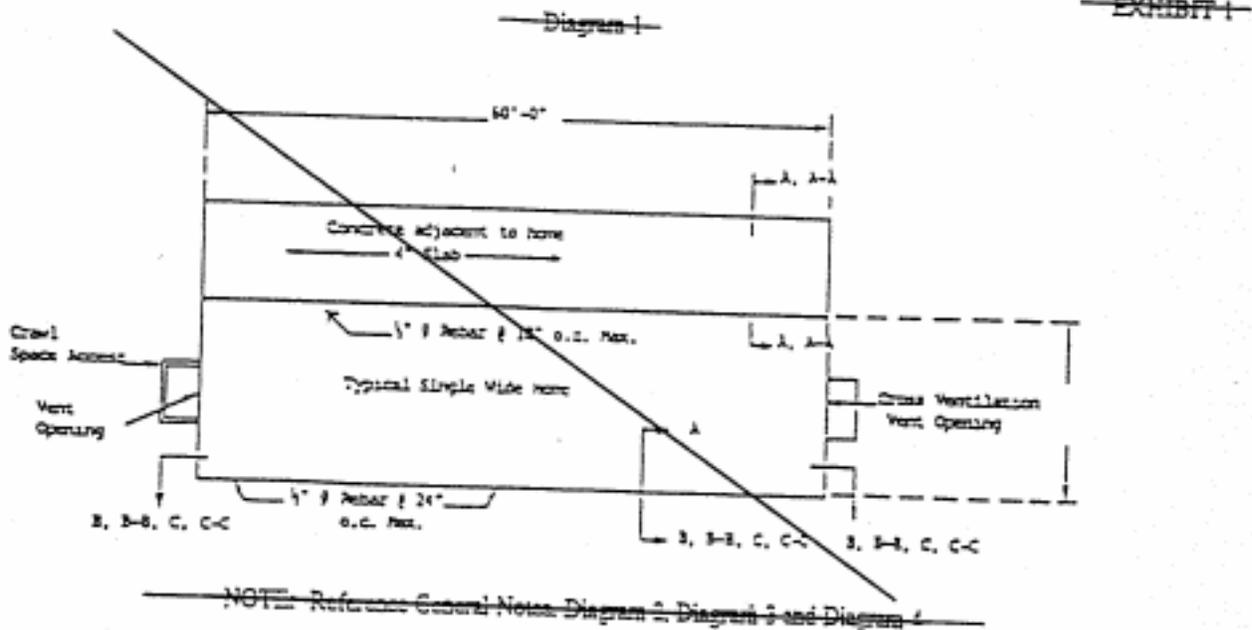
#16 or equivalent, as approved by the Office, providing a coating for a minimum of 14 inches along the rebar from the end that protrudes from the soil.

4. Slope at finish grade of surface shall slope away from the home at:

A: Concrete slab - 1/16 inch vertical drop for each 12 inches horizontal run.

B: Earth surfaces - 1 inch vertical drop for each 12 inches horizontal run for a minimum of 4 feet from home.

5. Reference Diagrams 1, 2, 3 and 4.



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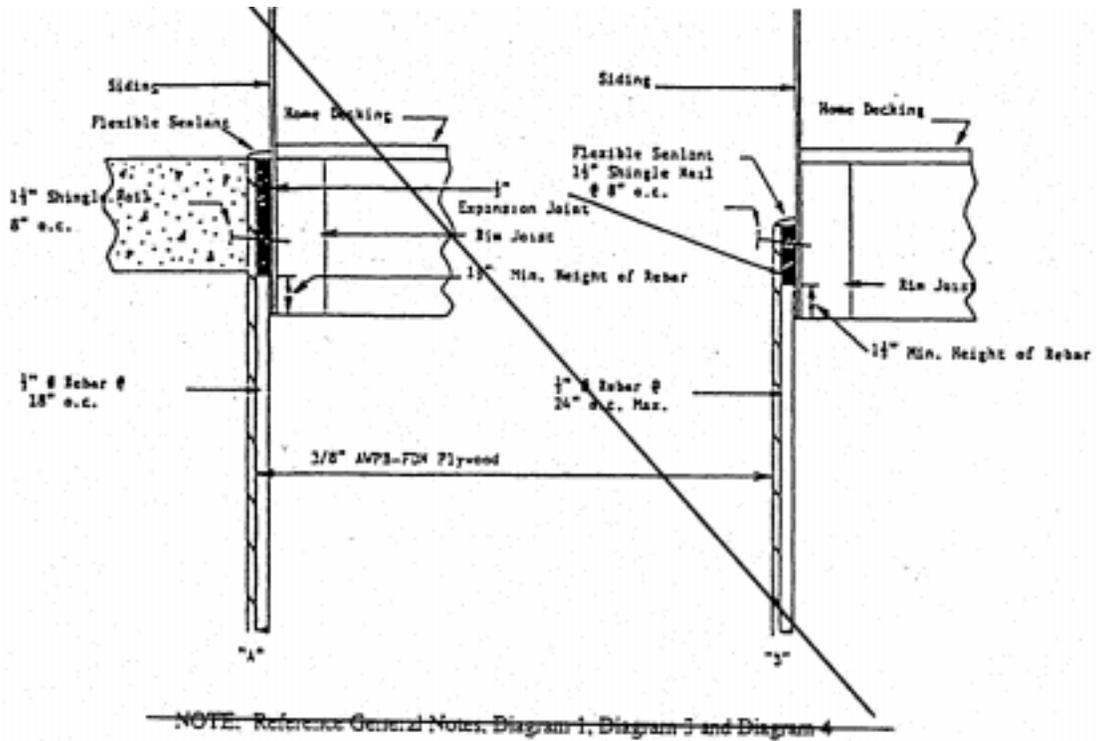
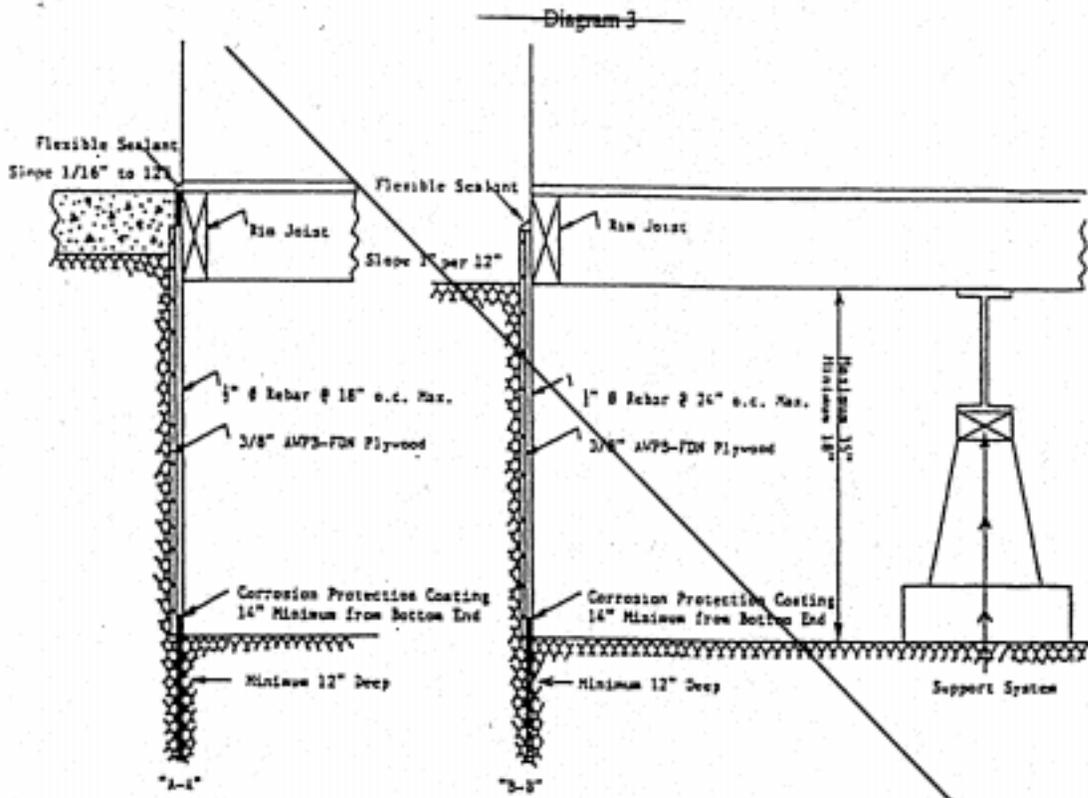
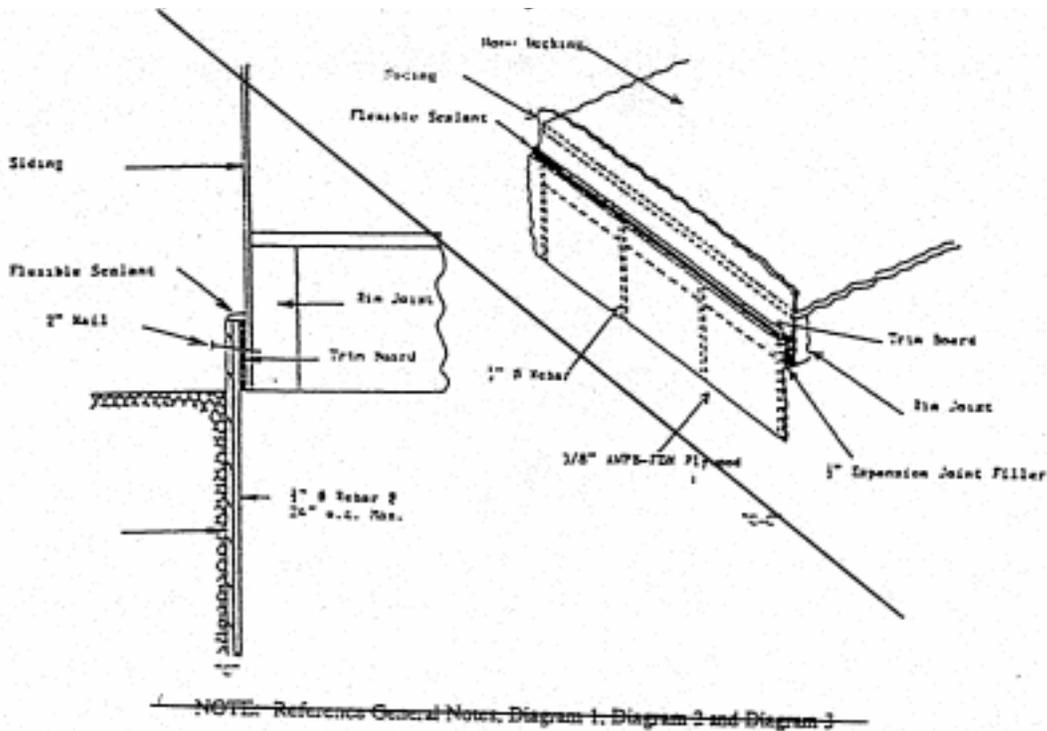


EXHIBIT 1





R4-34-203. Retailers

The Department shall place a retailer's license application into 1 of the following license classes, based on the listed activities that limit the scope of each class:

1. D-8 Retailer of Manufactured Homes or Mobile Homes:
 - a. Buys, sells, or exchanges new or used manufactured homes, mobile homes, or accessory structures;
 - b. Acts as an agent for the sale or exchange of used manufactured homes, mobile homes, or accessory structures;
 - c. Makes alterations to new manufactured homes before a sale to a purchaser under R4-34-604; or
 - d. Contracts with properly licensed installers or contractors for the installation of manufactured homes, mobile homes, or accessory structures.
2. D-8B Broker of Manufactured Homes or Mobile Homes:
 - a. Acts as an agent for the sale or exchange of used manufactured homes or mobile homes, or
 - b. Contracts with properly licensed installers or contractors for the installation of manufactured homes, mobile homes, or accessory structures.
3. D-9 Retailer of Park Trailers or Portable Truck Campers with Systems:
 - a. Buys, sells, or exchanges new or used park trailers or portable truck campers with systems;
 - b. Acts as an agent for the sale or exchange of new or used park trailers or portable truck campers with systems;
 - c. Makes alterations to systems of new park trailers or portable truck campers with systems before a sale to a purchaser; or
 - d. Contracts with properly licensed contractors for the installation of park trailers or accessory structures.
4. D-10 Retailer of Factory-Built Buildings and FBB Subassemblies:
 - a. Buys, sells, or exchanges new or used factory-built buildings and FBB subassemblies;
 - b. Acts as an agent for the sale or exchange of new or used factory-built buildings and FBB subassemblies;
 - c. Makes alterations to new factory-built buildings and FBB subassemblies before a sale to a purchaser; or
 - d. Contracts with properly licensed installers or contractors for the installation of factory-built buildings, FBB subassemblies, and residential, single-family, factory-built buildings, or accessory structures.
5. D-12 Master Retailer:

Performs work within the scope of classes D-8, D-8B, D-9, and D-10.

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R4-34-204. Repealed

R4-34-204. Installers

The Department shall place an installer's license application into 1 of the following license classes, based on the listed activities that limit the scope of each class:

1. I-10C General Installer of Manufactured Homes, Mobile Homes, or Residential, Single-Family, Factory-Built Buildings:
 - a. Installs manufactured homes, mobile homes, or residential, single-family, factory-built buildings on foundation systems;
 - b. Installs ground anchors and tie down manufactured homes or mobile homes;
 - c. Connects water, sanitary waste, gas, and electrical systems of all amperages to the proper on-site utility terminals provided by others;
 - d. Installs evaporative coolers and cooler systems on manufactured homes, mobile homes, or residential, single-family, factory-built buildings;
 - e. Installs roof jack to cooler ducts;
 - f. Installs duct work;
 - g. Provides electrical service and controls to cooler from nearest supply source;
 - h. Provides water to the cooler from the nearest fresh water source; or
 - i. Performs work as indicated under manufacturer's warranty for the unit.
2. I-10D Installer of Accessory Structures attached to Manufactured Homes, Mobile Homes, or Residential, Single-Family, Factory-Built Buildings:
 - a. Installs prefabricated accessory structure units.
 - b. Constructs accessory structures on site.
 - c. Places concrete footings or slabs for accessory structures, or
 - d. Contracts with properly licensed contractors for the installation of plumbing, electrical, and mechanical equipment as part of an accessory structure and subcontracts all or any part of the items within this subsection to properly licensed installers or contractors.
3. I-10G Master Installer of Manufactured Homes, Mobile Homes, or Residential, Single-Family, Factory-Built Buildings:
 - a. Performs work within the scope of classes I-10C and I-10D.
 - b. Installs evaporative cooling units and refrigeration air conditioning units, or
 - c. Subcontracts with properly licensed installers or contractors.

R4-34-205. Installation of factory-built buildings

- A. ~~Incorporation of building codes. Except as amended by this rule, the following building codes are incorporated herein by reference and are on file at the Office of the Secretary of State. Copies of the incorporated matter are available from the Office and from the International Conference of Building Officials, whose address is 5360 South Workman Mill Road, Whittier, CA 90601. This rule does not include any later amendments or editions of the incorporated matter. The following building codes shall be referred to in this rule by the following definitions:~~
1. ~~The Uniform Building Code (ICBO), 1991 Edition, including the Appendices, hereinafter referred to as "Building Code."~~
 2. ~~The Uniform Plumbing Code (IAPMO), 1991 Edition, as amended by R4-34-104(A)(1)(c)(ii), and all its appendices, hereinafter referred to as "Plumbing Code."~~
 3. ~~The Uniform Mechanical Code (IAPMO), 1991 Edition, including the Appendices, hereinafter referred to as "Mechanical Code."~~
 4. ~~The National Electrical Code (NFPA-70), 1990 Edition, hereinafter referred to as "Electrical Code."~~
- B. ~~Installation requirements. The installation of all factory-built buildings shall comply with the codes listed in the previous paragraph of this rule, except as amended below:~~
1. ~~The Building Code, except for the following:~~
 - a. ~~Part I, Chapter 2~~
 - b. ~~Part I, Chapter 3, §§ 301, 302, 303, 304, 305, and 306; and~~
 - e. ~~Appendices, Chapter 1, 7, 12 Division I, 23 Division II, 32, 55, 57, and 70.~~
 2. ~~The Plumbing Code, except for the following:~~
 - a. ~~Part I; and~~
 - b. ~~Appendices E and I.~~
 3. ~~The Mechanical Code, except for Part I, Chapters 2 and 3.~~
 4. ~~The Electrical Code, except for the following:~~
 - a. ~~Section 250-84, entitled Resistance of Made Electrodes, is deleted and the following is inserted in its place: "A single electrode consisting of a rod, pipe, or plate shall have a resistance to ground of 25 ohms or less. Where~~

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multiple rod, pipe, or plate electrodes are installed to meet the requirements of this Section, they shall be not less than 6 ft. (1.83m) apart.”

