

## NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

### NOTICE OF FINAL RULEMAKING

#### TITLE 3. AGRICULTURE

#### CHAPTER 4. DEPARTMENT OF AGRICULTURE PLANT SERVICES DIVISION

#### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R3-4-737.                          | Amend                           |
| R3-4-811.                          | 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. §§ 3-107(A)(1), 3-445, and 3-487.  
Implementing statutes: A.R.S. §§ 3-445, 3-448, and 3-487.
- 3. The effective date of the rules:**  
December 8, 1999
- 4. A list of all previous notices appearing in the Register addressing the rule:**  
Notice of Rulemaking Docket Opening: 5 A.A.R. 2389, July 23, 1999.  
Notice of Proposed Rulemaking: 5 A.A.R. 3144, September 17, 1999.
- 5. 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<br>1688 West Adams, Room 235<br>Phoenix, Arizona 85007 |
| Telephone Number: | (602) 542-0962   |
| Fax Number:       | (602) 542-5420   |
| E-mail:           | shirley.conard@agric.state.az.us   |
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**  
This rulemaking amends the container labeling rules in Articles 7 and 8 to make clear that containers shall not bear false or misleading statements.
- 7. A reference to any study that the agency relied 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:**  
None.
- 8. 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.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

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

A. *The Arizona Department of Agriculture.*

The Department is not economically affected by the implementation of this rulemaking.

B. *Political Subdivisions.*

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

C. *Businesses Directly Affected By the Rulemaking.*

Many retail establishments and producers demand that products used by their stores be shipped in containers displaying the establishment's or producer's own name, such as Safeway, Basha's, and Dole. This rulemaking allows shippers to accommodate these retail establishments and producers by giving shippers an option of labeling containers with the customer's name, address, and logo if the shipper's label also includes an identifying code. This identifying code is a tracking mechanism recently implemented by the industry and is used to track shipments.

The rule also allows that commodities used for processing be transported on pallets or in cartons bearing labeling other than that of the commodity within the container. This exception allows the shipper to use surplus pallets or cartons.

D. *Private and public employment.*

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

E. *Consumers and the Public.*

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

F. *State Revenues.*

This rulemaking will have no impact on state revenues.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor grammatical changes were made at the request of the G.R.R.C. staff.

**11. A summary of the principal comments and the agency response to them:**

None.

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

None.

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

None.

**14. Was this rule previously adopted as an emergency rule?**

No.

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

**TITLE 3. AGRICULTURE**

**CHAPTER 4. DEPARTMENT OF AGRICULTURE  
PLANT SERVICES DIVISION**

**ARTICLE 7. ~~FRUITS~~ FRUIT AND ~~VEGETABLES~~ VEGETABLE STANDARDIZATION**

Section

R3-4-737.      Container Labeling for Fruit and Vegetables

**ARTICLE 8. CITRUS FRUIT STANDARDIZATION**

Section

R3-4-811.      Container Labeling for Citrus Fruit

**ARTICLE 7. ~~FRUITS~~ FRUIT AND ~~VEGETABLES~~ VEGETABLE STANDARDIZATION**

**R3-4-737.      Container Labeling for Fruit and Vegetables**

A. All containers shall bear in plain sight and plain letters on 1 outside panel the following:

Notices of Final Rulemaking

- 1. Shipper or customer identification:
  - a. The name of the shipper; and
  - ~~2-~~ b. The city, state, and zip code of the shipper; or
  - c. The name, address, and logo of the customer; and
  - d. The shipper's identifying code.
- ~~3-~~2. The common or generic name of the commodity in each container; and
- ~~4-~~3. The count, measure, or net weight of the commodity contained in each container, except for bulk containers.
- B.** ~~No~~ A container shall not bear any false or misleading statement.
- C.** If a shipper or customer reuses a container bearing the name of a different shipper or customer, the shipper or customer shall remove or obliterate all markings or labels from the container before commercial reuse.
- D.** Fruit and vegetables for processing.
  - 1. If a pallet or container is clearly marked "FOR PROCESSING ONLY," the information in subsection (A) is not required if the pallet or container is used to transport fruit or vegetables to a processing plant.
  - 2. Fruit or vegetables transported to a processing plant may be packed on a pallet or in a container bearing a label for a commodity other than the commodity within the container.

ARTICLE 8. CITRUS FRUIT STANDARDIZATION

**R3-4-811. Container Labeling for Citrus Fruit**

- A.** All containers shall bear in plain sight and plain letters on ~~one~~ 1 outside panel the following:
  - 1. Shipper or customer identification:
    - a. The name of the shipper; and
    - ~~2-~~b. The city, state, and zip code of the shipper; or
    - c. The name, address, and logo of the customer; and
    - d. The shipper's identifying code.
  - ~~3-~~2. The common or generic name of the commodity in each container; and
  - ~~4-~~3. The count, measure, or net weight of the commodity contained in each container, except for bulk containers.
- B.** If a shipper or customer reuses a container bearing the name of a different shipper or customer, the shipper or customer shall remove or obliterate all markings or labels from the container before commercial reuse.
- C.** Citrus fruit for processing.
  - 1. If a pallet or container is clearly marked "FOR PROCESSING ONLY," the information in subsection (A) is not required if the pallet or container is used to transport fruit or vegetables to a processing plant.
  - 2. Fruit or vegetables transported to a processing plant may be packed on a pallet or in a container bearing a label for a commodity other than the commodity within the container.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

PREAMBLE

<b>1. Sections Affected</b>	<b>Rulemaking Action</b>
Article 1	New Article
R4-34-101	New Section
R4-34-102	New Section
R4-34-103	New Section
R4-34-104	New Section
Article 2	New Article
R4-34-201	New Section
R4-34-202	New Section
R4-34-203	New Section
R4-34-204	New Section
Article 3	New Article
R4-34-301	New Section
R4-34-302	New Section
R4-34-303	New Section
Article 4	New Article
R4-34-401	New Section
R4-34-402	New Section
Article 5	New Article

Notices of Final Rulemaking

R4-34-501	New Section
R4-34-502	New Section
R4-34-503	New Section
R4-34-504	New Section
R4-34-505	New Section
R4-34-506	New Section
Article 6	New Article
R4-34-601	New Section
R4-34-602	New Section
R4-34-603	New Section
R4-34-604	New Section
R4-34-605	New Section
R4-34-606	New Section
R4-34-607	New Section
Article 7	New Article
R4-34-701	New Section
R4-34-702	New Section
R4-34-703	New Section
R4-34-704	New Section
R4-34-705	New Section
R4-34-706	New Section
Article 8	New Article
R4-34-801	New Section
R4-34-802	New Section
R4-34-803	New Section
R4-34-804	New Section
R4-34-805	New Section
Exhibit 1.	New Exhibit
Illustration 1.	New Illustration
Illustration 2.	New Illustration
Illustration 3.	New Illustration
Illustration 4.	New Illustration
Article 10	New Article
R4-34-1001	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. § 41-2144.

Implementing statutes: A.R.S. Title 41, Chapter 16, §§ 41-2141 - 41-2198.04.

**3. The effective date of the rules:**

December 8, 1999

**4. A list of all previous notices appearing in the Register addressing the final 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.

Notice of Proposed Rulemaking: 5 A.A.R. 2788, August 20, 1999.

**5. 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, AZ 85004

Telephone: 602-255-4072

Facsimile: 602-255-4962

**6. An explanation of the rule, including the agency's reason 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.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**7. A reference to any study that the agency relies on in its evaluation of or justification for the final 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. 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.

**9. The 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 under Article 3. The 2nd area deals with the responsibility for site preparation when contracting for an installation of a manufactured/mobile home under Article 8. These will create somewhere between no impact to a “minimal” impact on all persons affected by the new rules.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There were minor grammar and typographical changes due to the recommendations from the Governor’s Regulatory Review Council Staff.

**R4-34-104(A)** Deleted the phrase, “and workmanlike”.

**R4-34-104(C)** Deleted the phrase, “and workmanship” and added the phrase “professional”.

**R4-34-201(A)** Was deleted and replaced with the following language, “An administrative review of the application shall be performed within 5 business days of receipt of an application. The Assistant Director shall issue a conditional license within 14 business days of the Department’s receipt of the completed license application and written evidence that applicant has passed any required license examination. The 5-day administrative completeness and 14-day substantive review time-frames provide an overall time-frame of 19 days excluding time requirements that are the responsibility of the applicant.”

**R4-34-602(A)** Added the phrase, “applicable”.

**R4-34-602(C)** Added the phrase, “based on the following factors”:

1. Probable harm to the public’s safety and welfare;
2. Number of previous violations of a similar nature; and
3. Unwillingness of a manufacturer to comply with plan submittal and requirements.

**R4-34-603(C)** Added the phrase, “based on the following factors”:

1. Probable harm to the public’s safety and welfare;
2. Number of previous violations of a similar nature; and
3. Unwillingness of a manufacturer to comply with plan submittal and requirements.

**R4-34-607(F)** Deleted language “when the original certification has failed” and added language “upon decertification of a production facility”.

**R4-34-607(G)(2)** Added the phrase, “based on the following factors”:

1. Probable harm to the public’s safety and welfare;
2. Number of previous violations of a similar nature; and
3. Unwillingness of a manufacturer to comply with plan submittal and requirements.

**R4-34-701(F)** Was deleted and the following language was added, “The Department shall determine whether a submittal is administratively complete within 20 business days after receipt of a submittal. The Department shall review all plans within 20 business days after receipt of a complete submittal. The overall time-frame for plan approval is 40 days, excluding time for requirements that are the responsibility of the applicant.”

**R4-34-703(B)(7)** Added the phrase, “for stamping”.

**R4-34-703(C)** Added the phrase, “applicable”.

**R4-34-704(B)(2)** Added the phrase, “of the unit”.

**R4-34-801(G)** Was deleted and rewritten as follows, “A licensee or consumer shall obtain a certificate of occupancy before occupying a commercial factory-built building”.

**R4-34-803(C)(2)** Deleted the phrase, “as published October 25, 1993, in 58 FR #204”.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**R4-34-803(D)(2)** Added the phrase, “accounting for”.

**R4-34-803(G)** Added the phrase, “that is consistent with this Chapter”.

**R4-34-804(B)(1)** Deleted the phrase, “at a minimum of 6 inches above ground level”. Added the phrase “and that the conduit extends at least 6 inches above ground level”.

**R4-34-804(B)(2)** Added the phrase, “if the instructions are consistent with this Chapter”.

**R4-34-804(E)(1)** Added the phrase, “or contractor”.

**R4-34-805(E)(1)(c)** Added the phrase, “if the instructions are consistent with this Chapter”.

**R4-34-805(E)(2)** Added the phrase, “or contractor”.

**R4-34-805(E)(3)** Added the phrase, “or contractor”.

**11. A summary of the principal comments and the agency response to them:**

There were no written or oral comments received concerning these rules.

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

Not applicable.