- b. The following is added to the Electrical Code:
 - i. Service entrance shall be sized by adding the individual loads of each module and installed with KTN-R or equivalent fuses. If the total connected load is single phase and does not exceed 200 ampere 120/240 VAC, it need not comply with R4-34-205(B)(4)(b)(ii).
 - ii. Fault current interrupting rating supplied by the utility company shall be used to calculate the amperage at the time of installation in order to comply with Section 110.9 and Section 110.10.
- 5. ~~Joining and securing of multi-wide units' floor, roof and walls shall be in accordance with detailed plans available on-site at the time of installation.~~
- ~~C. Installation of factory-built room additions. Factory-built room additions installed on mobile/manufactured homes or park trailers are not required to meet the standards of R4-34-205(B), but shall meet the following standards:
 - 1. Supports shall be no less than as specified in R4-34-202(B)(1) and (2) and R4-34-202(B)(4) of this Article.
 - 2. Where electrical, plumbing or mechanical utilities are provided, they shall be connected in accordance with R4-34-202(B)(6).~~
- ~~D. Temporary installations of factory-built buildings. Temporary installation of factory-built buildings not used by the public and not to exceed one year are not required to meet the standards of R4-34-205(B) but shall be connected as required in R4-34-202(B)(6) concerning utility hookups.~~
- ~~E. Permit fee charged by the office or local agencies. A permit fee shall be charged either by the Office or the local enforcement agencies participating in the Installation Inspection Program. The fee charged by the Office shall be the amount established by the Board pursuant to A.R.S. § 41-2144(A)(5). The fee charged by a local enforcement agency shall not exceed the amount established by the Board pursuant to A.R.S. § 41-2144(A)(5).~~

ARTICLE 3. PLAN APPROVALS

ARTICLE 3. SALES TRANSACTIONS AND TRUST OR ESCROW ACCOUNTS

R4-34-301. General Repealed

- ~~A. Manufacturers
 - 1. Prior to construction of a unit or subassembly, each manufacturer shall obtain a plan approval.
 - 2. Subassemblies which are open do not need a separate plan approval if manufactured as part of a project for which an overall plan approval is on file with the OMH.
 - 3. “Open subassembly” means: any subassembly where all components thereof can be readily inspected without disassembly, damage to or destruction thereof.
 - 4. The plan approval for the manufacture of a unit or subassembly shall consist of the following:
 - a. A quality assurance manual pursuant to R4-34-302.
 - b. Drawings and specifications pursuant to R4-34-303.
 - c. Plant certification pursuant to R4-34-305.~~
- ~~B. Dealers. Prior to performance of any alteration, each dealer shall obtain approval pursuant to R4-34-304 for such alteration.~~
- ~~C. Installers. Prior to ground anchoring a manufactured home, mobile home, or single family factory-built building, each installer shall obtain approval pursuant to R4-34-306 for such manufactured home, mobile home or single family factory-built building.~~
- ~~D. Reconstruction manufacturers. Prior to performance of any reconstruction, each manufacturer shall obtain plan approval pursuant to R4-34-304 for the reconstruction.~~
- ~~E. Installation of factory-built buildings. Prior to the installation of a factory-built building, any person installing such building shall obtain plan approval pursuant to R4-34-308.~~
- ~~F. Installing accessory structures. Prior to the installation of an accessory structure, any person installing such structure shall obtain plan approval pursuant to R4-34-307.~~

R4-34-301. Transaction Copies

- A. In all retail transactions, the retailer shall provide the purchaser with completed and signed copies of all documents pertaining to the transaction.
- B. In all brokered transactions, each broker shall provide the client with completed and signed copies of all documents pertaining to the transaction.
- C. In a brokered transaction where the purchaser is not represented by an agent, the listing broker shall provide the purchaser with completed and signed copies of all documents pertaining to the transaction.
- D. In a co-brokered transaction, the listing broker shall provide a copy of the listing agreement to the selling broker, and the selling broker shall provide a copy of all documents pertaining to the transaction to the listing broker.
- E. A retailer or broker shall maintain records containing all transaction documents.

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R4-34-302. Quality assurance manuals Repealed

- A.** ~~Manufactured homes. The quality assurance manual shall be pursuant to 24 CFR 3282, as amended 1988, Federal Manufactured Home Procedural and Enforcement regulations published pursuant to the Act defined in A.R.S. § 41-2142(2). The regulations are incorporated herein by reference and on file with the Office of the Secretary of State. Copies are available from the U.S. Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410. Incorporated materials do not include any later amendments or editions of the listed material.~~
- B.** ~~Factory-built buildings and subassemblies~~
- ~~1. Submittals will be in duplicate.~~
 - ~~2. Format shall be as follows:~~
 - ~~a. The manual shall be a loose-leaf publication with each page no less than 8½ x 11 inches in size.~~
 - ~~b. An index page shall be provided for original approval certification.~~
 - ~~c. The manual shall provide for revision traceability for each revision by numerical or alphabetical identity, the date of revision, and page number revised.~~
 - ~~3. Contents shall be, as a minimum as follows:~~
 - ~~a. An organization chart, by position, of all quality control personnel responsible for compliance of incoming components and in-plant manufacturing activities.~~
 - ~~b. A descriptive presentation of the quality assurance program adhered to by the personnel positions as listed on the organization chart.~~
 - ~~c. A flow chart depicting the minimum in-plant inspection requirements by work station, production control routing document, stage of manufacture, or type of work control or an equivalent method of in-plant inspection.~~
 - ~~d. A descriptive presentation of tests performed and test equipment used.~~
 - ~~4. Quality assurance manual alternate. If the manufacturer's schedule warrants a specific inspection schedule for each unit rather than surveillance inspection of the manufacturing pursuant to a quality assurance manual, the required inspections shall be scheduled in an attachment to the drawings and specifications pursuant to R4-34-303.~~
- C.** ~~Recreational vehicles and subassemblies~~
- ~~1. Quality assurance manuals shall be submitted in duplicate.~~
 - ~~2. Quality assurance manuals submitted for approval shall be on substantial paper 8½ x 11 inches.~~
 - ~~3. An index page shall be provided.~~
 - ~~4. Each sheet shall be uniquely identified by a number and a date of issuance. All revisions shall also be dated as to date of issuance.~~
 - ~~5. Where the manufacturer proposes revisions to the quality control manual, two copies of such revisions shall be submitted for approval.~~
 - ~~6. Manual contents shall be, at a minimum, as follows:~~
 - ~~a. Statement of scope and purpose.~~
 - ~~b. A detailed descriptive presentation of the quality assurance program by key personnel positions.~~
 - ~~c. A description of the minimum in-plant inspection requirements by department, production control routing document, state of manufacture, or type of work control or any equivalent method if in-plant inspection.~~
 - ~~d. Descriptions of required tests, equipment and test locations in the production process.~~
 - ~~e. Receiving inspection procedures for basic materials.~~
 - ~~f. Material storage and stock rotation procedure.~~
 - ~~g. Control of drawings, material specifications, and revisions of such.~~
 - ~~h. Record keeping procedures.~~

R4-34-302. Advertising

- A.** A retailer or broker shall include the retailer's licensed business name in all advertising.
- B.** A broker shall not advertise or market a used home for more than the listed price.

R4-34-303. Drawings and specifications Repealed

- A.** ~~Manufactured homes. Drawings and specifications shall satisfy the applicable requirements of R4-34-302(A).~~
- B.** ~~Factory-built buildings and subassemblies~~
- ~~1. All submittals will be in duplicate.~~
 - ~~2. Format shall be as follows:~~
 - ~~a. An indentured set of drawings, processes, listing of components, shop drawings or process and such other documents to specify and identify each component, process, assembly operation and manufacturing step.~~
 - ~~b. Each sheet shall be a minimum of 8½ x 11 inches.~~
 - ~~c. Sheet number one shall be presented to the OMH with a 6 x 6-inch blank space near the title block.~~
 - ~~d. Each set shall provide for the traceability for each revision by numerical or alphabetical identity and date of revision for each sheet revised.~~
 - ~~3. The minimum contents shall be as follows:~~

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- a. A complete set of dimensioned views with designated tolerances for dimensions locating each component utilized in the manufacture of the unit or subassembly.
 - b. A complete set of dimensioned views designating the location of all processes performed in the manufacture of the unit or subassembly.
 - c. A complete listing of all components and subassemblies by cross identification to usage of same in the appropriate views.
 - d. A traceable identification for each component and subassembly listed.
 - e. A complete listing of all processes by cross identification to usage of same in the appropriate views.
 - f. Detailed process instructions or procedures for each process listed. Any proprietary process may be so noted in the listing but shall be made available to the OMH at the manufacturing facility for certification of same and certification that such process is followed during the manufacture of units or subassemblies.
 - g. Specify on-site foundation specification for each unit for a given soil bearing capacity.
 - h. Specify location and process of permanent serial number.
 - i. Specify the location of the placement of the Arizona Insignia of Approval.
 - j. Such other detailed information, for the safety and welfare of the public, as established and published by the Director.
 - k. Specify which components and processes comply with the requirements of R4-34-104(A)(1).
4. Provisions for acceptable alternates:
- a. The Design Bureau of the OMH may approve alternate components or processes if such alternate is at least equivalent to that specified in the approved drawings and specifications.
 - b. The manufacturer may, without prior approval by the OMH, utilize alternate components or processes if:
 - i. There is on file with the OMH approved drawings and specifications for the overall project; and,
 - ii. The alternate component or process is certified by a registered engineer or architect as equivalent to or better than that specified in the approved drawings and specifications; and,
 - iii. The certified plans shall be forwarded to the OMH within seven days for approval, and amendment to original plans, accompanied by appropriate fees.
- C.** Recreational vehicles and subassemblies
- 1. All submittals shall be in duplicate.
 - 2. Plans submitted for approval shall be on substantial paper not less than 8½ x 11 inches or multiples thereof but not exceeding 25 x 36 inches.
 - 3. Each floor plan shall provide traceability to systems or typical plans by numerical or alphabetical identification.
 - 4. Each sheet shall be uniquely identified by a heading or number and a date of issuance. All revisions shall also be dated as to date of issuance.
 - 5. Where the manufacturer proposes revisions to the approvals, three copies of such revisions shall be submitted for approval.
 - 6. Each submittal shall provide:
 - a. Floor plan for each modeling including, but not limited to:
 - i. Dimension or scaled presentation showing overall size.
 - ii. Location of windows, exterior exits, and alternate egress means.
 - iii. Location of partition and interior walls.
 - iv. Location of appliances; fixtures; fire extinguishers; heating and return air registers; connections for drain, water, gas and electrical; permanent vehicle identification number; and insignia of approval.
 - b. Drawings or schematics and specifications depicting plumbing systems including, but not limited to:
 - i. Description and, if applicable, listing agency of materials, fixtures, fittings, pipe, tubing, shower doors and appliances.
 - ii. Diameter and type of pipe and tubing, length of three eights inch O.D. tubing and all trap arms.
 - iii. Size and type of fittings.
 - iv. Grade of drainage piping.
 - v. Methods of securing drain, waste and vent piping.
 - vi. Diagrams of potable water supply system, and waste, vent and drain system.
 - vii. Location of all cleanouts.
 - c. Drawings or schematics and specifications depicting mechanical system including, but not limited to:
 - i. Description and, if applicable, listing agency of materials, fittings, pipe, tubing, appliances, heating duct and registers.
 - ii. Diameter, length, and type of gas pipe and tubing.
 - iii. Size and type of gas or oil fittings, valves and connectors.
 - iv. Diagram of fuel piping system.
 - v. Locations of fuel piping supports and methods of securing.
 - vi. BTUH input rating of all fuel-burning appliances.

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- vii. Location of LP gas containers, method of securing including supporting calculations or test reports, and method of protection from vehicle exhaust system heat.
- viii. Clearances between range burners and combustible materials and method of protection where required.
- ix. Gauge, size and type of warm air ducts and return air ducts.
- d. Drawings or schematics and specifications depicting electrical system including, but not limited to:
 - i. Description and listing agency of 115/230 volt wiring materials.
 - ii. Description, rating, and if applicable, listing agency of devices and appliances.
 - iii. Type and rating of power supply assembly.
 - iv. Number of branch circuits and rating of each circuit.
 - v. Electrical load calculations when applicable.
 - vi. Location and number of outlets, fixtures, and appliances fixed in place on each circuit.
 - vii. Conductor size, type and material, and over-current protection device for each circuit.
 - viii. Installation of compartment installed batteries.
 - ix. Methods of grounding all exposed non-current-carrying metal parts.
 - x. Location of generator and method of electrical installation.
 - xi. When applicable, a diagram of low-voltage electrical system including conductor size and material, over-current protection, fixture and motor loads, and power supply.
- 7. Drawings or schematics and specifications depicting compliance with fire and life safety provisions including, but not limited to:
 - a. Description and flame spread ratings of interior finished materials.
 - b. Description and combustibility compliance of textile or film materials, when applicable.
 - c. Size and type of alternate egress.
 - d. Location of gasoline filler spouts and engine exhausts.
 - e. Sealing of gasoline filler spouts and generator compartment to interior of unit.

R4-34-303. Brokered Transactions

- A.** A broker shall provide a copy of the agency disclosure to the party or parties being represented.
- B.** The seller's broker shall place all earnest money deposits received in connection with a sales transaction in the broker's trust or escrow account in accordance with A.R.S. § 41-2180.
- C.** Upon consummation of a brokered transaction, the seller's broker shall provide the seller with a closing statement that includes an accounting of all expenses charged to the seller, all pro rations, and all credits.
- D.** Upon consummation of a brokered transaction, the purchaser's broker shall provide the purchaser with a closing statement that includes an accounting of all expenses charged to the purchaser, all pro rations, and all credits.
- E.** In a co-brokered transaction, the seller shall pay the commission shown on the listing agreement as the total commission.
- F.** The seller's broker shall prepare an addendum to the listing agreement if any of the terms of the listing agreement change. The seller's signature is required for the addendum to be valid. The addendum to the listing agreement shall reflect the date that the seller signs the addendum to the listing agreement.
- G.** Should the seller elect to finance the unpaid balance reflected on the offer to purchase or purchase contract, the agent shall:
 - 1. Maintain evidence of the original portion of the purchase price being financed by the seller or agent, and
 - 2. Maintain evidence that the title has been transferred into the name of the purchaser and that the lienholder's position has been secured on the title.

R4-34-304. Alteration or reconstruction approvals

Plan approvals for alterations:

- 1. All submittals shall be in duplicate.
- 2. Notice of alterations made shall be sent to the manufacturer of the unit.
- 3. Manufactured homes
 - a. The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.
 - b. The contents of the plan approval shall be restricted so as to prevent any nonconformance to the Manufactured Home Construction and Safety Standards published pursuant to the Act.
- 4. Factory-built buildings and subassemblies
 - a. The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.
 - b. The format of the plan approval shall be consistent with R4-34-303(B)(2).
- 5. Recreational vehicles
 - a. The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.
 - b. The contents of the plan approval shall be consistent with R4-34-303(C).

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R4-34-305. Plant certification

- A.** Manufactured homes. The plant certification shall be pursuant to the applicable requirements of R4-34-302(A).
- B.** Factory-built buildings, mobile homes, subassemblies, and recreational vehicles. Each manufacturing facility shall be certified by the OMH or an authorized representative as to capability to manufacture units or subassemblies as shown on the OMH approved drawings, specifications and quality assurance manual.

R4-34-306. Ground anchoring approvals

- A.** Ground anchoring plans shall be certified by a registered engineer or approved by the OMH.
- B.** The plans shall be in compliance with the standards set forth in R4-34-202(B)(7), and of sufficient detail and description that all materials, dimensions, and processes can be readily identified.

R4-34-307. Accessory structures approvals

- A.** Drawings and specifications shall be:
 - 1. Submitted in duplicate;
 - 2. Submitted on dual purpose, 20 lb. paper not less than 8½ x 11 inches or exceeding 25 x 36 inches;
 - 3. In compliance with the codes required under R4-34-104(A)(1)(a), (b), (c), and (d); and
 - 4. The contents shall be consistent with R4-34-303(B)(3).
- B.** Any design which is not in compliance with the above code requirements but is equivalent shall be engineered and sealed by an Arizona Registered Engineer.
- C.** Upon written request, the Assistant Director of OMH may approve alternate design and specifications which are equivalent to the standards and codes in Subsection (A) above.

R4-34-308. Factory-built building installation plan requirements

- A.** Approval of plans required prior to installation. Prior to the installation of a factory-built building, excluding units described in R4-34-205(C) and (D), an application shall be submitted to and approved by the Office as required by this rule.
- B.** Contents of the application. The applicant shall submit an application to the Office, which application appears in R4-34-309. The documents described in the following paragraph shall be attached to the application for the work which is to be accomplished.
- C.** Attachments to the application. Two copies of each of the following shall be attached to the factory-built building installation application form:
 - 1. The installation plans, as further described in this rule. Such plans shall be on paper whose minimum size shall be 8½ x 11 inches.
 - 2. Any calculations and test results required to show compliance with the standards required in R4-34-205, as further described in this rule.
- D.** Contents of installation plans. The following shall be included with the installation plans:
 - 1. Each sheet of the plan shall be dated and shall be numbered sequentially. The plans submitted shall include all revisions to the plans. All revisions shall be dated and shall be either numerically or alphabetically identified.
 - 2. The site plan of the place where the installation will occur. The site plan shall include the following:
 - a. The building location where the factory-built building is to be installed, the setbacks from the property lines and the separation between buildings in feet and inches, location of all utility lines in existence prior to the installation;
 - b. The legal description where the installation is to occur;
 - c. The street address where the installation is to occur; and
 - d. The approval of the appropriate zoning department, if required, by the appropriate county, municipality or other political subdivision where the installation is to occur.
 - 3. The maximum design utility fault current, where required, shall be shown as part of the installation plans near one of the lines indicated on the electrical service plan.
 - 4. The foundation plan, which shall include the following:
 - a. A description of the soil class showing the allowable soil bearing pressure in lbs./sq. ft. where the installation is to occur.
 - b. The depth the footings will be placed.
 - c. If footings are to be placed on compacted fill or at a level other than 12" minimum below natural grade, a soil investigation report made by a soil engineer, or equivalent test documentation. All footings shall be designed to meet the allowable bearing pressure at the depth required.
 - d. A complete set of drawings indicating dimensions and details of the foundation footings, and anchoring with a complete list of materials by cross-identification to usage of the materials, which shall be shown in the appropriate views.
 - e. Calculations prepared by an engineer for all load conditions, including wind loads for both horizontal loads and uplift loads, overturning, and horizontal and torsional earthquake effects on foundations.