**13. 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), R4-34-703(C), and R4-34-704(B)(1).

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

In R4-34-102(B), R4-34-602(A), R4-34-703(C), and R4-34-704(B)(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), R4-34-704(B)(1), and R4-34-803(C)(1), and R4-34-803(H)(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), R4-34-704(A)(3), R4-34-704(B)(1), and R4-34-803(H)(1).

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

In R4-34-102(E)(1), R4-34-603(A), R4-34-703(B), R4-34-704(B)(1), R4-34-705(B)(1), R4-34-803(C)(1), R4-34-803(D)(5)(a) & (b), R4-34-803(E)(9), R4-34-803(G), R4-34-803(I)(1), R4-34-805(B), R4-34-805(E)(1)(b), and R4-34-805(E)(2)(b).

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

In R4-34-102(E)(2), R4-34-703(B), R4-34-803(C)(1), R4-34-803(I)(1), and R4-34-805(B).

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

In R4-34-102(E)(3), R4-34-703(B), R4-34-706(B)(4), R4-34-803(C)(1), R4-34-803(I)(1), R4-34-804(C) & (D), R4-34-804(E), and R4-34-805(B).

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

In R4-34-102(F), R4-34-606(B)(4), R4-34-704(B)(1), R4-34-706(B)(3), R4-34-803(C)(1), R4-34-803(I)(1), R4-34-804(B), and R4-34-805(B).

**14. Was this rule previously adopted as an emergency rule?**

No.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 34. BOARD OF MANUFACTURED HOUSING**

(Authority: A.R.S. § 41-2141 et seq.)

**ARTICLE 1. GENERAL**

Section

R4-34-101. Definitions

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

R4-34-102. Codes Incorporated by Reference  
R4-34-103. Exceptions  
R4-34-104. Workmanship Standards

**ARTICLE 2. LICENSING**

Section  
R4-34-201. General  
R4-34-202. Manufacturers  
R4-34-203. Retailers  
R4-34-204. Installers

**ARTICLE 3. SALES TRANSACTIONS AND TRUST OR ESCROW ACCOUNTS**

Section  
R4-34-301. Transaction Copies  
R4-34-302. Advertising  
R4-34-303. Brokered Transactions

**ARTICLE 4. SURETY BONDS**

Section  
R4-34-401. Surety Bond Forms  
R4-34-402. Cash Deposits

**ARTICLE 5. FEES**

Section  
R4-34-501. General  
R4-34-502. License Bond Amounts  
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. MANUFACTURING CONSTRUCTION AND INSPECTION**

Section  
R4-34-601. Manufactured Homes  
R4-34-602. Recreational Vehicles  
R4-34-603. Factory-built Buildings and FBB Subassemblies  
R4-34-604. Alterations  
R4-34-605. Reconstruction  
R4-34-606. Rehabilitation of Mobile Homes  
R4-34-607. Manufacturing Inspection and Certification

**ARTICLE 7. PLAN APPROVALS**

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

**ARTICLE 8. PERMITS AND INSTALLATION**

Section  
R4-34-801. Permits  
R4-34-802. General Installation  
R4-34-803. Soil and Materials  
R4-34-804. Utilities  
R4-34-805. Accessory Structures  
Exhibit 1. Below-grade Skirting Specifications  
Illustration 1. Cross Section View of Typical Skirting

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

Illustration 2. View of Corner Securement

Illustration 3. 3/8" Treated Plywood Splice Detail - Inside View

Illustration 4. Topographic View of Vent Location for Underground Skirting

**ARTICLE 9. RESERVED**

**ARTICLE 10. ADMINISTRATIVE PROCEDURES**

Section

R4-34-1001. Rehearing or Review

**ARTICLE 1. GENERAL**

**R4-34-101. Definitions**

- A.** "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).
- B.** "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.
- C.** "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.
- D.** "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.
- E.** "Board" means the Board of Manufactured Housing.
- F.** "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.
- G.** "Brokered transaction" means a transaction in which a properly licensed retailer acts as an agent for the seller or purchaser, or both.
- H.** "Co-brokered transaction" means a transaction in which the listing retailer and the selling retailer are not the same person.
- I.** "Factory-built building" or "FBB" has the meaning in A.R.S. § 41-2142.
- J.** "HUD" means U.S. Department of Housing and Urban Development, 451 7th Street S.W., B-133, Washington, D. C. 20410-8000.
- K.** "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.
- L.** "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.
- M.** "New" means a unit or subassembly not previously sold, bargained, exchanged, or given away to a purchaser.
- N.** "Offer to purchase in a brokered transaction" means a written proposal to purchase a listed used home that a broker presents to a seller for acceptance or rejection.
- O.** "Open subassembly" means that the components of the subassembly can be readily inspected without being disassembled.
- P.** "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.
- Q.** "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.
- R.** "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.
- S.** "Retailer" means a dealer or broker as prescribed A.R.S. § 41-2142(9) and (5).
- T.** "Standards" means the state rules and codes as they relate to manufactured homes, mobile homes, factory-built buildings, recreational vehicles, subassemblies, and accessory structures.
- U.** "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.
- V.** "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.
- W.** "Typical plan" means a plan representative of a design that may be duplicated numerous times.
- X.** "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.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**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.

1. “ANSI” - ANSI A119.2, Recreational Vehicles, 1999 Edition, including all appendices and the following exceptions:
  - a. 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;
  - b. 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
  - c. Section 3-4.7. Recreational vehicles with a vaportight separation between the special transportation area and the living space are exempt from the requirement of 3-4.7.
  - d. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018.
2. “ANSI” - ANSI A119.5, Recreational Park Trailers, 1998 Edition, including all appendices and the following exceptions:
  - a. If the calculated load of the park trailer exceeds 30 amperes, 120 volts, a 2nd power-supply cord shall be permitted. If the 2-cord supply system is installed, the cords shall not be interconnected on either the live side or the load side. The grounding circuits and grounding means shall be electrically interconnected; and
  - b. 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, molding, storage space, and areas enclosed by windows, but not roof overhangs.”
  - c. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018.
3. “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.
4. “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, 451 7th Street S.W., B-133, Washington, D.C. 20410-8000.
5. Copies of these codes are available from the International Conference of Business Officials, 5360 South Workman Mill Road, Whittier, California 90601:
  - a. 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;
  - b. Uniform Mechanical Code (UMC), 1997 Edition including the appendices; and
  - c. Uniform Plumbing Code (IAPMO), 1994 Edition including the appendices.
6. National Electrical Code (NFPA-70), 1999 Edition. Copies of this code are available from the National Fire Protection Agency (NFPA), 1 Batterymarch Park, Quincy, MA 02269-9101

**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.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**R4-34-104. Workmanship Standards**

- A.** All work shall be performed in a professional 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 professional standards and building code requirements, the latter will prevail.

**ARTICLE 2. LICENSING**

**R4-34-201. General**

- A.** An administrative review of the application shall be performed within 5 business days of receipt of an application. The Assistant Director shall issue a conditional license within 14 business days of the Department's receipt of the completed license application and written evidence that the applicant has passed any required license examination. The 5-day administrative completeness and 14-day substantive review time-frames provide an overall time-frame of 19 days excluding time requirements that are the responsibility of the applicant.
- 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, 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 and 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. 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. 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

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- d. Contracts with properly licensed installers or contractors for the installation of factory-built buildings, FBB sub-assemblies, 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.

**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.

**ARTICLE 3. SALES TRANSACTIONS AND TRUST OR ESCROW ACCOUNT**

**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.**

**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. 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 prorations, 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 prorations, and all credits.**
- E. In a co-brokered transaction, the seller shall pay the commission shown on the listing agreement as the total commission.**

Notices of Final Rulemaking

- 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.

**ARTICLE 4. SURETY BONDS**

**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. 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 one 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.

**ARTICLE 5. FEES**

**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, or
  - 8. Administrative functions.

**R4-34-502. License Bond Amounts**

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

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

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

**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. MANUFACTURING CONSTRUCTION AND INSPECTION**

**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. Recreational Vehicles**

- A.** A manufacturer shall build recreational vehicles according to the applicable 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 plans required by R4-34-703(C)(3)(d); and
  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 plans required by R4-34-703(C)(3)(d).
- 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 based on the following factors:
1. Probable harm to the public's safety and welfare;
  2. Number of previous violations of a similar nature; and
  3. Unwillingness of a manufacturer to comply with plan submittal and requirements.

**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 plans required under R4-34-703(B)(7); 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 plans 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 a factory-built building or FBB subassembly produced and shipped before plan approval remove the unit from this state and remove insignias based on the following factors:

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

1. Probable harm to the public's safety and welfare;
2. Number of previous violations of a similar nature; and
3. Unwillingness of a manufacturer to comply with plan submittal and requirements.

**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. Reconstruction**

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

**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 shall be met 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 bedroom or 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 shall 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 1/10 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 8.

**C.** The unit shall be inspected by the office to ascertain compliance with subsection (B).

**D.** The office shall 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 shall issue a waiver for a unit that does not qualify as a mobile home. The category of the unit shall 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 shall 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 shall 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 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 unit.

**G.** A person occupying a non-rehabilitated unit shall 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. 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.

**C.** Unit certification:

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

Notices of Final Rulemaking

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 upon decertification of a production facility.
  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 based on the following factors:
    - a. Probable harm to the public's safety and welfare.
    - b. Number of previous violations of a similar nature, and
    - c. Unwillingness of a manufacturer to comply with plan submittal and requirements.

**ARTICLE 7. PLAN APPROVALS**

**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 determine whether a submittal is administratively complete within 20 business days after receipt of a submittal. The Department shall review all plans within 20 business days after receipt of a complete submittal. The overall time-frame for plan approval is 40 days, excluding time for requirements that are the responsibility of the applicant.
- G.** A manufacturer, retailer, or installer shall provide an original and 1 copy of each submittal.
- H.** A 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. 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. 8 1/2" by 11" 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;

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- 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. 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 R4-34-102(E). The plans shall provide or have the following information or format attributes:
  - 1. An indented set of drawings, process descriptions, component lists, shop drawings, or other documents that specify and identify each component, process, assembly operation, and manufacturing step;
  - 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 for stamping 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 applicable 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 serial 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 3/8 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;

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- 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.

**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 contain the serial number of the unit.

**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 applicable 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, overturning; and horizontal and torsional earthquake effects on foundations.
- 3. Electrical drawings, including the isometric 1-line diagram required by R4-34-102(F), that contain the following information:
  - 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 1-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. PERMITS AND INSTALLATION**

**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 business 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 a special use permit expires 6 months from the date the permit is issued. The Office may extend the permit for good cause.
- G.** A licensee or consumer shall obtain a certificate of occupancy before occupying a commercial factory-built building.
- H.** The permit holder, owner, or contractor shall call for all required inspections.
- I.** All work listed 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. 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 residential, 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.
  - 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 the on-site inspector, or
    - c. Adhere to the specifications of a registered engineer, provided on-site, to an inspector.
- C.** Materials: An installer or contractor shall

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

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 under 24 CFR 3280.401.