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5. Electrical drawings
- a. Electrical drawings shall include one line diagrams indicating the following:
 - i. The type, location, ampere capacity and maximum fault current rating of all service equipment, except that service entrances not exceeding 200 ampere 120/240 VAC may be installed with KTN-R or equivalent fuses and sized by adding the individual loads of each module need not have a calculated fault current;
 - ii. The size, length and location of all service and feeder raceways not provided by the public utility;
 - iii. The dimensions of all gutters and wireways;
 - iv. The number, size and type of all line voltage, grounding and bonding conductors to be installed in wiring enclosures;
 - v. Designate aluminum or copper conductors;
 - vi. Type of insulation;
 - vii. Size, type of fuse and/or circuit breakers, and AIC ratings;
 - viii. Details of panelboard, switchboard and distribution centers showing type and arrangement of switches, overcurrent devices, general control equipment and AIC ratings;
 - ix. Panelboard and switchboard schedules or line diagram showing wattage and/or amperage of active branch or feeder circuits for modulars; and
 - x. Grounding connection to the service disconnecting means and water bond.
 - b. Electrical load calculations.
6. Plumbing. Plumbing drawings shall indicate the following:
- a. Location of sewer tap;
 - b. Location of water and gas meter;
 - c. Size and length of sewer, water and gas lines, provide fixture units, BTUH requirements and water pressure;
 - d. Type of material used for sewer, water and gas lines;
 - e. Grade of sewer line;
 - f. Tap elevation;
 - g. Depth of water line;
 - h. Location of all cleanouts and extend same to grade; and
 - i. Rim elevation of upstream manhole or cleanout and floor elevation.

E. Filing of application. The application shall be filed with the Assistant Director of the Office of Manufactured Housing.

R4-34-309. Factory built building installation application form

The Factory Built Building Installation Application Form is as follows:

STATE OF ARIZONA	FOR OFFICIAL USE ONLY
	FEES (A.R.S. § 41-2144(a)(5)) RECEIPTS
OFFICE OF MANUFACTURED HOUSING	
DEPARTMENT OF BUILDING AND FIRE SAFETY	Administrative fees \$20.00
99 East Virginia, Suite #100	Plan Review Fee _____
Phoenix, Arizona 85004	Total Fees Received _____
(602)255-4072	Less Fee Received _____ No. _____
	Amount Due _____ Inv. # _____
APPLICATION FOR	Amount Refunded _____
APPROVAL OF PLAN FOR	
INSTALLATION OF A FACTORY-BUILT BUILDING	Date Approved _____ Plan Log No. _____
A.A.C. R4-34-308 and 309	

Submit two (2) copies of this application and all drawings and specifications required by A.A.C. R4-34-308 to the above address along with the following fees:

1. Administration Fee (Submit with application).....\$20.00
2. Plan Review Fee (One hour minimum charge).....\$40.00 per hour

Complete the following: If there is insufficient space, continue on additional paper. (Please Print)

1) APPLICANT:

NAME: _____

ADDRESS: _____

Street City/Town

County State Zip Code

Phone NO. _____ Fax No. _____

2) FACTORY-BUILT BUILDING:

NAME OF UNIT MANUFACTURER _____

UNIT PLAN APPROVAL NUMBER _____

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3) ~~LOCATION OF INSTALLATION:~~

~~LEGAL DESCRIPTION _____

STREET ADDRESS _____ CITY/TOWN _____
County _____ Arizona Zip Code _____~~

4) ~~STATE, COUNTY OR CITY ISSUING INSTALLATION PERMIT:~~

~~NAME _____
NAME AND PHONE NO. OF CONTACT PERSON _____~~

5) ~~DATE OF APPLICATION _____ SIGNATURE OF APPLICANT _____~~

~~FOR OFFICIAL USE ONLY
PLAN APPROVAL NUMBER _____ DATE OF APPROVAL _____~~

~~B&FS OMH 369 (2/91)~~

ARTICLE 4. INSPECTION AND TECHNICAL SERVICE

ARTICLE 4. SURETY BONDS

R4-34-401. Manufacturing locations Repealed

A. Manufactured homes

1. The inspection program shall be consistent with the applicable requirements of R4-34-302(A).
2. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.

B. Factory-built buildings, subassemblies, recreational vehicles, and alterations and reconstruction. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.

R4-34-401. Surety Bond Forms

Manufacturers, installers, retailers, and brokers, except retailers and brokers of manufactured homes, mobile homes, or single-family, factory-built buildings, shall submit the applicable surety bond amount from the list in R4-34-502, with a form provided by the Office of Administration.

R4-34-402. Dealer facilities Repealed

~~Fees and travel expenses for verification of nonconformance corrections shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.~~

R4-34-402. Cash Deposits

A. Except for applicants exempt under R4-34-401, any applicant for a license or renewal of a license who desires to post cash in place of a commercial surety bond shall deposit the applicable amount with the Assistant Director of the Office of Administration using any 1 of the following payment methods:

1. Cash.
2. Certified check payable to the State Treasurer.
3. Cashier's check payable to the State Treasurer.
4. Bank money order payable to the State Treasurer, or
5. Postal money order payable to the State Treasurer.

B. Upon the receipt by the Assistant Director of the Office of Administration of an order from any court for the payment of funds on deposit, the Assistant Director shall make payment according to the court order, at which time the license is suspended under A.R.S. § 41-2179, if applicable. In order to reinstate the license, the licensee shall return the cash deposit to the required balance or, as an alternative, file a commercial surety bond for the full amount and pay all applicable reinstatement fees.

C. The cash deposit is not transferable.

D. The applicant shall make the cash deposit in the name of the applicant as it appears on the license application.

E. The applicant may withdraw the cash deposit under the following circumstances:

1. The license is not issued;
2. The license has been terminated for 2 years or more by expiration, revocation, or voluntary cancellation, and there are no outstanding claims against the deposit; and
3. Two years after an applicant files a commercial surety bond as a replacement for the cash deposit, if there are no outstanding claims.

F. Upon written request and subsequent approval by the Assistant Director of the Office of Administration, a cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, any person with written evidence of authority to withdraw the cash deposit for a corporation, and any other person who can establish legal right to the cash deposit.

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~~R4-34-403. Installation of manufactured homes, mobile homes, accessory structures, and factory built buildings.~~

- ~~A.~~** Inspection by local enforcement agencies:
- ~~1. An official of any local enforcement agency may make application to the Assistant Director to participate in the OMH program of permit issuance for, and inspection of, installations of manufactured homes, mobile homes, accessory structures, and factory built buildings.~~
 - ~~2. The Assistant Director may authorize the requested participation pursuant to agreement signed by the Assistant Director and an official of the local enforcement agency.~~
 - ~~3. The agreement shall include:~~
 - ~~a. Provision for inspection to ensure compliance pursuant to R4-34-201, R4-34-202, R4-34-203 and R4-34-204 as applicable to the participation requested.~~
 - ~~b. Provision that permit and inspection fees shall be consistent with the fee schedule of R4-34-602(A) and (B).~~
 - ~~e. Maintain records of issuance of permits.~~
- ~~B.~~** Inspection by the OMH:
- ~~1. The OMH shall establish and publish an inspection program to ensure compliance pursuant to R4-34-201, R4-34-202, R4-34-203, and R4-34-204.~~
 - ~~2. The inspection program shall include:~~
 - ~~a. Provision for monitoring the performance of local enforcement agencies participating under agreement with the Assistant Director of OMH.~~
 - ~~b. Provision for documentation to the participating local enforcement agency of the performance findings by the monitoring activities.~~
 - ~~c. Comprehensive inspection of installations where such inspections are not provided by local enforcement agency and Assistant Director of OMH agreements.~~
 - ~~d. Provision for documentation to the licensee of all nonconformances noted.~~
 - ~~e. Provision for verification of correction of documented nonconformances.~~
 - ~~f. Provision for removal of Insignia of Approval and notification to the manufactured home, mobile home, or single family factory built building owner or occupant of the reason for such removal.~~
 - ~~3. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.~~

R4-34-404. Technical service

- A.** Definition. For the purpose of these rules, "Technical service" means:
1. Engineering assistance, guidance or interpretation; or,
 2. Assistance, interpretative application or clarification of compliance and enforcement of A.R.S., Title 41, Chapter 16, Articles 1, 2, and 4 and these rules.
- B.** Engineer assistance:
1. Service provided on the premises of a licensee shall be at the hourly rate pursuant to R4-34-602(A) and (B).
 2. Service provided in the OMH shall be by appointment and without a fee unless such service is within the scope of fees specified in R4-34-605.
 3. Written replies to written or oral inquiries will be without fee.
 4. Phone response will be unofficial.
- C.** Compliance and enforcement
1. Phone response will be unofficial.
 2. All bulletins of general applicability will be distributed to all licensees.

ARTICLE 5. LICENSE SCOPES

ARTICLE 5. FEES

R4-34-501. Manufacturers Repealed

Class	Scope
M-9A	Manufacturer of factory built buildings: Manufacture factory built buildings; install subassemblies; and reconstruct factory built buildings.
M-9B	Manufacturer of subassemblies: Manufacture and reconstruct subassemblies.
M-9C	Manufacturer of manufactured homes: Manufacture and reconstruct manufactured homes.
M-9D	Manufacturer of recreational vehicles: Manufacture and reconstruct recreational vehicles; convert vehicles to recreational vehicles by installing plumbing, electrical, or gas systems.
M-9E	Master manufacturer:

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M-9F Accomplish work as described in license scopes M-9A, B, C, D, and F.
Reconstruction manufacturer:
Reconstruct factory-built buildings, manufactured or mobile homes, and recreational vehicles.

R4-34-501. General

- A.** The Board shall establish a fee schedule before May 15 for the coming fiscal year.
- B.** The Assistant Director of the Office of Administration shall notify all licensees of the established fee schedule before June 1 of each year.
- C.** Licensees shall pay fees for the following services and may request a fee schedule from the Office:
 - 1. Manufacturer license.
 - 2. Retailer license.
 - 3. Installer license.
 - 4. Salesperson license.
 - 5. Inspection and technical service.
 - 6. Plans and supplements.
 - 7. Installation permits and insignias.
 - 8. Administrative functions, or

R4-34-502. Dealers Repealed

<u>Class</u>	<u>Scope</u>
D-8	Master dealer of manufactured or mobile homes: Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes, and accessory structures and materials therefor. Negotiate or act as an agent for the sale or exchange of new or used manufactured or mobile homes, accessory structures or materials thereof. Make alterations to manufactured or mobile homes prior to a sale to a purchaser. Contract with licensed installers for installation of a manufactured or mobile home. Contract with licensed accessory structure installer or appropriate licensed contractors for installation of accessory structures to manufactured or mobile homes.
D-8A	Dealer of manufactured or mobile homes: Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes. Negotiate or act as an agent for the sale or exchange of a new or used manufactured or mobile home. Contract with licensed installers or appropriately licensed contractors for installation of a manufactured or mobile home.
D-8B	Broker of manufactured or mobile homes: On behalf of another for compensation, buys, sells, exchanges, offers or attempts to negotiate or acts as an agent for the sale or exchange of a used manufactured or mobile home. Contract with licensed installers or appropriately licensed contractors for the installation of the manufactured or mobile home or accessory structure.
D-9	Dealer of park trailer or portable truck camper with systems: Buy, sell, exchange, negotiate, or act as an agent for the sale or exchange of a new or used park trailer or portable truck camper with systems. Make alterations prior to a sale.
D-10	Dealer of factory-built buildings: Buy, sell or exchange new or used factory-built buildings to a purchaser; negotiate or act as an agent for the sale or exchange of a new or used factory-built building. Make alterations to factory-built buildings prior to a sale to a purchaser. Contract with appropriate licensed installer or contractor for the installation of a factory-built building.
D-11	Dealer of subassemblies: Buy, sell or exchange new or used subassemblies to a purchaser; negotiate or act as an agent for the sale or exchange of a new or used subassembly. Make alterations to subassemblies prior to a sale to a purchaser. Contract with appropriate licensed contractors for the installation of a subassembly.
D-12	Combination dealer: Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes, park trailers or portable truck campers with systems, factory-built buildings, subassemblies or accessory structures or materials thereof. Negotiate or act as an agent for the sale or exchange of any new or used unit listed above. Make alterations to any of the units listed above prior to a sale to a purchaser. Contract with appropriately licensed installers or contractors for installation of a manufactured home, mobile home, or single family factory-built building. Contract with appropriately licensed installers or contractors for installation of accessory structures to manufactured homes and mobile homes, or single family factory-built building.

R4-34-502. License Bond Amounts

An applicant shall submit the applicable license bond amount listed for each license class.

<u>License Class</u>	<u>Bond Amount</u>
<u>M-9A</u>	<u>\$ 10,000.00</u>

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<u>M-9C</u>	<u>65,000.00</u>
<u>M-9D</u>	<u>5,000.00</u>
<u>M-9E</u>	<u>100,000.00</u>
<u>D-9</u>	<u>15,000.00</u>
<u>D-10</u>	<u>15,000.00</u>
<u>D-12</u>	<u>15,000.00</u>
<u>I-10C</u>	<u>2,500.00</u>
<u>I-10D</u>	<u>1,000.00</u>
<u>I-10G</u>	<u>5,000.00</u>

~~R4-34-503. Installers-~~

- ~~Class Scope~~
- ~~I-10A Installer of manufactured or mobile homes:
Setup of manufactured or mobile homes on piers and footings.~~
- ~~I-10B Installer of ground anchors:
Install ground anchors and tie down manufactured or mobile homes.~~
- ~~I-10C General installer of manufactured homes, mobile homes, or single family factory-built buildings:
Setup manufactured homes, mobile homes, or single family factory-built buildings on foundation systems. Install ground anchors and tie down manufactured or mobile homes. Connect water, sanitary waste, gas, and electrical systems of all amperages to the proper on-site utility terminals provided by others. Replace, repair, or perform alterations to utility connections. Install, repair, and service evaporative coolers on existing cooler systems installed in manufactured or mobile homes. Install roof jack to existing cooler systems and connect electricity and water to existing systems. Accomplish work as indicated under manufacturer's warranty for the unit.~~
- ~~I-10D Installer of awnings, skirting, retaining walls, patios, screened-in porches, carports, garages, and storage rooms:
Install prefabricated units or construct units, including the repair and alteration of accessory structures, attached to manufactured homes, or mobile homes, or single family factory-built buildings such as: awnings, skirting, retaining walls, patios, screened-in porches, carports, and garages including welding, job-site fabrications, placing of concrete footings or slabs, and all rough or finished general carpentry work, and other related hardware and accessories. Contract with appropriately licensed contractors for the installation, repair, and alteration of plumbing, electrical, and mechanical equipment, and subcontract all or any part of the work within this scope.~~
- ~~I-10E Installer of evaporative coolers and cooler systems:
Install, repair, and service evaporative coolers and cooler systems on manufactured homes, and mobile homes or single family factory-built buildings. Install roof jack to cooler ducts. Install duct work of accept materials. Provide electrical service to cooler from nearest supply source. Provide water to the cooler from the nearest fresh water source. Install electrical controls as required.~~
- ~~I-10F Installer of refrigeration:
a. Installation, alteration, and repair of comfort air conditioning systems for manufactured homes, and mobile homes or single family factory-built building units, including: evaporative cooling units; package refrigeration air conditioning units; reverse cycle heat pumps, both split and self-contained systems.
b. Install "A-coil" in furnace, if listed or certified by manufacturer for manufactured homes and mobile homes or single family factory-built buildings use and adapt able to the furnace in use. Install, alter, and repair ventilation systems for manufactured homes and mobile homes or single family factory-built buildings. These systems include the following areas of work and related equipment: duct work of any acceptable material; air filtering devices; water treatment devices; electric controls and control piping; thermal and acoustical insulation; vibration isolation materials and devices; liquid fuel piping and tanks; and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.~~
- ~~I-10G Master installer of manufactured homes, mobile homes, or single family factory-built buildings:
Accomplish work as described in license scopes I-10C, D, E, F, and H. Within this scope, subcontract all or any part of the items listed on the original sales or installation contract.~~
- ~~I-10H Warranty Repair Installer:
Accomplish work as indicated under manufacturer's warranty for the unit.~~

R4-34-503. HUD Monitoring Inspection

Each manufactured home manufacturer shall pay a fee as established by the U.S. Department of Housing and Urban Development for each unit manufactured in this state. This fee shall be made payable to the Secretary of HUD for purchase of HUD labels. This fee is in addition to the inspection fee required by R4-34-501(C)(5).

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R4-34-504. HUD Label Administration

In addition to the fees required under R4-34-501(C), each manufactured home manufacturer shall pay to the Office of Administration a fee of \$5 for each label issued in this state.

R4-34-505. Plans and Supplements

If a plan or supplement submitted is not acceptable and the licensee fails to supply a complete and correct submittal within 60 days after the date on the notification letter, the Department shall treat the submittal fee originally paid by the licensee as forfeited and return the submittal. Resubmissions shall be accompanied by a new submittal fee.

R4-34-506. Intergovernmental Agreement Permits

The permit fee charged by local enforcement agencies participating in the Installation Inspection Program shall not exceed the amount established by the Board for the same service.