**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, necessary to minimize settling of the unit accounting for local soil conditions.
3. Use piers with a maximum square base of 11 1/2 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 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
3. Drive wedges in tightly so that the overlap does not fill more than 1 inch at the support.

**G. Anchoring/Tiedowns**

If 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 that is consistent with this Chapter.

**H. Snow/Wind Loads**

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

1. Under 24 CFR 3282.11 and 3280.305 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. Liquid-tight, 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 and that the conduit extends at least 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, if the instructions are consistent with this Chapter, 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 or contractor 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 1/10 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.**

**E. Above or Below Grade Skirting**

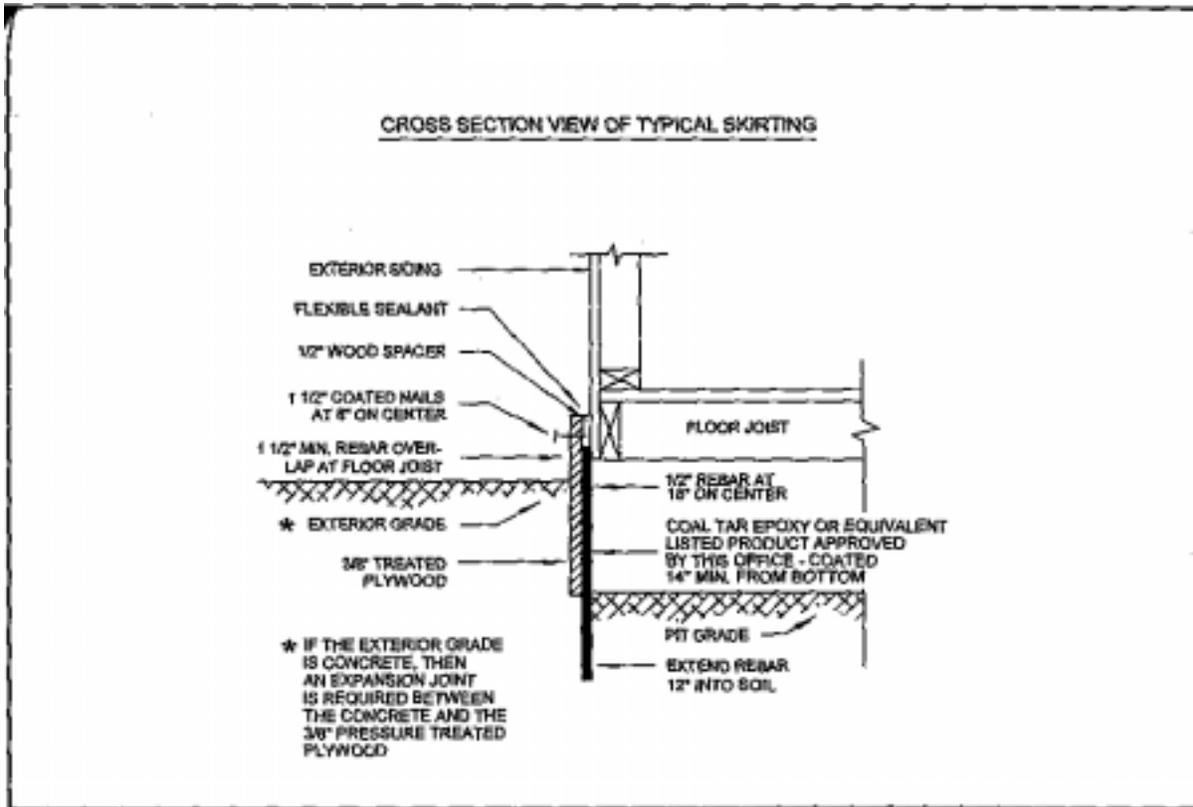
1. For all skirting, an installer or contractor shall:
  - a. Provide an 18 inch by 24 inch minimum access crawl hole.
  - b. Ventilate skirting according to the Uniform Building Code, and

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

- c. Install skirting according to this Chapter or the manufacturer's instructions if the instructions are consistent with this Chapter.
2. For below-grade skirting, the installer or contractor 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 or contractor shall use skirting rated for exterior and soil contact.