ARTICLE 6. FEES

ARTICLE 6. MANUFACTURING CONSTRUCTION AND INSPECTION

R4-34-601. Licensee fee and bond amount Repealed

- ~~A. The fee schedule for licenses shall be established and approved by the Board prior to May 15 for each forthcoming fiscal year.~~
- ~~B. The Assistant Director of OA shall notify all licensees of the established fee schedule prior to June 1 of each year.~~
- ~~C. The license bond amounts required per license classification shall be as follows:~~

Licensee	Bond Amount
M-9A	\$10,000.00
M-9B	5,000.00
M-9C	65,000.00
M-9D	5,000.00
M-9E	100,000.00
M-9F	5,000.00
D-8	15,000.00
D-8A	15,000.00
D-8B	15,000.00
D-9	15,000.00
D-10	15,000.00
D-11	2,500.00
D-12	15,000.00
I-10A	1,000.00
I-10B	1,000.00
I-10C	2,500.00
I-10D	1,000.00
I-10E	1,500.00
I-10F	1,500.00
I-10G	5,000.00

R4-34-601. Manufactured Homes

A manufacturer shall build manufactured homes according to the standards and regulations in R4-34-102(C) and (D).

R4-34-602. Fees Repealed

- ~~A. Fees shall be established and approved by the Board, in an announced meeting, prior to May 15 for the forthcoming fiscal year.~~
- ~~B. The Assistant Director of OA shall notify all licensees, by mail, of the established fee schedule prior to June 1st of each year.~~

R4-34-602. Recreational Vehicles

- A. A manufacturer shall build recreational vehicles according to the standards in R4-34-102(A) or (B).
- B. In addition to complying with applicable federal and state motor vehicle safety standards, a manufacturer of recreational vehicles and RV subassemblies shall:
 - 1. Build RVs and RV subassemblies according to drawings and specifications required in R4-34-703(C);
 - 2. Affix a permanent serial number to each unit during the 1st stage of manufacturing. The serial number location and application method shall be shown in the drawing package required by R4-34-703(C)(3)(d); and

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3. Affix an Arizona Insignia of Approval to each completed unit. The insignia shall indicate the unit serial number, plan approval number, and be located on the unit as indicated in the drawing package required by R4-34-703(B)(7) and (8).

C. The Department may require that a manufacturer of recreational vehicles produced and shipped before plan approval remove the units from this state and remove insignias.

R4-34-603. Inspection and technical service fees Repealed

The fee schedule for inspections and technical service shall be established and licensees shall be notified as outlined in R4-34-602(A) and (B).

R4-34-603. Factory-Built Buildings and FBB Subassemblies

A. A manufacturer shall construct factory-built buildings and FBB subassemblies according to the codes in R4-34-102(E); and

1. Provide a complete set of drawings and specifications to the Department under R4-34-703(B);
2. Affix a permanent serial number to each unit during the 1st stage of manufacturing. Sections of a multiple section unit shall be separately identified. The serial number location and application method shall be shown in the drawing package required under R4-34-703(B)(8); and
3. Affix an Arizona Insignia of Approval to each completed section. The insignia shall indicate the unit serial number, plan approval number, and be located on the unit as indicated in the drawing package required under R4-34-703(B)(8).

B. A manufacturer of non-residential factory-built buildings and FBB subassemblies shall comply with A.R.S. Title 10, Chapter 3 relating to the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

C. The Department may require that a manufacturer of factory-built buildings or FBB subassemblies produced and shipped before plan approval remove the unit from this state and remove insignias.

R4-34-604. Reimbursement of travel cost Repealed

A. In-state travel shall be paid at the per diem subsistence allowance provided by A.R.S. § 38-624. The automobile travel shall be based upon the distance traveled between the state enforcement office and the location of inspection at the rate established pursuant to A.R.S. § 38-623.

B. Out-of-state travel shall be paid based on published air fares, or equivalent rates, between state enforcement office, Phoenix, Arizona, and the point of inspection, plus necessary supplemental surface transportation and the prevailing per diem subsistence rate as provided by A.R.S. § 38-624. If more than one inspection location is involved, the transportation and per diem cost shall be prorated.

R4-34-604. Alterations

A manufacturer shall ensure that alterations are consistent with applicable standards and codes, as prescribed in R4-34-704(A).

R4-34-605. Plan and supplement approval fees Repealed

A. Definitions for the purpose of this Article are as follows:

1. "Plan" means those documents set out in R4-34-301(A)(4).
2. "Supplement" means a submittal of not more than two sheets which may indicate floor plan dimensional sizes, minor changes which do not change more than 25 percent of a system or configuration, and which shall be incorporated as part of the originally approved plan.

B. The administrative fee for submittal of plans and supplements for review and approval shall be in accordance with R4-34-602(A) and (B).

C. The administrative fee shall be paid at the time of submitting plans and supplements for approval.

D. The Engineering Section shall document all time utilized for review of each submittal and shall charge a fee in accordance with R4-34-602(A) and (B), and no charge shall be less than one hour per submittal.

E. The licensee shall be billed for time utilized for the review and the licensee shall pay such bill within 30 days after review and prior to approval.

F. If a plan or supplement submitted is not acceptable and the licensee fails to supply a complete and correct submittal within 60 days after notification by letter, the submittal fee originally paid by the licensee upon filing shall be forfeited and the submittal returned. Resubmissions shall be accompanied by a new submittal fee.

G. Each plan approval shall be continuously updated to remain current with changes to standards and codes adopted by the Board. This may be accomplished by a supplementary submittal. Plans affected by more than 50 supplement changes shall be resubmitted.

R4-34-605. Reconstruction

A manufacturer shall ensure that reconstruction is consistent with applicable codes, as prescribed in R4-34-704(B).

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R4-34-606. Installation permits and insignia fees Repealed

The fee schedule for permits and insignias for the installation of manufactured and mobile homes and accessory structures shall be as follows:

1. The fees charged by the OA shall be in accordance with R4-34-602(A) and (B).
2. The permit fee charged by local enforcement agencies participating in the Installation Inspection Program shall not exceed the amount established by the Board for the same service.

R4-34-606. Rehabilitation of Mobile Homes

A. A rehabilitation permit shall be obtained from the office prior to any modification of the unit.

B. The following requirements need to be met in order for a mobile home to be issued a certificate of compliance:

1. A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space connecting bedrooms and living areas. When located in a hallway the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located between 4 inches to 12 inches below the ceiling;
2. The walls, ceilings, and doors of each gas fired furnace and water heater compartment shall be lined with 5/16 inch gypsum board, unless the door opens to the exterior of the unit in which case the door may be all metal construction. All exterior compartments must seal to the interior of the unit;
3. Each room designated expressly for sleeping purposes shall have at least 1 outside egress window or approved exit device, unless it has an exterior exit door. The window or exit shall have a minimum clear dimension of 22 inches and a minimum clear opening of 5 square feet. The bottom of the exit shall not be more than 36 inches above the floor;
4. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated 20 amperes or less directly connected to the aluminum conductors shall be marked CD/ALR. Exterior receptacles other than heat tape receptacles, shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) must be connected in accordance with NEC Section 110-14; and
5. The unit's gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least 6 inch mercury or 3 psi gauge for a period of not less than 10 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than 1/10th pound or equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than 10 inches nor more than 14 inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or bubble solution. All gas furnaces and water heaters shall be vented to the exterior in accordance with UMC Chapter 8.

C. The unit shall be inspected by the office to ascertain compliance with paragraph B.

D. The office will issue a certification of compliance for each unit in compliance with Subsection B., and affix an insignia of approval to the exterior wall nearest the point of entrance of the electrical service.

E. Upon request the office will issue a waiver for a unit that does not qualify as a mobile home. The category of the unit will be determined by inspection of the unit or presentation of acceptable documents. The waiver fee is applicable if the category of the unit can be determined to qualify for exemption. If an inspection of the unit is necessary to determine its category, the inspection fee will apply.

F. A person served with a correction notice shall make the required corrections within the time period specified in the notice. The time period will be determined by the office based on the severity of the hazard or violation in the time reasonably needed to make the correction. A minimum of 30 days will be allowed unless an imminent safety hazard is found, or if the correction has been unreasonably delayed. In either event an Order to Vacate will be issued to the person occupying the unit.

G. A person occupying a non-rehabilitated unit will be served with an Order to Vacate that unit within 5 days if on inspection the unit is found to contain an imminent safety hazard.

R4-34-607. HUD monitoring inspection fees Repealed

Each manufactured home manufacturer shall pay a fee as established by the U. S. Department of Housing and Urban Development for each unit manufactured in this state. This fee shall be made payable to the Secretary for purchase of HUD labels. This fee is in addition to the inspection fee required by R4-34-603.

R4-34-607. Manufacturing Inspection and Certification

A. The Department shall conduct manufactured home plant certification under R4-34-102(C) and (D).

B. Before issuing insignias the Department shall certify that each manufacturing facility of factory-built buildings, FBB sub-assemblies, or recreational vehicles is capable of manufacturing the units or subassemblies to the specifications in the approved drawings and the quality assurance manual.

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C. Unit certification:

1. The Department shall conduct manufactured home certification under R4-34-102(C) and (D); and
2. Each manufacturer of factory-built buildings, FBB subassemblies, recreational vehicles, and reconstructed units shall certify compliance with approved plans by affixing an Arizona Insignia of Approval to each unit or subassembly before delivery to a retailer.

D. Records and reporting:

1. Each manufactured home manufacturer shall report affixing HUD labels, complete any other required reports, and establish and maintain records under R4-34-102(C) and (D); and
2. Each manufacturer of factory-built buildings, reconstructed units, FBB subassemblies, and recreational vehicles shall report affixing Arizona Insignias of Approval by the 15th day of each month.

E. The Department shall decertify a production facility for any 1 of the following reasons:

1. An inspector identifies a serious defect existing in more than 1 unit;
2. An inspector identifies 3 or more repetitive failures manufacturing to specifications in the approved plans, codes, or quality assurance manual;
3. A licensee within this state fails to produce approved units for more than 6 consecutive months; or
4. An out-of-state licensee fails to file quarterly inspection reports for a period of 6 consecutive months.

F. Recertification is required when the original certification has failed.

1. The Department shall evaluate the production process to assure the manufacturer's procedures are consistent with the approved plans, codes, and quality assurance manual at every stage of production.
2. Upon the manufacturer's successful completion of the recertification process, the Department shall issue insignias to the manufacturer.

G. Inspection of retailer lots.

1. The Department shall conduct regular inspections of retailer lots to assure compliance with approved plans, codes, and A.R.S. § 41-2195.
2. The Department may require that a manufacturer of units produced and shipped before plan approval remove the units from this state and remove insignias.

~~R4-34-608. HUD label administrative fees~~

~~In addition to the fees required under R4-34-607, each manufactured home manufacturer shall pay to the OA a fee of \$5.00 for each label issued in this state.~~

~~R4-34-609. Administrative function fees~~

~~An administrative function fee in accordance with R4-34-602(A) and (B) shall be charged for each of the following:~~

1. ~~Changing name of license.~~
2. ~~Changing name of license location.~~
3. ~~Adding branch location.~~
4. ~~Deleting branch location.~~
5. ~~Reinstatement of bond.~~
6. ~~Changing licensee's telephone number.~~
7. ~~Processing returned checks.~~
8. ~~Inactive status.~~

~~R4-34-610. Mobile home rehabilitation permit, insignia of approval, inspection fee, and waiver fee~~

~~A. The following fees, established in accordance with R4-34-602(A) and (B), shall be paid for mobile home rehabilitation for purposes of R4-34-107:~~

1. ~~Permit fee~~
2. ~~Insignia fee~~
3. ~~Waiver fee~~
4. ~~Inspection fee~~

~~B. The permit fee includes the cost of the first two inspections. The fee for each subsequent inspection shall be as established in accordance with R4-34-602(A) and (B) plus mileage at the rates established for state employee travel.~~

~~C. The waiver fee is applicable if the category of the unit can be determined to qualify for exemption. If an inspection of the unit is necessary to determine its category, the inspection fee shall be as established in accordance with R4-34-602(A) and (B) plus mileage at the rates established for state employee travel.~~

ARTICLE 7. LICENSING

ARTICLE 7. PLAN APPROVALS

R4-34-701. General Repealed

- ~~**A.** Corporation. Corporate applicants shall submit a copy of the Articles of Incorporation, with all amendments as filed with the Arizona Corporation Commission, or, if a foreign corporation, its Application for Authority to Transact Business.~~
- ~~**B.** Change of address. Licensees shall report changes of business address to the Assistant Director of OA within five days.~~
- ~~**C.** Conditional license. An applicant may request on a form provided by OA a conditional license pending completion of a criminal background analysis.
 - ~~1. The OA shall not issue a license, except under a conditional basis, until the applicant for the license has been investigated and the OA has received and reviewed the criminal background analysis.~~
 - ~~2. Upon receipt and satisfactory review of the applicant's criminal background analysis by the Assistant Director of OA, and upon notification to the applicant, the previously issued conditional license shall automatically be effective as a permanent license to transact business within the scope of the license.~~~~

R4-34-701. General

- A.** Before construction of a unit or subassembly, a manufacturer shall submit to the office:
 - 1. The quality assurance manual required by R4-34-702, and
 - 2. The drawings and specifications required by R4-34-703.
- B.** Before performance of any alteration, a retailer shall obtain plan approval under R4-34-704(A).
- C.** Before installing an accessory structure or ground anchors for a manufactured home, mobile home, or single-family, factory-built building, an installer shall obtain plan approval under R4-34-705.
- D.** Before reconstructing a manufactured home, mobile home, or factory-built building, a manufacturer shall obtain plan approval under R4-34-704(B).
- E.** Before the installation of a factory-built building a person installing the building shall obtain plan approval under R4-34-706.
- F.** The Department shall review all plans within 20 working days after receipt of a complete submittal.
- G.** A manufacturer, retailer, or installer shall provide an original and 1 copy of each submittal.
- H.** The manufacturer, retailer, or installer shall update each plan so that it is consistent with current standards and codes adopted by the Board. Supplements are acceptable for this purpose.
- I.** Plans submitted shall be stamped by an engineer registered by the State of Arizona.

R4-34-702. Manufacturers Repealed

- ~~**A.** Quality assurance manual compliance. Each manufacturer will follow the procedures described in the approved quality control manual during the manufacturing of each unit or subassembly.~~
- ~~**B.** Complaint service
 - ~~1. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off form from the complainant that the verified complaint has been satisfied.~~
 - ~~2. Each manufactured home manufacturer shall also comply with Subpart I of the U.S. Department of Housing and Urban Development Manufactured Home Procedural and Enforcement regulations.~~~~
- ~~**C.** Certification of compliance of units and subassemblies
 - ~~1. Manufactured home certification shall be pursuant to the Act.~~
 - ~~2. Each manufacturer of factory-built buildings, subassemblies, recreational vehicles, and reconstruction manufacturers shall certify compliance with approved plans by affixing an Arizona Insignia of Approval to each unit or subassembly prior to delivery to a dealer. Such insignia shall be affixed on the exterior visible surface as shown in the plan approval drawings.~~
 - ~~3. Units that have been reconstructed as defined in R4-34-106, shall have an Arizona Insignia of Approval affixed by the manufacturer. Such insignia shall be affixed on the exterior surface as shown in the plan approval drawings.~~~~
- ~~**D.** Reporting of certification of compliance
 - ~~1. Each manufactured home manufacturer will report affixment of HUD labels, complete any other required reports and establish and maintain records pursuant to the Act.~~
 - ~~2. Each manufacturer of factory-built buildings, subassemblies, and recreational vehicles will report affixment of Arizona Insignias of Approval and shipment of units and subassemblies, pursuant to administrative publications to all licensees.~~
 - ~~3. Each manufacturer, who reconstructs any unit, will report affixment of Arizona Insignias of Approval and shipment of units, pursuant to administrative publications.~~~~

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- E.** Each out of state manufacturer of manufactured homes shall submit to the OA a list of the names and addresses of all Arizona distributors and dealers authorized to receive its product line. Such list shall be kept current by notifying the OA of any additions prior to shipment and any deletion within 15 days.

R4-34-702. Quality Assurance Manuals

- A.** A manufacturer of manufactured homes shall prepare the quality assurance manual required by R4-34-102(C) and (D).
- B.** A manufacturer of factory-built buildings, FBB or RV subassemblies, or recreational vehicles shall prepare a quality assurance manual that has all of the following attributes:
1. Format:
 - a. 8½ by 11 inch size.
 - b. An index page, and
 - c. Revision traceability.
 2. Contents:
 - a. An organization chart, by position, of all quality control personnel responsible for compliance of incoming components and in-plant manufacturing activities;
 - b. A description of the quality assurance program adhered to by personnel listed on the organization chart;
 - c. A flow chart depicting the minimum in-plant inspection requirements, using stations, a production control routing document, stage of manufacture or type of work control, or an equivalent method of in-plant inspection;
 - d. A description of tests performed and test equipment used;
 - e. Procedures for receiving, inspection, damaged material handling, and stock rotation;
 - f. Procedures for control of drawings and insignias; and
 - g. Procedures for record keeping.