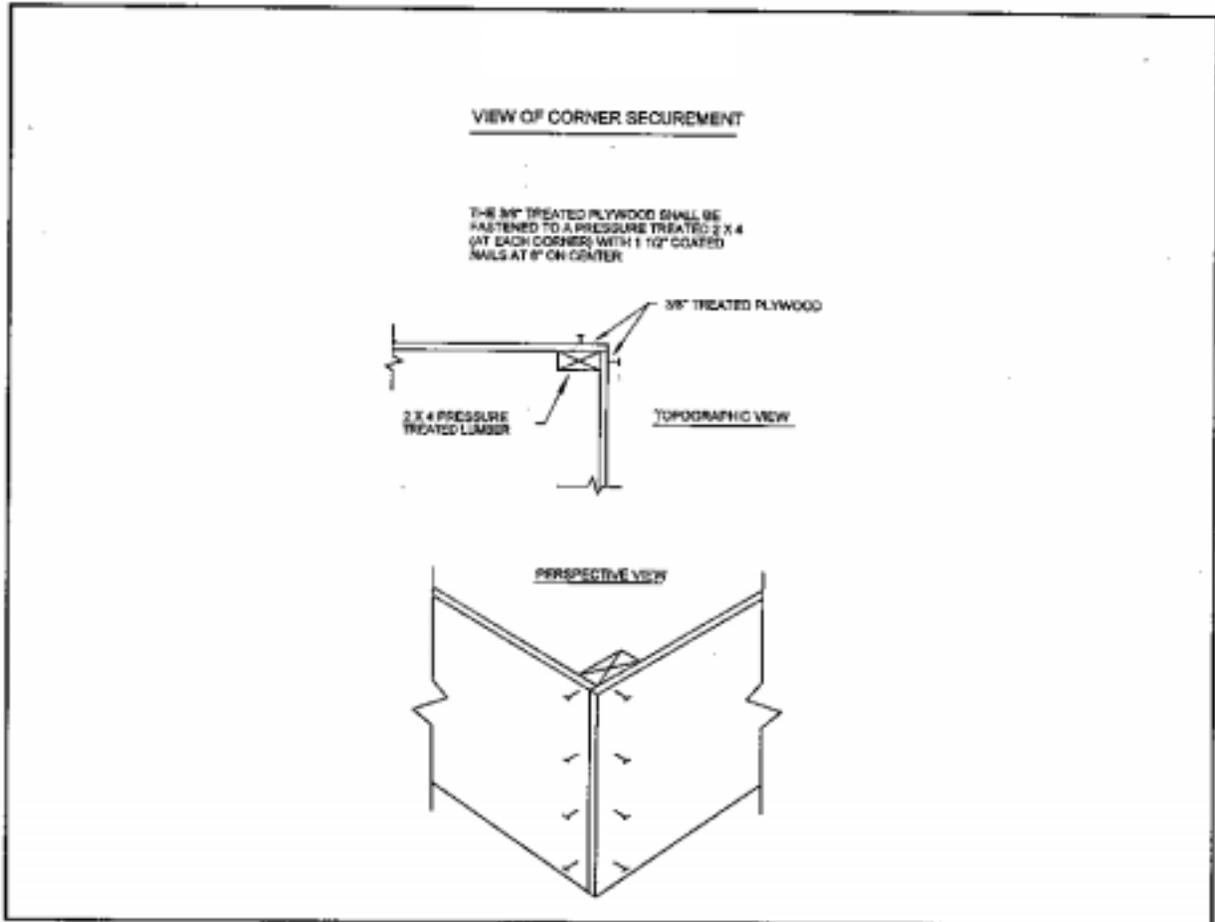
**Exhibit 1. Below-grade Skirting Specifications**

**Illustration 1. Cross Section View of Typical Skirting**



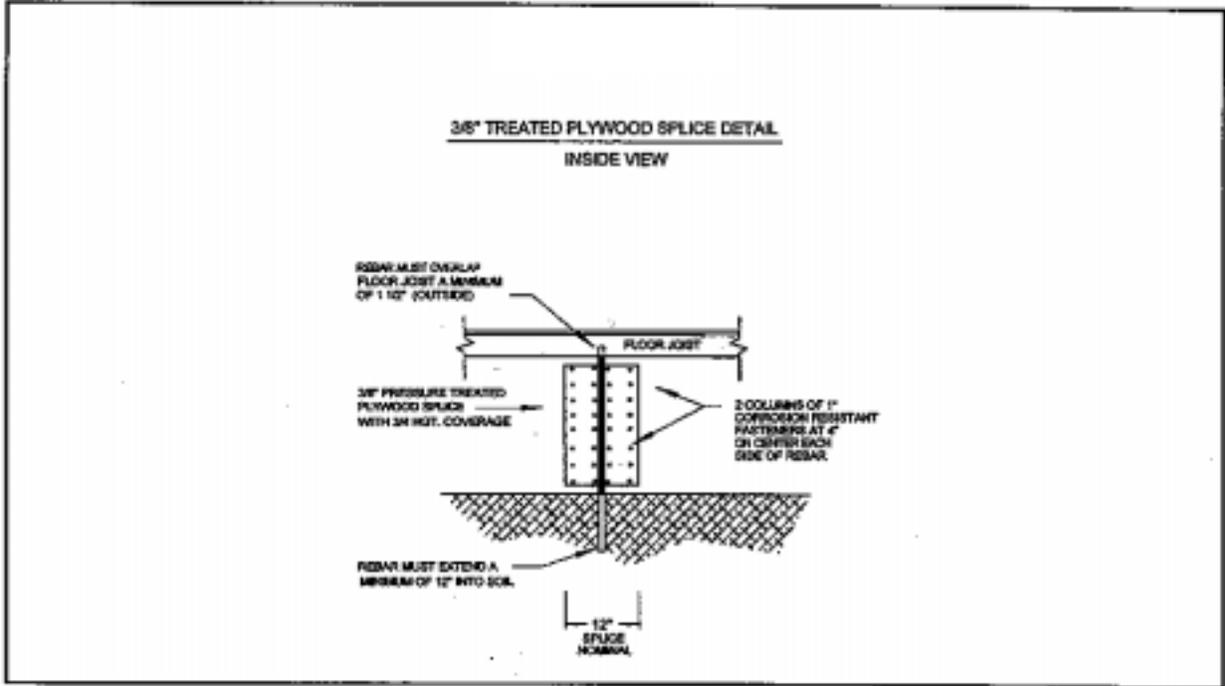
**Exhibit 1. Below-grade Skirting Specifications**

**Illustration 2. View of Corner Securement**



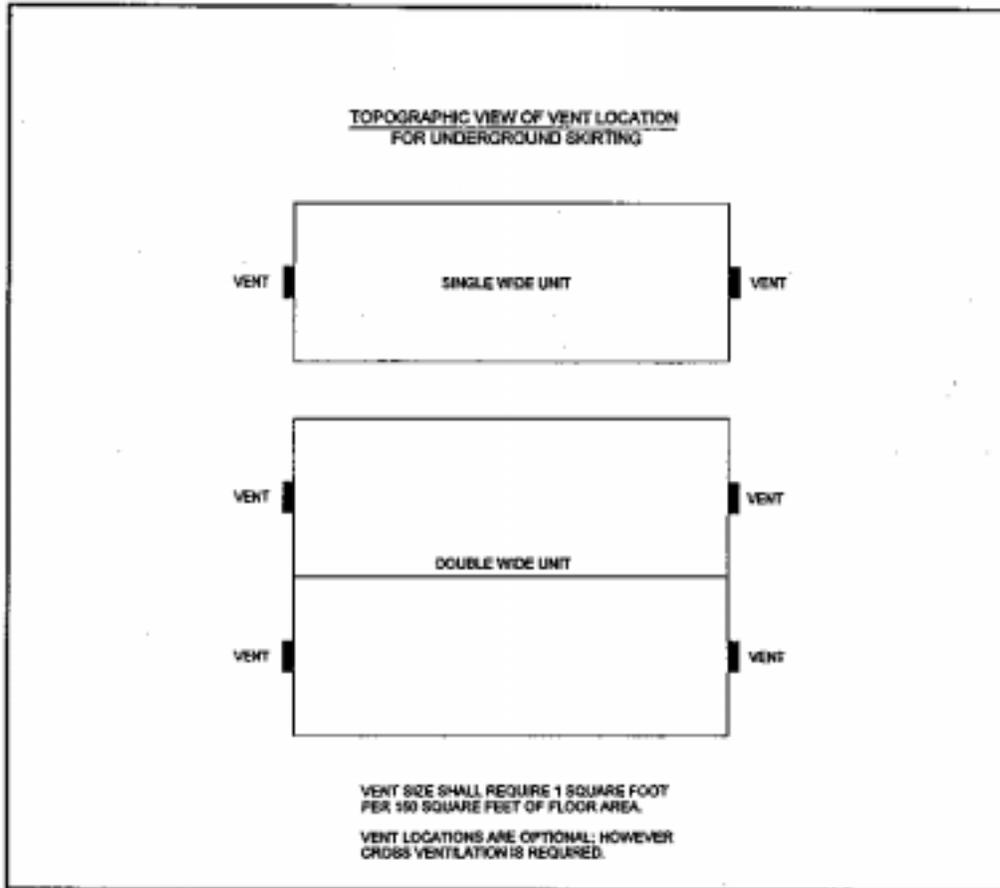
**Exhibit 1. Below-grade Skirting Specifications**

**Illustration 3. 3/8" Treated Plywood Splice Detail - Inside View**



**Exhibit 1. Below-grade Skirting Specifications**

**Illustration 4. Topographic View of Vent Location for Underground Skirting**



**ARTICLE 9. RESERVED**

**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. 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.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

PREAMBLE

- 1. Sections Affected**

R4-48-125	<b><u>Rulemaking Action</u></b>
Table A	New Section
Table B	New Table
Table C	New Table
Table D	New Table
Illustration A	New Illustration
Illustration B	New Illustration
Illustration C	New Illustration
Illustration D	New Illustration
Illustration E	New Illustration
- 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. § 41-619

Implementing statute: A.R.S. § 41-619
- 3. The effective date of the rules:**

December 16, 1999
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 1445, May 14, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 1580, May 28, 1999
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: A. Hal Key, P.E., Chairperson  
Arizona Uniform Plumbing Code Commission

Address: c/o Arizona Registrar of Contractors  
800 West Washington, 6th Floor  
Phoenix, Arizona 85007

Telephone: (602) 542-1525 Ext. 7445

Fax: (602) 542-1536
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Arizona Uniform Plumbing Code Commission is initiating this rule as directed by the Governor's Regulatory Review Council. Appendix G was initially part of R4-48-102, but the GRRC Council felt it was incomplete and needed to be reviewed jointly by the Commission and the Arizona Department of Environmental Quality since the Appendix in question is associated with an issue currently handled by ADEQ. The changes made herein are an agreement reached between the Commission and ADEQ to regulate graywater systems in the state of Arizona and to protect the health, safety, and welfare of its citizens.
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the final 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.
- 8. 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:**

Before February 1999, when Title 4, Chapter 48 became final, Arizona was 1 of 5 states that did not have a statewide uniform set of product and installation standards for plumbing systems. At that time the Governor's Regulatory Review Council removed Appendix G from the original rule and sent it back to the Arizona Uniform Plumbing Code Commission for further review. The Arizona Uniform Plumbing Code Commission and the Arizona Department of Environmental Quality reviewed the items in this rule package together. This rule package continues the work of the Arizona Plumbing Code Commission to develop 1 statewide set of uniform plumbing standards as mandated by the Arizona Legislature. These standards will significantly reduce the number of hours required for training and educa-

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

tion about the standards, reduce the number of re-inspections by the administrative authorities (cities, counties, etc.), and reduce the quantity of rework performed by the industry (engineers, contractors, etc.). One set of uniform product and installation standards will reduce training time and costs, enhance public safety and health as a result of elimination of the existing convoluted and myriad regulation imposed by the political subdivisions of the state.