R4-34-703. Dealers and brokers

- A.** Alterations by dealers. Prior to the start of any alteration, the licensee shall obtain plan approval for such alteration, pursuant to R4-34-304.
- B.** Certification of compliance of units and subassemblies
1. Each dealer shall ensure that each new unit or subassembly bears the appropriate HUD label, or Arizona Insignia of Approval, prior to offering the unit for sale.
 2. For the purpose of these rules "new" means: a unit or subassembly NOT previously sold to a "purchaser".
- C.** Noneonformances
1. "Noneonformance" means: any noneonformance listed under "description of violation" in an inspection report signed by a representative of the OMH and delivered to a licensee or employee thereof, whether or not such dealer concurs with the report.
 2. Prior to a sale each dealer shall:
 - a. Correct, or ensure that the manufacturer corrects, all known or alleged noneonformances; or,
 - b. Make written request to the OMH for a review of any alleged noneonformance.
 3. A notice of noneonformance shall be removed only by OMH personnel or upon written authorization from the Assistant Director of OMH.
- D.** Complaint service:
1. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off from the complainant that the verified complaint has been satisfied.
 2. Each manufactured home dealer shall also comply with Subpart I of the U.S. Department of Housing and Urban Development Mobile Home Procedural and Enforcement regulations.
- E.** Each dealer who displays for sale, offers for sale, or sells a new recreational vehicle which has been manufactured in two or more stages shall inform the buyer that the recreational vehicle has been so manufactured and shall provide the purchaser with a form, approved by the OA, which sets forth the date of chassis and engine manufacture and the date and model year of the other stages of the vehicle as furnished to the dealer at the time he receives the manufacturer's statement of origin. The licensee shall retain for one year after date of sale a copy of the form, which shall be signed by the purchaser prior to entering into any sales contract, indicating that the purchaser has received a copy of the form.

R4-34-703. Drawings and Specifications

- A.** A manufacturer of manufactured homes shall submit drawings and specifications that comply with applicable requirements of R4-34-102(C) and (D).
- B.** A manufacturer of factory-built buildings or FBB subassemblies shall submit plans that comply with the codes in R4-341-2(E). The plans shall provide or have the following information or format attributes:
1. An indentured set of drawings, process, descriptions, component lists, shop drawings, or other documents that specify and identify each component, process, assembly operation, and manufacturing step;

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2. A complete set of dimensional views designating the location of all processes performed in the manufacture of the unit or subassembly;
 3. A complete listing of all components and subassemblies by cross identification to usage;
 4. A traceable identification for each component and subassembly listed;
 5. A complete listing of all processes by cross identification to usage;
 6. An on-site foundation specification for each unit for a given soil bearing capacity;
 7. The location and process of the permanent serial number; and
 8. The location of the Arizona Insignia of Approval.
- C.** A manufacturer of recreational vehicles or RV subassemblies shall submit plans that comply with the codes in R4-34-102(A) or (B). When preparing plans, the plans shall provide or have the following information or format attributes:
1. A floor plan that provides traceability to systems or typical plans by numerical or alphabetical identification.
 2. Sheets and revisions that are uniquely identified by a heading or number and a date of issuance.
 3. A floor plan for each model including, at minimum:
 - a. Dimension or scaled presentation showing overall size;
 - b. Location of windows, exterior exits, and alternate egress means;
 - c. Location of partitions and interior walls; and
 - d. Location of appliances; fixtures; fire extinguishers; heating and return air registers; connections for drain, water, gas, and electrical; permanent vehicle identification number, and Arizona Insignia of Approval.
 4. Drawings or schematics and specifications depicting plumbing systems including, at minimum:
 - a. Description and, if applicable, listing agency of materials, fixtures, fittings, pipe and tubing, shower doors, and appliances;
 - b. Diameter and type of pipe and tubing, length of inch O.D. tubing, and all trap arms;
 - c. Size and type of fittings;
 - d. Methods of securing drain, waste, and vent piping;
 - e. Diagrams of potable water supply, waste, vent, and drain systems; and
 - f. Location of all cleanouts.
 5. Drawings or schematics and specifications depicting mechanical systems including, at minimum:
 - a. Description and, if applicable, listing agency of materials, fittings, pipe, tubing, appliances, heating ducts, and registers;
 - b. Diameter, length, and type of gas pipe and tubing, and total developmental length;
 - c. Size and type of gas or oil fittings, valves, and connectors;
 - d. Diagram of the fuel piping system;
 - e. Locations of fuel piping supports and methods of securing the supports;
 - f. BTUH input rating of all fuel-burning appliances;
 - g. Location of LP gas containers, method of securing the containers, including supporting calculations or test reports, and method of protection from vehicle exhaust system heat;
 - h. Clearances between range burners and combustible materials and method of protection where required; and
 - i. Gauge, size, and type of warm air ducts and return air ducts.
 6. Drawings or schematics and specifications depicting the electrical system including, at minimum:
 - a. Description and listing agency of 115/230 volt wiring materials;
 - b. Description, rating, and if applicable, listing agency of devices and appliances;
 - c. Type and rating of power supply assembly;
 - d. Number of branch circuits and rating of each circuit;
 - e. Electrical load calculations if applicable;
 - f. Location and number of outlets, fixtures, and appliances fixed in place on each circuit;
 - g. Conductor size, type, and material, and over-current protection device for each circuit;
 - h. Installation of compartment installed batteries;
 - i. Methods of grounding all exposed non-current carrying metal parts;
 - j. Location of generator and method of electrical installation; and
 - k. If applicable, a diagram of any low voltage electrical system including conductor size and material, over-current protection, fixture and motor loads, and power supply.
 7. Drawings or schematics and specifications depicting compliance with fire and life safety provisions including, at minimum:
 - a. Description and flame spread ratings of interior finished materials;
 - b. Description and combustibility compliance of textile or film materials, if applicable;
 - c. Size and type of alternate egress;
 - d. Location of gasoline filler spouts and engine exhausts; and
 - e. Sealing of gasoline filler spouts and generator compartment from the interior of the unit.

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R4-34-704. Installers Repealed

- ~~A. Plan approval. The installer shall obtain ground anchoring approval pursuant to R4-34-306 prior to anchoring any manufactured home, mobile home, or single family factory built building.~~
- ~~B. Reports. Each installer shall make a monthly report regarding affixment of Insignias of Approval pursuant to administrative procedure established and published by the Assistant Director of OA.~~
- ~~C. Insignia of approval. An Insignia of Approval shall be affixed to each manufactured home, mobile home, or single family factory built building on the exterior wall nearest the point of entrance of the electrical service.~~
- ~~D. Complaint service. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off from the complainant that the verified complaint has been satisfied.~~
- ~~E. Utility service facilities.
 - 1. If the manufactured home, mobile home, or single family factory built building is to be installed in a mobile home park, the installer shall ascertain the compatibility between the existing utility service facilities and the utility connections of the manufactured or mobile home before entering into the installation agreement.
 - 2. Unless properly licensed to perform the necessary work, an installer shall not enter into an agreement to connect a manufactured home, mobile home, or single family factory built building to utility service facilities which are not compatible with the manufactured home, mobile home, or single family factory built building.~~
- ~~F. The licensee who contracts to install a unit subject to this Article shall, prior to beginning the installation of such home, verify that a valid installation permit has been obtained from the OA for all phases of the installation.~~

R4-34-704. Alterations or Reconstruction

- A. Alterations.
 - 1. A retailer or broker performing any alteration shall send notice of the alteration to the manufacturer of the unit.
 - 2. The retailer or broker shall prepare a detailed set of drawings and specifications that depict all aspects of the alterations and any serial numbers of the unit.
 - 3. The retailer or broker shall not prepare manufactured home plans that are not consistent with the manufactured home construction and safety standards prescribed in R4-34-102(C) and (D).
 - 4. The retailer or broker shall ensure that factory-built building and FBB subassembly plans comply with R4-34-703(B).
 - 5. The retailer or broker shall ensure that recreational vehicle plans comply with R4-34-703(C).
- B. Reconstruction.
 - 1. A manufacturer shall comply with the codes in R4-34-102 when preparing reconstruction plans.
 - 2. The manufacture shall prepare a detailed set of drawings and specifications that depict all aspects of the reconstruction and contains the serial number.

R4-34-705. Accessory Structures and Ground Anchoring

- A. Accessory structures.
 - 1. An installer shall comply with the Uniform Building Code when preparing accessory structure plans.
 - 2. The department may approve a design that does not comply with the Uniform Building Code if an Arizona Registered Engineer has engineered the design to standards at least equivalent to those in the code.
 - 3. An installer shall submit plans for all accessory structures except skirting, evaporative coolers, refrigeration, air conditioning systems, and storage rooms of less than 120 square feet.
- B. Ground anchoring plans shall be certified by a registered engineer or approved by the Office of Manufactured Housing.
 - 1. An installer shall comply with the requirements in R4-34-102(E) or the manufacturer's installation manual when preparing ground anchoring plans.
 - 2. The plans shall be of sufficient detail and description that all materials, dimensions, and processes can be readily identified.

R4-34-706. Factory-Built Building Installation

- A. An installer shall complete and submit an application form obtained from the Office of Manufactured Housing.
- B. An installer shall include the following in the installation plans.
 - 1. The site plans, including the location of the building and location of all utility lines;
 - 2. The foundation plans, including:
 - a. A description of the soil class and the soil bearing pressure;
 - b. Footings designed to meet the minimum bearing pressure at the depth required;
 - c. A complete set of drawings indicating dimensions and details of the foundation footing and anchoring; a complete list of materials, and a cross-identification of how materials will be used, in the appropriate view; and
 - d. Calculations, prepared by an engineer, for all load conditions, including wind loads for horizontal loads, uplift loads, and overturning, horizontal, and torsional earthquake effects on foundations.
 - 3. Electrical drawings, including the isometric one-line diagram required by R4-34-102(F), that contains the following information:

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- a. Size, type of conductors, length of feeders, and all amperage;
 - b. Dimensions of gutterways and raceways;
 - c. Complete details of panelboards, switchboards, and distribution centers; and
 - d. All grounding and bonding connections.
4. Plumbing drawings, including any one-line diagrams required by R4-34-102(E)(3), that contain the following information:
- a. Location of sewer tap, water meter, and gas meter;
 - b. Size, length, and all materials for sewer, water, and gas lines; and
 - c. Location of all cleanouts and grade of sewer line.

ARTICLE 8. BOND REQUIREMENTS

ARTICLE 8. PERMITS AND INSTALLATION

~~R4-34-801. Surety bond forms Repealed~~

~~Manufacturers, dealers, and brokers, except dealers and brokers of manufactured homes, mobile homes, or single family factory-built buildings, and installers shall submit a surety bond on a form provided by the OA.~~

R4-34-801. Permits

- A. A licensee or consumer shall obtain a permit for the installation of manufactured homes, mobile homes, factory-built buildings, accessory structures, or rehabilitation of mobile homes.**
- B. The Office of Manufactured Housing shall issue or deny a permit within 7 working days from the date the application is received.**
- C. A licensee or consumer shall obtain a permit before commencing any work and post the permit in a conspicuous location on site. The licensee who contracts to install a unit or a licensed installer who subcontracts to perform the installation shall verify that a valid installation permit has been obtained before beginning the installation.**
- D. Local jurisdictions that have entered into agreement with the Office of Manufactured Housing may issue permits and conduct inspections.**
- E. A permit fee shall be charged either by the office or the local jurisdiction participating in the installation inspection program. The fee charged by the office shall be the amount established by the Board of Manufactured Housing under A.R.S. § 41-2144(A)(5). The fee charged by a local jurisdiction shall not exceed the amount established by the Board under A.R.S. § 41-2144(A)(5).**
- F. Every permit except special use permits expires 6 months from the date the permit is issued. The Office may extend the permit for good cause.**
- G. Commercial factory-built buildings shall require a certificate of occupancy before occupying the building.**
- H. The permit holder, owner, or contractor shall call for all required inspections.**
- I. All work required on the permit shall be accessible (opened) for inspections.**
- J. Approved plans or the manufacturer's installation manual shall be available on site.**
- K. A special use permit for factory-built buildings used for events of 45 days or less may be obtained. The permit is temporary and shall expire 45 days from the date of purchase. The unit shall be removed from the site upon the expiration of the permit.**

~~R4-34-802. Cash deposit provisions Repealed~~

- ~~A. Any applicant, except those exempt under R4-34-801, for a license or any applicant for the renewal of an existing license who desires to post cash in lieu of a commercial surety bond in order to meet the requirements for a license shall deposit with the Assistant Director of the OA any one of the following:~~**
 - ~~1. Cash;~~
 - ~~2. Certified check payable to the State Treasurer;~~
 - ~~3. Cashier's check payable to the State Treasurer;~~
 - ~~4. Bank money order payable to the State Treasurer;~~
 - ~~5. Postal money order payable to the State Treasurer.~~
- ~~B. A personal check is not acceptable.~~**
- ~~C. Upon receipt of the deposit, the Assistant Director of OA shall cause to be issued a receipt to the applicant as evidence of cash deposit.~~**
- ~~D. The Assistant Director of OA shall then cause to be prepared in quadruplicate the cash deposit form which shall be forwarded to the State Treasurer with the deposit. After the cash deposit forms are approved and dated by the State Treasurer, the distribution of the forms is as follows:~~**
 - ~~1. Copy A—the State Treasurer for his files.~~
 - ~~2. Copies B and C—the Assistant Director of the OA.~~
 - ~~3. Copy D—the Accounts and Controls Section, Division of Finance, Department of Administration.~~

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- E. Upon receipt by the Assistant Director of OA, he shall attach copy B to the depositor's application for license to become an official part thereof and shall mail copy C to the licensee at the address shown in the files.
- F. Upon the receipt by the Assistant Director of OA of an order from any court for the payment of funds under deposit, the Assistant Director shall authorize the State Treasurer to make payment as provided by said court order. Upon receipt of notice of payment, the Assistant Director shall notify the licensee at the latest address on file with the OA of such payment, and, if applicable, notice that such license was suspended by operation of law at the time of such payment and shall remain so suspended until such time as the licensee files additional cash returning the cash deposit to the required balance or, as an alternative, a commercial surety bond for the full amount as provided by law. Upon deposit by the licensee of the necessary cash or commercial surety bond, the suspended license shall be reinstated.
- G. The cash deposit receipt form on file as hereinabove provided is not transferable and shall remain a permanent part of the license to which it is attached.
- H. A cash deposit as hereby and above provided shall be made in the name of the applicant as it appears on the license application.
- I. Withdrawal of cash deposit may be made under the following circumstances:
 - 1. When for any reason after application is made the license is not issued.
 - 2. When license has been terminated for two years or more either by expiration, revocation or voluntary cancellation, if there are no outstanding or pending claims filed with the Office of the Attorney General against the deposit.
 - 3. When a commercial surety bond is posted as a replacement for the cash deposit, the liability against the cash deposit will be terminated two years after the filing of a commercial surety bond if there are no outstanding claims.
- J. Request for withdrawal shall be made on forms provided by the Assistant Director of OA. The cash deposit withdrawal request forms shall be prepared in quadruplicate and presented to the Assistant Director. Upon approval, the Assistant Director shall forward the cash deposit withdrawal request to the State Treasurer. Distribution of the copies is as follows:
 - 1. Copy A — the State Treasurer.
 - 2. Copies B and C — the Assistant Director of OA to become part of the license file.
 - 3. Copy D — the Accounts and Controls Section, Division of Finance, Department of Administration. The State Treasurer may prepare a warrant in the amount due and send it to the Assistant Director of OA who shall forward such warrant by certified mail to the licensee together with copy C of the withdrawal form.
- K. A cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, or in the case of a corporation any person with written evidence of authority to withdraw the cash deposit, and in all other cases by any person who can establish legal right to said deposit.
- L. A licensee who furnished a cash deposit in lieu of a surety bond upon applying for a license name change shall also execute the change on the cash deposit on a form provided by the OA.

R4-34-802. General Installation

- A. An installer or contractor shall affix and complete an Arizona Insignia of Approval to each manufactured home, mobile home, or single-family factory-built building at the tail-light end of each unit, approximately 1 foot up from the floor and 1 foot in from the road side. "Road side" means the right side of the unit when viewing the unit from the hitch. The installer or contractor shall affix the insignia before calling the Office for an inspection.
- B. An installer or contractor shall make a report by the 15th of each month regarding compliance with subsection (A).
- C. An installer or contractor shall check with local jurisdictions for frost line requirements governing permanent foundations or utilities.
- D. An installer or contractor shall install multi-sectional manufactured homes manufactured after June 30, 1977, according to the manufacturer's instructions for joining the sections, making utility cross-over connections, and providing center (marriage) line and perimeter supports if the instructions are consistent with this Chapter.

R4-34-803. Soil and Materials

- A. A licensee who contracts with the consumer for an installation shall perform or contract for any site preparation necessary to make the site compatible with the manufactured home, mobile home, or single-family factory-built building. The licensee may contract with a licensed installer or other qualified professional to assess site and soil compatibility or perform any necessary preparation work. The party actually performing the site compatibility assessment or work is primarily responsible for work related to site compatibility or preparation. The licensee who contracts with the consumer, if a different entity, is secondarily responsible.
- B. Soil Preparation
 - 1. Unless contrary to law, an installer or contractor shall:
 - a. Divert any surface water away from the dwelling, any accessory structures, and their support components;
 - b. Provide sufficient drainage to prevent standing water and soil saturation detrimental to structures;
 - c. Establish soil grades that slope away from the dwelling, any accessory structures, and their support components; and
 - d. Compact all fill and backfill within 6 feet of the perimeter of the unit to prevent displacement.

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2. When determining soil compaction an installer or contractor shall:
 - a. Assume a minimum bearing capacity of 1,000 psf, or
 - b. Test and prove a minimum bearing capacity of 1,000 psf to on-site inspector, or
 - c. Adhere to the design, provided on-site, of a registered engineer.
- C. Materials: An installer or contractor shall
 1. Use materials that comply with the standards incorporated in R4-34-102: Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, and HUD standards (24 CFR 3280); and
 2. Test metal supports to ensure they can withstand 15,000 pounds of downward pressure per 24 CFR 3280.401 as published October 25, 1993, in 58 FR #204.
- D. Footings: An installer or contractor shall
 1. Place each footing on a surface capable of distributing equalized transfer of applied loads;
 2. Calculate and use the minimum size of each footing, using the local soil conditions, necessary to minimize settling of the unit;
 3. Use piers with a maximum square base of 11½ inches installed on 12 by 12 inch footings to support mobile and manufactured homes manufactured before January 1, 1984;
 4. Use main frame blocking installed on footings with 144 square inches of surface placed 3 feet, 6 inches from center, or footings with 256 square inches of surface placed at 6 foot intervals to support manufactured homes manufactured on or after January 1, 1984;
 5. Use footing material with 1 of the following attributes:
 - a. Minimum 3/4-inch thick plywood or 2 layers of 5/8-inch thick plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact, conforming to Uniform Building Code Section 2303-3.1;
 - b. Minimum 2-inch nominal thickness wood no less than 12 inches-wide, and treated for ground contact, conforming to the Uniform Building Code Section 2303-3.1;
 - c. Minimum 3-inch thick precast concrete pad with either 256 or 144 square inches of ground surface. The concrete shall have a minimum of 28 days compressive strength of not less than 4000 pounds per square inch; or
 - d. Hard plastic pad with either 256 or 144 square inches of ground surface. The plastic pad shall withstand a minimum vertical concentrated load failure rating of 15,000 pounds when tested on very dense and coarse gravel soils. "Failure" means that cracks at least 4 inches in length have appeared anywhere on the pad, or pad's surface has curled or bowed.
 6. Stack plywood with face grain perpendicular and fasten the plywood with corrosion resistant nails or 7/16-inch wide-crown staples or screws;
 7. Fasten wood products that are stacked with corrosion-resistant nails or 7/16-inch wide-crown staples or screws;
 8. Not use any 2-inch thick piece of wood with split penetration greater than 4 inches into the end of the piece and parallel to the edges of the piece;
 9. When precast concrete pads are stacked use pads with equal sized surface sides;
 10. When concrete masonry unit (CMU) building blocks are utilized for supports, use only 256 square inch ground and 8 inch by 16 inch caps;
 11. Stack plastic pads only when the pad is provided with an interlocking system; and
 12. Stack no more than 2 equal sized concrete pads per support.
- E. Supports (piers): An installer or contractor shall
 1. Place supports or piers on footings that do not exceed the size of the footing;
 2. Ensure that supports or piers bear no greater load than 8,000 pounds;
 3. Ensure that supports or piers have a minimum vertical concentrated load failure rating of 15,000 pounds.
 4. Not use supports with a height in excess of 36 inches or less than 12 inches for no more than 25% of the supports along the main beams of the chassis, including footing;
 5. For below ground installations, ensure that the height of the bottom of the perimeter rim joist is a minimum of 6 inches above finished grade;
 6. Ensure that the height of the bottom of the floor joist is a minimum of 18 inches above soil base unless otherwise specified by the manufacturer in instructions consistent with this Chapter;
 7. Locate supports or piers under the main beams of the chassis at intervals no greater than 6 feet and no more than 2 feet from either end of each main beam. When intervals no greater than 6 feet are not feasible because of running gear, supports shall be located as close as possible to the running gear with the remainder of the supports spaced according to the 6 and 2 foot requirements.
 8. Stagger the flanges on top of supports or piers so that every other flange is on the opposite side of the beam; and
 9. Construct permanent support heights to the applicable requirements of the Uniform Building Code.
- F. Wedges: An installer or contractor shall
 1. Use 2 wedges in alignment per support;
 2. Use wedges that are a minimum of 2 inches by 4 inches by 4 inches; and

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3. Drive wedges in tightly so that the overlap does not fill more than 1 inch at the support.

G. Anchoring/Tiedowns

When a unit is to be anchored an installer or contractor shall anchor the unit as directed by the Uniform Building Code or the manufacturer's installation manual.

H. Snow/Wind Loads

1. Under 24 CFR 3282.11 and 3210.305 of the HUD regulations, the authority having jurisdiction may not require manufactured homes to be built or installed to a snow load greater than 20 pounds per square foot unless they have received approval from HUD.
2. Manufactured homes may be manufactured and installed, at the owner's option, to withstand greater than a 20 pound snow load. An installer or contractor shall install these units according to the manufacturer's instructions for the foundation support system if the instructions are consistent with this Chapter.

I. Permanent Foundation Systems

1. An installer or contractor shall install factory-built buildings as prescribed in the Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, and National Electrical Code incorporated in R4-34-102.
2. An installer or contractor shall install manufactured and mobile homes according to the manufacturer's permanent foundation requirements or sealed engineered plans if the requirements or plans are consistent with this Chapter.

R4-34-804. Utilities

A. Utility service facilities

An installer or contractor shall not enter into an agreement to connect units to utility service facilities that are not compatible with the units.

B. Electric - An installer or contractor shall make all electric connections or installations according to the National Electric Code, R4-34-102(F).

1. An installer or contractor shall connect manufactured or mobile homes using a piece of flexible metal conduit no greater than 36 inches and no less than 18 inches long. Liquidtight, flexible metal conduit shall be used when a manufactured home is set at ground level or in wet locations. The installer or contractor shall connect the flexible metal conduit at the location so that only the rigid conduit emerges from the ground at a minimum of 6 inches above ground level.
2. When service equipment is installed on a manufactured home, an installer or contractor shall install the grounding electrode according to the manufacturer's instructions or Article 250 A and B and table 250.122 of the National Electrical Code. The following items shall be installed according to the National Electrical Code:
 - a. Feeder size according to Table 310-15(B)(6).
 - b. Power supply cord according to 550-5, and
 - c. Conduit according to Chapter 9 (including appendix C).

C. Sewer - An installer or contractor shall make sewer connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated in R4-34-102(E)(3).

D. Water - An installer or contractor shall make water connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated in R4-34-102(E)(3).

E. Gas - An installer or contractor shall make gas connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated by R4-34-102(E)(3).

1. The installer shall perform a gas test with the gas appliance flex connectors capped and the valves in the open position. The installer or contractor shall pressurize the system at 6 inches of mercury (45 ounces of mercury) or 3 psi gauge for 15 minutes. The system passes if there is no drop in pressure during the test. Pressure shall be measured with a mercury manometer or slope gauge calibrated in increments not greater than 1/10th of a pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure test.
2. The flexible connector shall not be more than 6 feet long.

F. Flex connectors are not required for permanent foundation systems.

R4-34-805. Accessory Structures

A. For the purpose of A.R.S. § 41-2142(1), the word "attached" means fastened to the manufactured or mobile home; single-family, residential, factory-built building; or accessory structure at the time of its installation and removable without degradation of the structural integrity of the unit.

B. An installer or contractor shall install, assemble, or construct each accessory structure according to the Uniform Building, Uniform Mechanical, Uniform Plumbing, and the National Electric Codes or according to the manufacturer's installation instructions if the instructions are consistent with this Chapter.

C. An installer or contractor installing manufactured homes, mobile homes, or factory-built buildings shall provide an opening that permits access to the underfloor area. If it is through the skirting, retaining wall, or perimeter foundation wall, the access opening shall measure at least 18 inches by 24 inches.

D. The Department shall approve or reject plans as prescribed in R4-34-705.

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E. Above or Below Grade Skirting

1. For all skirting an installer or contractor shall:
 - a. Provide an 18 inch by 24 inch minimum access crawl hole.
 - b. Ventilate skirting according to the Uniform Building Code, and
 - c. Install skirting according to this Chapter or the manufacturer's instructions.
2. For below grade skirting the installer shall:
 - a. Comply with the minimum acceptable below grade skirting design found in the Below Grade Skirting Specifications of Exhibit 1, or
 - b. Design and construct the skirting as a retaining wall according to the Uniform Building Code.
3. The installer shall use skirting rated for exterior and soil contact.

EXHIBIT 1 - DIAGRAM 1

CROSS SECTION VIEW OF TYPICAL SKIRTING

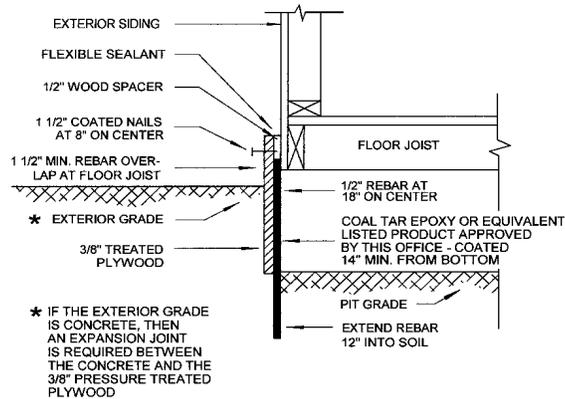


EXHIBIT 1 - DIAGRAM 2

VIEW OF CORNER SECUREMENT

THE 3/8" TREATED PLYWOOD SHALL BE FASTENED TO A PRESSURE TREATED 2 X 4 (AT EACH CORNER) WITH 1 1/2" COATED NAILS AT 6" ON CENTER

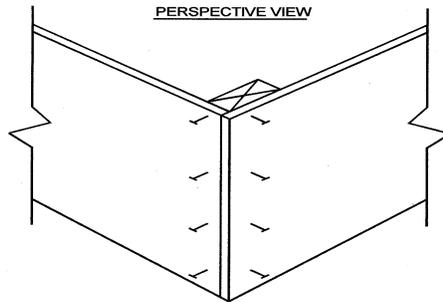
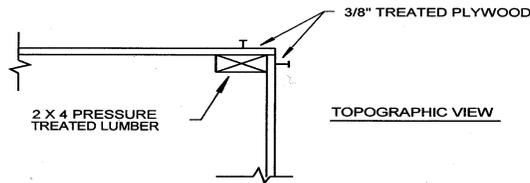
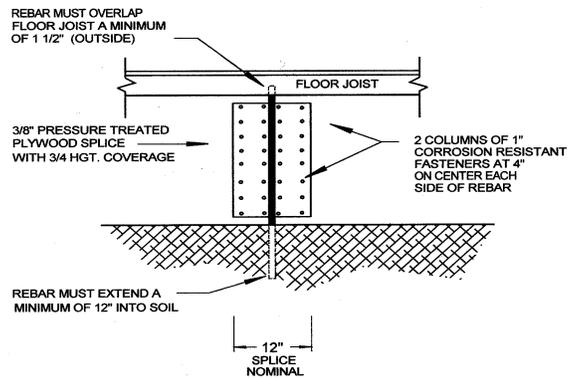


EXHIBIT 1 - DIAGRAM 3

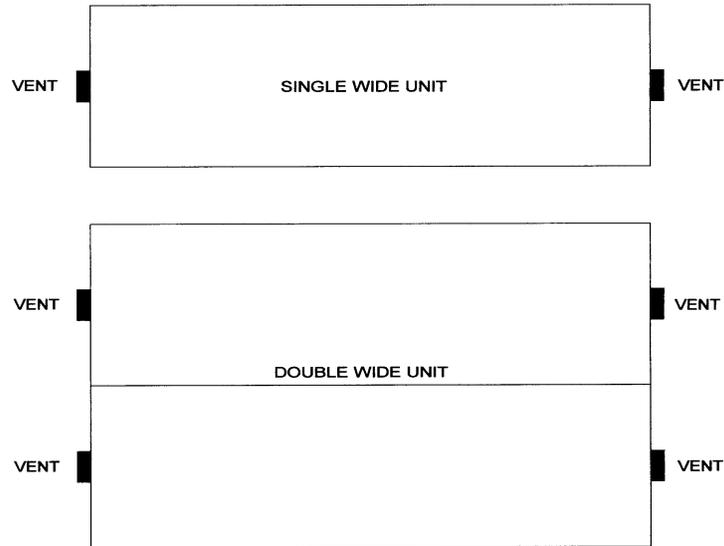
3/8" TREATED PLYWOOD SPLICE DETAIL
INSIDE VIEW



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EXHIBIT 1 - DIAGRAM 4

TOPOGRAPHIC VIEW OF VENT LOCATION
FOR UNDERGROUND SKIRTING



VENT SIZE SHALL REQUIRE 1 SQUARE FOOT
PER 150 SQUARE FEET OF FLOOR AREA.

VENT LOCATIONS ARE OPTIONAL; HOWEVER
CROSS VENTILATION IS REQUIRED.

~~**ARTICLE 9. ADMINISTRATIVE PROCEDURES**~~

ARTICLE 9. Reserved

R4-34-901. Rehearing

- ~~**A.** A petition for rehearing filed pursuant to A.R.S. § 41-2184 may be amended at any time before it is ruled upon by the Director. A response may be filed within ten days after service of such petition or amended petition by any other party or the Attorney General. The Director may require the filing of written briefs upon the issues raised in the petition and may provide for oral argument.~~
- ~~**B.** The Director may affirm the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any of the reasons set forth in A.R.S. § 41-2184(D). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.~~
- ~~**C.** When a petition for rehearing is based upon affidavits, they shall be served with the petition. An opposing party or the Attorney General may within ten days after such service serve opposing affidavits.~~

~~**ARTICLE 10. RENUMBERED**~~

ARTICLE 10. ADMINISTRATIVE PROCEDURES

R4-34-1001. Rehearing or review

- ~~**A.** A party may amend a petition for rehearing or review filed under A.R.S. § 41-2184 at any time before it is ruled upon by the Director. The opposing party may file a response within 15 days after the date the petition or amended petition is filed.~~

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The Director may require the filing of written briefs explaining the issues raised in the petition and provide for oral argument.

- B.** The Director may affirm or modify the decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in A.R.S. § 41-2184(D). An order modifying the decision or granting a rehearing shall specify with particularity the grounds on which the modification or rehearing is granted, and any rehearing shall cover only those matters.
- C.** When a petition for rehearing or review is based upon affidavits, they shall be served with the petition. An opposing party or the Attorney General may, within 10 days after service, serve opposing affidavits.
- D.** Not later than 15 days after the date of the decision, the Director may grant a rehearing or review on the Director's own initiative for any reason for which the Director might have granted relief on the petition of a party. The Director may grant a petition for rehearing or review, timely served, for a reason not stated in the motion.

~~ARTICLE 11. RENUMBERED~~

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

MOTOR VEHICLE DIVISION

PREAMBLE

- 1. Sections affected:**
R17-4-709.09
Form A
- Rulemaking Action:**
New Section
New Form
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 28-366
Implementing statute: A.R.S. § 28-1462(E), as added by Laws 1999, Ch. 303, § 8, effective August 6, 1999
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 5 A.A.R. 2181, July 9, 1999
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Lynn S. Golder
Address: Arizona Department of Transportation
Motor Vehicle Division, Mail Drop 507M
3737 North 7th Street, Suite 160
Phoenix, Arizona 85014
Telephone: (602) 712.7941
Fax: (602) 241.1624
E-mail: lgolder@dot.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Arizona Department of Transportation, Motor Vehicle Division ("Division") proposes an ignition interlock device ("IID") installer bond rule that gives effect to new A.R.S. § 28-1462(E). The proposed rule sets the bond at \$25,000; requires installers of Division-certified IIDs to submit and maintain the bond; and includes the IID installer bond form, Form A, approved by the Division.

The Notice of Proposed Rulemaking for the Division's rules relating to IID certification, reliability, and accuracy assurance appeared at 5 A.A.R. 1967, June 18, 1999. Development and approval of the IID installer bond form proceeded into July 1999. Therefore, the Division is making, as a separate rulemaking action, the installer bond rule and approved bond form.

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6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

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

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

A.R.S. § 28-1462(E), added by Laws 1999, Ch. 303, § 8, requires an installer of a Division-certified IID to obtain the surety bond approved by the Division and submit the bond to the Division.

To comply with the statutory requirement, installers of Division-certified IIDs incur the cost of the bond premium. Bonded IID installers will benefit from the ability to install, service, and remove Division-certified IIDs.

The Division incurs the costs of developing and approving the installer bond form, making the installer bond rule, and enforcing the statutory bond requirement.

Insurance companies and surety companies benefit from installer bond premiums, with the possibility of incurring costs to provide indemnification under an installer bond.

Participants in the IID program, those ordered by Arizona courts to install certified IIDs in their motor vehicles, benefit from having bonded installers to install, service, and remove certified IIDs. The installer bond premium may result in some increase in participants' costs.

IID manufacturers benefit from appointing bondable IID installers, who reliably install, service, and remove certified IIDs. The installer bond premium may result in some decrease in the amount paid for territorial rights by installers to manufacturers.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Lynn S. Golder
Address: Arizona Department of Transportation
Motor Vehicle Division, Mail Drop 507M
3737 North 7th Street, Suite 160
Phoenix, Arizona 85014
Telephone: (602) 712-7941
Fax: (602) 241-1624
E-mail: lgolder@dot.state.az.us

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments on the proposed rulemaking or preliminary summary of economic, small business, and consumer impact should be submitted to the person specified in question #3 no later than the close of the record at 5 p.m., Friday, September 24, 1999.

An oral proceeding is scheduled as follows:

PHOENIX

Date: Monday, September 20, 1999.
Time: 2 p.m.
Location: Arizona Department of Transportation Auditorium
206 South 17th Avenue, Room 107
Phoenix, Arizona 85007

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

Not applicable.

12. Incorporations by reference and their location in the rules:

None.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

MOTOR VEHICLE DIVISION

ARTICLE 7. MISCELLANEOUS RULES

Sections

R17-4-709.09. Ignition Interlock Device Installer Bond Requirements

Form A. Ignition Interlock Installer Bond

ARTICLE 7. MISCELLANEOUS RULES

R17-4-709.09 Ignition Interlock Device Installer Bond Requirements.

- A.** The amount of the ignition interlock installer bond is \$25,000.
- B.** Form A Ignition Interlock Installer Bond, that follows this Section, is the approved bond form.
- C.** Before installing, servicing, or removing a Division-certified ignition interlock device, an installer shall:
 - 1.** Be appointed by a manufacturer as an authorized installer of an ignition interlock device model certified by the Division or for which the manufacturer seeks certification;
 - 2.** Obtain an ignition interlock installer bond in the approved form from a surety company authorized by the Arizona Department of Insurance to do general surety business in Arizona; and
 - 3.** Submit the original completed Form A to the Arizona Department of Transportation, Motor Vehicle Division, Enforcement Services, 2500 West Broadway Road, Tempe, Arizona 85282.
- D.** An installer shall maintain an ignition interlock installer bond in the approved form while installing, servicing, or removing Division-certified ignition interlock devices.
- E.** An installer appointed to install, service, and remove more than 1 certified IID model needs only 1 bond.

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Form A



Enforcement Services
 Motor Vehicle Division
 2500 W Broadway Rd
 Tempe AZ 85282

**IGNITION INTERLOCK INSTALLER
 BOND**

Principal Name (Ignition Interlock Device Installer)		Bond Number	
Trade Name/Doing Business As		Business Type	<input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation
Business Location City		State	
Surety Name		Surety State	

The Surety named above, a corporation duly organized and existing under and by virtue of the laws of the Surety State named above and duly authorized by the Arizona Department of Insurance under the laws of the State of Arizona to do a general surety business in the State of Arizona, and the Principal named above give this bond to the State of Arizona, as Obligee.

Recitals Principal and Surety jointly and severally bind themselves, their successors, assigns, and legal representatives to the Obligee in the sum of \$25,000.

- The sum stated above establishes the limit of Surety's liability at any time after the effective date of the bond.
- Principal is a manufacturer-appointed installer of ignition interlock devices certified by the Arizona Department of Transportation, Motor Vehicle Division (MVD).

Duration This bond becomes effective on the date of device certification or upon the execution of this document, whichever occurs last. This bond shall remain in effect until terminated by Surety as follows: Surety may terminate liability under this bond if surety gives 60 days written notice to the MVD Director of the intent to terminate liability. Written notice shall be delivered to MVD at the address above. Termination of liability occurs on the last day of the month that includes the end of the 60-day period. If a new bond is filed by the Principal and accepted by the MVD Director, termination of liability under this bond occurs on the effective date of the new bond. The Surety shall remain fully liable for acts or omissions of the Principal before termination of liability.

Condition of Obligation Principal shall make monetary payment in compensation to any person ordered by an Arizona court to equip a motor vehicle with a certified ignition interlock device and who suffers loss from:

- Insolvency or discontinuance of business of Principal, or
- Noncompliance of Principal or Principal's agent with the administrative rules made under ARS 28-1462.B.

Venue Any action or proceeding in connection with this bond or the obligations arising under this bond shall be brought in Maricopa County, Arizona.

Severability If a court of competent jurisdiction finds any provision of this bond unenforceable, all other provisions of this bond shall remain in effect.

The Principal and Surety executed this bond on _____.

A power of attorney must be attached designating the Surety Attorney-in-Fact.

Surety Attorney-in-Fact Name	Principal or Duly Authorized Officer Name	Signature
Phone ()	Partner Name	Signature
Signature	Partner Name	Signature

Surety Resident Agent Name	Title	Send Bond Claims To
Mailing Address		Mailing Address
City, State, Zip Code		City, State, Zip Code
Signature	Phone ()	Phone ()

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

PREAMBLE

1. **Sections Affected**

	<u>Rulemaking Action</u>
R18-2-101	Amend
R18-2-304	Amend
R18-2-306	Amend
R18-2-306.03	New Section
R18-2-309	Amend
R18-2-310	Amend
R18-2-310.01	New Section
R18-2-724	Amend
Appendix 1	Amend

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

Authorizing and implementing statutes: A.R.S. §§ 49-104(A)(11), 49-425, 49-426, and 426.01

3. **List of all previous notices appearing in the register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 958, April 24, 1998.
Notice of Rulemaking Docket Opening: 5 A.A.R. 2564, August 6, 1999.

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

Name: Mark Lewandowski or Martha Seaman, Rule Development Section

Address: Department of Environmental Quality
3033 North Central Avenue
Phoenix, Arizona 85012-2809

Telephone: (602) 207-2230 or (602) 207-2222. If you are outside the (602) area code, dial 1-800 234-5677, and ask for the extension.

Fax: (602) 207-2251

5. **An explanation of the rule, including the agency's reasons or initiating the rule:**

Summary. ADEQ is proposing an amendment to its excess emissions affirmative defense provisions to correct a deficiency in its Title V program identified by EPA in the October 30, 1996, Federal Register (61 FR 55910), when EPA promulgated interim approval of Arizona's Title V Operating Permits Program. EPA has maintained that to be fully approvable as a federally enforceable Title V program a state's program could not allow for an affirmative defense for violations beyond those provided by the emergency provisions in 40 CFR 70.6(g).

Arizona received final interim approval of its Title V program effective November 29, 1996. The Arizona Mining Association, on behalf of its members, subsequently filed a lawsuit against EPA on December 26, 1996, requesting a petition for review by the 9th Circuit Court of Appeals (No. 97-70007). The review was requested, in part, due to EPA's refusal to give final approval to Arizona's Title V permitting program because of the state's existing excess emissions rule. This proposed rulemaking resolves the outstanding issues in relation to excess emissions and final approval of the Title V permitting program by EPA by specifying what a source must do in order to request an affirmative defense for malfunctions, startup, shutdown and scheduled maintenance.

Below are detailed explanations of new sections, R18-2-306.03 and R18-2-310.01 and revised R18-2-310. The only amendments to the remaining sections (R18-2-101, R18-2-304, R18-2-306, R18-2-309, R18-2-724, and Appendix (1)) are "pointers" to the new sections.

I. R18-2-306.03 Permit Conditions Defining Startup, Shutdown and Scheduled Maintenance

This proposed new section defines the conditions a source must meet if the source requests a permit condition excluding periods of startup, shutdown or scheduled maintenance from compliance with applicable emissions limits. A

source must demonstrate that excess emissions during these events are justifiable, that emissions will not result in damage to persons, and that reasonable steps will be taken to minimize any negative impact on ambient air quality.

The proposed rule allows ADEQ the flexibility to authorize alternative emission limits in individual permits, in lieu of having to establish specifications by rule for source categories. ADEQ is taking this approach to establish alternative limitations, which is more timely and efficient than developing rules for individual source categories, recognizing that not all sources may request alternative limits. This approach results in resource and time savings for all parties while still maintaining air quality benefits.

ADEQ recognizes that under some applicable emission limitations, alternative limits may not apply. For example, many of the new source performance standards provide exemptions for startup, shutdown, and malfunction (see 40 CFR 60.8(c) and 60.11(d)). ADEQ is requesting comments on whether relying on general statements in proposed R18-2-306.03.B., for example, “unless otherwise specified in an applicable emission limit for an affected facility,” is sufficiently clear in defining when alternative limits may not be granted, or whether a list of excluded emission standards, such as provided in the proposed R18-2-310 (A), is necessary. ADEQ also is requesting comments regarding the timing and form of the demonstration requirements proposed in R18-2-306.03 (B) and (C).

II. R18-2-310 Excess Emissions Due to Malfunctions, Startup, Shutdown and Scheduled Maintenance

The proposed revision clarifies those conditions under which a source may obtain an affirmative defense if the source exceeds applicable emission limitations due to malfunction, startup, shutdown and scheduled maintenance.

ADEQ believes the proposed rule resolves the issue of providing an affirmative defense for noncompliance with federal applicable requirements by listing in R18-2-310(A) those federal emission standards or limits which are excluded from treatment under the proposed rule. Proposed R18-2-310(B) (C) and (D) specify the criteria an owner or operator must meet to obtain an affirmative defense from a civil or administrative enforcement proceeding.

Also addressed in the proposed rule is an outstanding issue relating to the applicable State Implementation Plan (SIP). In 1986, EPA proposed approval of an earlier version of the existing R18-2-310 but did not give final approval. On October 30, 1996, EPA promulgated interim approval of Arizona’s Title V permitting program (61 FR 55910), and informed ADEQ that, “it would not approve such a broadly applicable rule into the SIP because it is inconsistent with EPA’s policy on excess emissions.” ADEQ believes these proposed revisions to R18-2-310 address this issue.

The proposed rule specifies that an affirmative defense is available in any civil or administrative proceeding (other than 1 for injunctive relief), upon the owner or operator demonstrating and agreeing to specific conditions (affirmative defenses in criminal proceedings are contained in A.R.S. §§ 49-464 (P), (Q) and (R) and 49-514 (O), (P) and (Q)). The proposed revision mandates that before owners and operators are granted an affirmative defense they must demonstrate and agree to conditions showing that the source’s equipment and operations during startup, shutdown, and scheduled maintenance provided maximum protection to public health and to air quality.

In the proposed rule, the majority of conditions for an affirmative defense relating to malfunction, startup, shutdown, and scheduled maintenance are the same. Regardless, the proposed rule, while recognizing the inevitability of these events, requires owners or operators to maximize their planning efforts and anticipate their responses whether the event is a malfunction, startup, shutdown, or scheduled maintenance.

III. R18-2-310.01 Reporting Requirements:

The proposed new section moves existing R18-2-310(C) and (D) to a separate section to remove any ambiguities regarding the need and process for reporting an excess emissions event. The proposed rule maintains the existing language that establishes a two-part reporting requirement for an owner or operator following an excess emissions event. The 1st requires notification by phone or fax within 24 hours of the event and the 2nd requires a written report within 72 hours to the Director. The reporting requirements allow ADEQ to record and track such events as part of permitting and compliance efforts. This reporting requirement applies regardless of whether the owner or operator is requesting an affirmative defense as allowed by the proposed revisions to R18-2-310. ADEQ seeks comments on this approach to requiring reports of excess emissions. ADEQ recognizes that excess emissions are 1 of the types of events that would be required under deviation reports. ADEQ also recognizes that, until all permits include permission for deviation reports that extend to excess emissions events, it cannot rely on that provision to ensure that excess emissions are reported. ADEQ seeks comments on ways to harmonize this section and the requirement for deviation reports.

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

Not applicable.

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7. A reference to any study that the agency proposes to rely on its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

A. Identify proposed rulemaking

Title 18, Chapter 2, Articles 1, 3, 7, and Appendix 1.

ADEQ is requesting comments regarding the compliance burdens and cost-saving benefits of this proposed rulemaking. Relevant comments and data received will be incorporated into the final Economic Impact Statement (EIS).

B. Introduction

This EIS represents a preliminary assessment of economic impacts as a result of proposed rule changes that resolve issues raised by EPA as it pertains to Arizona's Title V permitting program (see 61 FR 55910, October 30, 1996).

Startups, shutdowns, scheduled maintenance or malfunctions may result in excess emissions. Because sources may do a better job in anticipating problems, these rule provisions should improve planning, generate greater flexibility, and potentially reduce overall costs for both sources and ADEQ. The public also is expected to benefit from this rule because it authorizes the establishment of emission limitations for events where pollution controls are partially or non-functional.

In developing this proposal, ADEQ reviewed available information in an attempt to quantify the number of excess emissions reported to ADEQ. Such quantification is not accurate for several reasons. For example, electrical utilities typically report as excess opacity levels measured by continuous opacity monitoring systems (COMS); however, compliance with opacity limitations for purposes of demonstrating compliance with permit conditions is typically accomplished using a visual test (Method 9) as opposed to COMS.

C. Need for Excess Emissions Affirmative Defense

This rule is necessary because sources have unavoidable excess emissions for technological reasons. Many sources are unable to maintain emissions below applicable standards during the events identified in the proposed rule. In some cases sources may be able to avoid excess emissions through better scheduling and improved operation and maintenance procedures. This could lead to cost savings. For other sources, however, excess emissions may occur during scheduled maintenance of control equipment because other options are impracticable or economically infeasible.

D. Potential Entities Impacted

Certain entities could be affected by directly benefitting or bearing the costs of this rule. Potentially, the more than 900 sources permitted by ADEQ could be affected by this rule. Maricopa, Pima, and Pinal Counties' air pollution control agencies and sources under their jurisdiction also could be indirectly affected. These counties operate their own air pollution control agencies, but under A.R.S. § 49-112, county rules with some narrow exceptions, must be identical or substantially similar to ADEQ rules. Others that could be directly impacted include ADEQ as the implementing agency, engineers and professionals responsible for assisting owners and operators of stationary sources of air pollution (contractors, consultants, engineers, and lawyers), and the general public.

E. Probable Costs and Benefits

The current baseline is that emissions in excess of emission limitations represent a violation unless a source can demonstrate that such emissions could not have been avoided by improved scheduling for preventative maintenance or by more efficient operation and maintenance practices. Because this rule is expected to clarify the excess emissions requirements for an affirmative defense, benefits are expected to accrue to both regulated sources and ADEQ.

It could be argued that requiring all excess emissions be avoided, except for emergencies, would generate multi-million dollar compliance burdens for many sources in Arizona. For example, costs could range from \$2.5 to \$200 million per ton for emission reductions of volatile organic compounds (VOC) in the semiconductor industry.¹ Compliance burdens could result in plant closures, higher unemployment, higher prices, and could negatively impact competition. In contrast, public health and environmental benefits may be minimal.

1. This cost range significantly exceeds the \$10,000 per ton of emission reduction identified as the high-end range of reasonable costs to impose on sources, according to the President's policy on implementing the revised ozone National Ambient Air Quality Standards (AAI, February 10, 1998).

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According to a report prepared by the Arizona Mining Association (AMA), the primary copper smelting industry (SIC 3331) cannot avoid excess emissions during scheduled maintenance, startup, or shutdown.² Installing alternative control equipment (point-of-use, redundant control devices) may translate into options which are impracticable or impose unrealistically high costs on a per ton of emissions reduction. Such real resource expenditures (pre-tax compliance costs) may be prohibitive or infeasible (technologically or otherwise) for many industrial sources.

The following 2 examples are operations used by smelters experiencing excess emissions where an affirmative defense may be applicable.³ Additional examples will be provided in the final EIS.

(1) Scheduled maintenance for steam injection systems

A smelting operation may use steam injection to control emissions from the anode furnace. The steam completes the combustion of natural gas during the poling cycles of the anode furnace. With proper planning for scheduled maintenance, a source may continue the poling operation without the use of steam injection when the system is down for maintenance or inspection. As a result, there is no delay in completing the cycle. This option produces emissions that may exceed the opacity standard, but would be less than emissions generated from other options. One option includes holding the copper without poling until steam becomes available; however, this requires the use of holding fire burners to keep the copper molten, resulting in increased emissions. Another option includes continuing the poling operation using lower pressure gas to keep emissions below the opacity standard; but this lengthens the cycle time, again resulting in increased emissions.

(2) Scheduled maintenance/shutdown for inspections of waste heat boilers

A smelting operation uses a flash furnace in series with a waste heat boiler to cool gas in preparation for transport of the gas to the acid plant. The Arizona Mine Inspector's Office is required to annually inspect waste heat boilers. Prior to inspection, the feed to the furnace is shut off for approximately 12 hours to cool the unit to a safe temperature for inspection. During this period, the bypass stack will emit a totally opaque plume for 4-6 hours and can remain in excess of 20% opacity for an additional 10-12 hours. For this operation, sources have no other operating options.

The following 2 examples are operations used by semiconductors experiencing excess emissions where an affirmative defense may be applicable⁴. Additional examples will be provided in the final EIS.

(1) Redundant VOC carbon absorption controls

By installing and operating redundant pollution control equipment, a semiconductor plant estimated it could eliminate VOC excess emissions. The source could not justify the \$2.5 million capital cost, however, because the cost would far outweigh the emission reduction benefits (\$20 million/ per ton of reduced VOC emissions).

(2) Redundant VOC abatement equipment

A wafer fabrication plant estimated the capital cost of installing redundant VOC abatement equipment would be approximately \$3 million, but would eliminate VOC excess emissions. As in the previous example, the source could not justify the cost, however, because the cost would far outweigh the emission reduction benefits (\$30 million/ per ton of reduced VOC emissions).

F. General Impact on Small Businesses and Reduction of Impacts

The ADEQ is aware of concerns of small businesses and the impact various rulemakings could have upon them. Accordingly, ADEQ considers each of the methods prescribed in A.R.S. §41-1035 for reducing the impact on small businesses. Likewise, it has considered each of the methods prescribed in A.R.S. §41-1055(B)(5)(c). For example, A.R.S. § 41-1035 requires agencies implementing rules to reduce the impacts on small businesses by using certain methods where legal and feasible. Methods that may be used include the following: (1) Exempt them from any or all rule requirements, (2) Establish performance standards which would replace any design or operational standards, or (3) Institute reduced compliance or reporting requirements. The latter method could be accomplished by establishing less stringent requirements, consolidating or simplifying them, or setting less stringent schedules or deadlines.

ADEQ could not provide additional regulatory relief for small businesses. ADEQ has no authority to exempt a small business, or establish a less stringent standard or schedule for it, from compliance or reporting requirements. Although ADEQ expects this rule to impact all sources, major sources probably will be impacted the most. In most

2. January 6, 1998, p. 8.
3. AMA Report, pp. 4 - 7.
4. AAI Report, pp. 7-11.

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cases, if not all, this rule should provide cost-saving benefits for sources. However, it is unknown what small businesses will be impacted by this rule. If data are available, this will be assessed in the final EIS.

G. Employment/Revenues and Secondary Impacts

ADEQ does not expect this rulemaking to impact short- or long-run employment, production, or industrial growth in Arizona. There is no reason to believe that price, profitability, or capital availability will be affected. Furthermore, because ADEQ anticipates no facility closures, reductions in output, or increases or decreases in employment, no transitional employment problems are expected to occur, including re-employment.

For some industries, capital requirements may be necessary for owners/operators to comply with this rule to claim an affirmative defense. However, ADEQ expects the impact to most sources to be minimal to moderate and to provide cost-saving benefits over any real resource expenditures necessary to comply or to improve the operation and maintenance process.

Other economic changes in secondary employment, energy, international trade, regional impacts, or supply and demand are not anticipated to occur as a result of this rulemaking. Impacts to ADEQ's program should be effectively handled by its current personnel without any additional staffing requirements. Finally, this rulemaking is not expected to have an impact on state revenues.

H. Alternative Rule Provisions

If the outstanding Title V permitting program issues are not resolved and submitted to EPA by early 2000, ADEQ may lose its authority to issue Title V permits. In this case, EPA would become the permitting authority under 40 CFR 71. Since the State would still be involved with sources in other programs, sources may be subject to a "dual regulation." EPA, in addition, would have authority to establish and collect fees from sources.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: David Lillie, Economist, Rule Development Section

Address: Department of Environmental Quality
3033 North Central Avenue
Phoenix, Arizona 85012-2809

Telephone: (602) 207-4435 (Any extension may be reached in-state by dialing 1-800-234-5677 and asking for that extension.)

Fax: (602) 207-2251

10. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

Oral Proceeding: September 21, 1999, 1:30 p.m.
ADEQ, 3033 N. Central Ave., Room 1706

Public Workshop: Tentatively planned for a day prior to the oral proceeding above (call agency personnel identified in question #4 for specific information).

Close of record: 5 p.m., September 24, 1999

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

Not applicable.

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

None.

13. **The full text of the rule follows:**

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL**

ARTICLE 1. GENERAL

Sections

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ARTICLE 1. GENERAL

R18-2-101. Definitions

In addition to the definitions prescribed in A.R.S. §§ 49-101, 49-401.01, 49-421, 49-471, and 49-541, in this Chapter, unless otherwise specified:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
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29. No change.
30. No change.
31. No change.

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- 32. No change.
- 33. No change.
- 34. No change.
- 35. No change.
- 36. No change.
- 37. No change.
- 38. No change.
- 39. No change.
- 40. No change.
- 41. “Federally enforceable” means all limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements, which are entered into voluntarily by a source pursuant to R18-2-306.01-; and
 - e. Emissions limitations, controls, and other requirements, and any associated monitoring, record keeping, and reporting requirements, which are entered into voluntarily by a source pursuant to R18-2-306.03.
- 42. No change.
- 43. No change.
- 44. No change.
- 45. No change.
- 46. No change.
- 47. No change.
- 48. No change.
- 49. No change.
- 50. No change.
- 51. No change.
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- 54. No change.
- 55. No change.
- 56. No change.
- 57. No change.
- 58. No change.
- 59. No change.
- 60. No change.
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- 97. No change.
- 98. No change.
- 99. No change.
- 100. No change.
- 101. No change.
- 102. No change.
- 103. No change.
- 104. No change.
- 105. No change.
- 106. No change.
- 107. No change.
- 108. No change.
- 109. No change.
- 110. No change.
- 111. No change.
- 112. No change.
- 113. No change.
- 114. No change.
- 115. No change.
- 116. No change.
- 117. No change.

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-304. Permit Application Processing Procedures

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
 - 1. No change.
 - 2. No change.
 - 3. No change.
 - 4. No change.
 - 5. No change.
 - 6. If a permit applicant requests to include in the permit conditions that exclude periods of startup, shutdown, or scheduled maintenance from compliance with an applicable emission limitation under R18-2-306.03, the source shall include the demonstrations described in R18-2-306.03(B) or (C), or both. The application shall specify the amount, duration, and rate of emissions during the periods of startup, shutdown or scheduled maintenance.
 - ~~6-7.~~ No change.
 - ~~7-8.~~ No change.
 - ~~8-9.~~ No change.
 - ~~9-10.~~ No change.
 - ~~10-11.~~ No change.
- F. No change.

- G. No change.
- H. No change.
- I. No change.
- J. No change.

R18-2-306. Permit Contents

- A. Each permit issued by the Director shall include the following elements:
 - 1. No change.
 - 2. No change.
 - 3. No change.
 - 4. No change.
 - 5. No change.
 - 6. No change.
 - 7. No change.
 - 8. No change.
 - 9. No change.
 - 10. No change.
 - 11. No change.
 - 12. No change.
 - 13. No change.
 - 14. No change.
 - 15. If a permit applicant requests, the director shall issue a permit that contains terms and conditions excluding periods of startup, shutdown, or scheduled maintenance from the determination of compliance with applicable emission limitations for an affected facility under R18-2-306.03. Those terms and conditions shall specify necessary monitoring, record keeping, or reporting requirements.
 - ~~15-16.~~ No change.
- B. Federally-enforceable Requirements.
 - 1. The following permit conditions shall be enforceable by the Administrator and citizens under the Act:
 - a. No change.
 - b. No change.
 - c. Terms and conditions in any permit entered into voluntarily under R18-2-306.01 or R18-2-306.03, as follows:
 - i. No change.
 - ii. No change.
 - 2. No change.

R18-2-306.03. Permit Conditions Defining Startup, Shutdown or Scheduled Maintenance

- A.** The owner or operator of a source may request that the Director incorporate in a new permit, a significant permit revision, or a permit renewal, a condition in the source's permit that excludes periods of startup, shutdown or scheduled maintenance from compliance with an applicable emission limitation for an affected facility. The Director shall grant such request and shall adopt a permit condition that excludes periods of shutdown, startup or scheduled maintenance from the determination of compliance with the applicable emission limitation for an affected facility if the owner or operator complies with the requirements of (B) or (C), or both, of this section.
- B.** Unless otherwise specified in an applicable emission limitation for an affected facility, that emission limitation shall not apply during periods of startup or shutdown of the facility if the owner or operator:
 - 1. Demonstrates that the design or technology of the control or process equipment associated with the affected facility is such that compliance with the emission limitations during periods of startup or shutdown is not technically feasible;
 - 2. Demonstrates that if bypass of control equipment will occur during startup or shutdown, the bypass is unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment or other property;
 - 3. Demonstrates that all reasonable steps were taken to minimize the impact of the excess emissions on potential violations of the ambient air quality standards;
 - 4. Demonstrates that during the period of excess emissions, there were no measured violations of the ambient air quality standards that could be attributable to the emitting source; and
 - 5. Agrees to permit conditions which:
 - a. Define the level of emissions and the period of startup or shutdown either as a period of time or with reference to specified, verifiable operating parameters;
 - b. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
 - c. All emission and parameter monitoring systems were kept in operation if at all practical; and

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- d. Require that contemporaneous records be maintained of:
 - i. The duration of periods of startup or shutdown;
 - ii. Emissions during such periods;
 - iii. The owner's or operator's actions in response to the excess emissions, if the allowable periods of startup or shutdown are defined by an operating parameter and measurements of that operating parameter.

C. Unless otherwise specified in an applicable emission limitation for an affected facility, the emission limitation shall not apply during periods of scheduled maintenance of the affected facility if the owner or operator:

- 1. Demonstrates that compliance with the emission limitation could not have been achieved through better design, better schedules for maintenance, or through better operation and maintenance practices;
- 2. Demonstrates that all reasonable steps were taken to minimize the impact of the excess emissions on potential violations of the ambient air quality standards;
- 3. Demonstrates that during the period of excess emissions, there were no measured violations of the ambient air quality standards that could be attributable to the emitting source; and
- 4. Agrees to permit conditions which:
 - a. Define the level of emissions and an allowable duration of scheduled maintenance as a period of time, maximum percentage of operating hours or in some other enforceable manner;
 - b. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
 - c. Require that all emissions and parameter monitoring systems be kept in operation during periods of scheduled maintenance if at all practical; and
 - d. Require that contemporaneous records be maintained of the periods of scheduled maintenance and the emission during such periods.

R18-2-309. Compliance Plan; Certification

- 1. No change.
- 2. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. Such additional requirements as may be specified pursuant to Sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01 and 306.03.
- 3. No change.
- 4. No change.
- 5. No change.
- 6. No change.

R18-2-310. Excess Emissions Due to Malfunctions, Startup, Shutdown, and Scheduled Maintenance

A. Applicability

This rule applies to all emission standards or limitations except for standards or limitations:

- 1. Promulgated pursuant to Section 111 of the Clean Air Act,
- 2. Promulgated pursuant to Section 112 of the Clean Air Act,
- 3. Promulgated pursuant to Title IV of the Clean Air Act,
- 4. Promulgated pursuant to Title VI of the Clean Air Act,
- 5. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A.
- 6. Contained in R18-2-715(F), or
- 7. Contained in a permit issued pursuant to paragraph A(5) of R18-2-406.

A.B. Affirmative Defense for Malfunctions

~~Emissions in excess of an applicable emission limitation contained in this Chapter or in the terms of a permit due to malfunction shall constitute a violation. For all situations that constitute an emergency as defined in R18-2-306(E), the affirmative defense and reporting requirements contained in that provision shall apply. In all other circumstances, it shall be an affirmative defense to a civil or administrative enforcement proceeding, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of subsection (C) of this Section R18-2-310.01, in a timely manner and has demonstrated all of the following:~~

- 1. ~~The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or or the air pollution control equipment, resulted from unavoidable conditions during startup or shutdown, resulted from unavoidable con-~~

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~~ditions during an upset of operations, or that greater or more extended excess emissions would result unless scheduled maintenance is performed beyond the reasonable control of the operator;~~

2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
3. Where repairs were required, such repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded, ~~and off-shift~~ Off-shift labor and overtime were utilized where practical to insure that such repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that such measures were impractical;
4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
5. All ~~feasible~~ reasonable steps were taken to minimize the impact of the excess emissions on potential violations of ambient air quality standards;
6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; ~~and;~~
7. During the period of excess emissions there were no measured violations of the ambient air quality standards established in Article 2 of this Chapter that ~~that~~ could be attributed to the emitting source;
8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;
9. All emissions monitoring systems were kept in operation if at all practicable; and
10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

~~**B.** It shall be the burden of the owner or operator of the source to demonstrate, through submission of the data and information required by this Section, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of excess emissions.~~

~~**C.** Excess emissions shall be reported as follows:~~

1. ~~The owner or operator of any source issued a permit shall report to the Director any emissions in excess of the limits established by this Chapter or the applicable permit. Such report shall be in two parts as specified below:~~
 - a. ~~Notification by telephone or facsimile within 24 hours of the time when the owner or operator first learned of the occurrence of excess emissions including all available information from paragraph (2) of this subsection.~~
 - b. ~~Detailed written notification within 72 hours of the notification pursuant to subparagraph (a) of this paragraph.~~
2. ~~The excess emissions report shall contain the following information:~~
 - a. ~~The identity of each stack or other emission point where the excess emissions occurred.~~
 - b. ~~The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions.~~
 - e. ~~The time and duration or expected duration of the excess emissions.~~
 - d. ~~The identity of the equipment from which the excess emissions emanated.~~
 - e. ~~The nature and cause of such emissions.~~
 - f. ~~If the excess emissions were the result of a malfunction, steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunctions.~~
 - g. ~~The steps that were or are being taken to limit the excess emissions. If the source's permit contains procedures governing source operation during periods of start-up or malfunction and the excess emissions resulted from start-up or malfunction, the report shall contain a list of the steps taken to comply with the permit procedures.~~

~~**C.** Affirmative Defense for Startup and Shutdown~~

1. Except as provided in (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. It shall be an affirmative defense to a civil or administrative enforcement proceeding, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of R18-2-310.01 in a timely manner and has demonstrated all of the following:
 - a. The excess emissions could not have been prevented through careful and prudent planning and design;
 - b. If the excess emissions were the result of a bypass of control equipment, the bypass were unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;
 - c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
 - d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
 - e. All reasonable steps were taken to minimize the impact of the excess emissions on potential violations of ambient air quality standards;
 - f. During the period of excess emissions there were no measured violations of the ambient air quality standards established in Article 2 of the Chapter that could be attributed to the emitting source;

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- g. All emissions monitoring systems were kept in operation if at all practical; and
 - h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.
 - 2. If excess emissions occur during routine startup and shutdown due to a malfunction, then those instances shall be treated as other malfunctions subject to (B).
- D.** In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in such notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsection (C)(1)(b) of this Section.
- D.** Affirmative Defense for Scheduled Maintenance:
 - 1. Except as provided in Subsection (D)(2), unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emissions limitation due to scheduled maintenance (that is, routine preventative maintenance undertaken in order to avoid a potential breakdown or upset of air pollution control equipment) shall constitute a violation. It shall be an affirmative defense to a civil or administrative enforcement proceeding, other than a judicial action for injunctive relief, if the owner or operator of the source has complied with the reporting requirements of R18-2-310.01 in a timely manner and has demonstrated all of the following:
 - a. The excess emissions could not have been avoided through better design scheduling for maintenance or through better operation and maintenance practices;
 - b. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
 - c. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
 - d. All reasonable steps were taken to minimize the impact of the excess emissions on potential violation of ambient air quality standards;
 - e. During the period of excess emissions there were no measured violations of the ambient air quality standards established in Article 2 of this Chapter, that could be attributed to the emitting source;
 - f. All emissions monitoring systems were kept in operation if at all practical; and
 - g. The owner or operator's actions in response to the excess emissions were documented by contemporaneous record.
 - 2. If excess emissions occur during scheduled maintenance due to a malfunction, then those instances will be treated as other malfunctions subject to (B).
- E.** Information required to be submitted by this Section shall be summarized and reported to the Director in accordance with provisions contained in the applicable permit issued pursuant to the requirements of this Chapter. The owner or operator of the source shall demonstrate, through submission of the data and information required by this rule, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of such emissions.

R18-2-310.01. Reporting Requirements

Excess emissions shall be reported as follows:

- A.** The owner or operator of any source shall report to the Director any emissions in excess of the limits established by this Chapter or the applicable permit. Such report shall be in 2 parts as specified below:
 - 1. Notification by telephone or facsimile within 24 hours of the time when the owner or operator first learned of the occurrence of excess emissions including all available information from subsection (B).
 - 2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification pursuant to subsection (1).
- B.** The excess emissions report shall contain the following information.
 - 1. The identity of each stack or other emission point where the excess emissions occurred;
 - 2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculated used in determining the magnitude of the excess emissions;
 - 3. The time and duration or expected duration of the excess emissions;
 - 4. The identity of the equipment from which the excess emissions emitted.
 - 5. The nature and cause of such emissions;
 - 6. The steps taken if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunctions; and
 - 7. The steps that were or are being taken to limit the excess emissions (if the source's permit contains procedures governing source operation during periods of start-up or malfunction and the excess emissions resulted from startup or malfunction, the report shall contain a list of the steps taken to comply with the permit procedures).

- C.** In the case of the continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in such notification as estimated of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to Subsection (A) and (B) of this Section.

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS

R18-2-724. Standards of Performance for Fossil-Fuel Fired Industrial and Commercial Equipment

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. For the purpose of reports required under excess emissions reporting required by ~~R18-2-310~~ R18-2-310.01, the owner or operator shall report all six-minute periods in which the opacity of any plume or effluent exceeds 15-~~percent~~ %.
- K. No change.

APPENDIX 1. STANDARD PERMIT APPLICATION FORM AND FILING INSTRUCTIONS

FILING INSTRUCTIONS

No application shall be considered complete until the Director has determined that all information required by this application form and the applicable statutes and regulations has been submitted. The Director may waive certain application requirements for specific source types, pursuant to R18-2-304(B). For permit revisions, the applicant need only supply information which directly pertains to the revision. The Director shall develop special guidance documents and forms to assist certain sources requiring Class 2 permits in completing the application form and filing instructions. Guidance documents can be requested by contacting the Office of Air Quality at the address and phone number given on the "Standard Permit Application Form".

In addition to the information required on the application form, the applicant shall supply the following:

- 1. No change.
- 2. No change.
- 3. No change.
- 4. No change.
- 5. No change.
- 6. No change.
- 7. No change.
- 8. Citation and description of all applicable requirements as defined in R18-2-101 including voluntarily accepted limits pursuant to R18-2-306.01 or R18-2-306.03.
- 9. No change.
- 10. The following information to the extent it is needed to determine or regulate emissions or to comply with the requirements of R18-2-306.01 or R18-2-306.03:
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
 - f. No change.
 - g. No change.
 - h. No change.
- 11. No change.
- 12. No change.
- 13. No change.
- 14. No change.
- 15. No change.
- 16. Compliance Plan:
 - a. A description of the compliance status of the source with respect to all applicable requirements including, but not limited to:

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- i. No change.
 - ii. No change.
 - iii. No change.
 - iv. No change.
 - v. No change.
 - vi. No change.
 - vii. A demonstration that the source or modification will comply with any voluntarily accepted limitations pursuant to R18-2-306.01 or R18-2-306.03.
- b. No change.
 - c. No change.
 - d. No change.
17. Compliance Certification: A certification of compliance with all applicable requirements including voluntarily accepted limitations pursuant to R18-2-306.01 or R18-2-306.03 by a responsible official consistent with R18-2-309(A)(5). The certification shall include:
- a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
18. No change.
19. No change.
20. No change.