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

Generally speaking, the changes to Appendix G may require larger lot sizes, may preclude the use of graywater systems on some lots, provide for additional, and perhaps more restrictive, specifications on the design and construction of graywater systems, and will require additional inspections of graywater systems during their design and construction. These changes, therefore, may impose some economic costs. However, since these changes were made to decrease the environmental and health risks of graywater systems, the economic costs will be offset by the economic benefits of the reduced risks.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Change	Reason
Minor grammatical and stylistic changes were made at the request of the Governor’s Regulatory Review Council Staff.	Revise the rules to make them clearer and more concise.
R4-48-125(B)(1), change the last sentence to read, “The system, except as otherwise approved, may consist of a holding tank or tanks, and shall discharge graywater into subsurface irrigation/disposal fields.	Comment from Doug Cullinane. The subcommittee agreed that holding tanks were not mandatory; so this change clarifies the regulations.
R4-48-125(B)(5), in the 1st sentence, change the word, “plot” to “lot” in the phrase “and structures on the plot.”	Comment from Doug Cullinane. This is a typographical error.
R4-48-125(B)(8), insert the word “shall” in the first sentence after the words “inspection requirements”	Comment from Doug Cullinane. The word “shall” was inadvertently left out.
R4-48-125(B)(27), in the 2nd sentence, change the word “gasses” to “gases.”	Comment from Doug Cullinane. This is a typographical error.
Table A, insert the word “in” after “Depth of earth cover over aggregate 9.”	Comment from Doug Cullinane. The units of inches were inadvertently left out of the table.
Table B, remove footnote No. 4 from lines “Water supply wells” and “Streams, lakes, and reservoirs.”.	Comment from Doug Cullinane. Footnote 4 does not Apply to Water Supply Wells and Streams, lakes, reservoirs. This was a typographical error.
Footnote 4, changed to read: “The setback requirement is 5 feet (1.5 m) unless the property is not served by a central system for the distribution of water and:  There is no existing or proposed individual well on adjoining private property, in which case the setback is 50 feet (15.2m); or  A 100 foot (30.5m) separation distance cannot be maintained from an existing or proposed individual well, in which case the setback is the distance necessary to maintain the 100 foot (30.5m) separation; or  The applicable setback requirement in (a) or (b) may be reduced to a minimum of 5 feet (1.5m) with a variance from the Administrative Authority.”	Comment from ADEQ. The change to Footnote 4 clarifies that the Administrative Authority will grant the exemption instead of the adjacent property owner. And the Governor’s Regulatory Review Council editorial changes.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**11. A summary of the principal comments and the agency response to them:**

Two comments were in support of this rule. The comments were duly noted.

One supports this rule with minor suggested changes, and the response was: Minor editorial changes were made because they were determined to be necessary.

One written comment requested the retention of a perc test with soil classification, and the response was: Standards referenced are sufficient for soil classification methods.

One verbal comment requesting that permits not be required for the use of graywater by homeowners and the response was: Permitting is required to protect the public health and to prevent installations that could cause unhealthy installation.

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

None.

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

Appendix G of the I.A.P.M.O. 1994 Uniform Plumbing Code  
R4-48-125(A)

ASTM D-5879-95, "Standard Practice for Surface Site Characterization for On-Site Septic Systems"  
R4-28-125(B)(3)

ASTM D-5921-96, "Standard Practice for Subsurface Site Characterization of Test Pits for On-Site Septic Systems"  
R4-28-125(B)(3)

ASTM D-1425-80, (1990), "Standard Practice for Soil Investigation and Sampling by Auger Borings"  
R4-28-125(B)(3)

**14. Was this rule previously made as an emergency rule?**

Not applicable

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION**

**ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE**

Section

<u>R4-48-125</u>	<u>Graywater Systems for Single-family Dwellings</u>
<u>Table A</u>	<u>Irrigation Disposal Fields</u>
<u>Table B</u>	<u>Location of Graywater System and Setback Requirements</u>
<u>Table C</u>	<u>Effluent Application Loading Rates to Soil for Graywater Systems</u>
<u>Illustration A</u>	<u>Graywater System Tank – Gravity</u>
<u>Illustration B</u>	<u>Graywater System Tank – Pumped</u>
<u>Illustration C</u>	<u>Graywater System Multiple Tank Installation</u>
<u>Illustration D</u>	<u>Graywater System Underground Tank – Pumped</u>
<u>Illustration E</u>	<u>Graywater System Typical Irrigation Zone Layout</u>

**ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE**

**R4-48-125. Graywater Systems for Single-family Dwellings**

- A.** Appendix G of the International Association of Plumbing and Mechanical Officials' (I.A.P.M.O.) Uniform Plumbing Code (1994 Edition) is incorporated by reference. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available from I.A.P.M.O. at 20001 Walnut Drive South, Walnut, CA, 91789-2825 and are on file with Arizona Uniform Plumbing Code Commission and the Office of the Secretary of State.
- B.** Appendix G, incorporated by subsection (A) is modified as follows:
- 1.** Appendix G1(b) is modified to read: "The type of system shall be determined on the basis of location, soil type, soil classification under American Society Testing and Materials (ASTM) D-5921-96, and depth to ground water below the land surface, and shall be designed to accept only graywater connected to the system from the residential building. The system, except as otherwise approved, may consist of a holding tank or tanks and shall discharge graywater into subsurface irrigation/disposal fields."

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

2. Appendix G1(d) is modified to read: “No permit for any graywater system shall be issued until a plot plan with appropriate data, as required by Section G4, has been submitted and approved. When there is insufficient lot area or inappropriate soil conditions for adequate absorption of the graywater, as determined by the Administrative Authority, no graywater system shall be permitted. No permit shall be issued for the irrigation/disposal field of a graywater system that does not meet the criteria specified in this Appendix until appropriate data satisfactory to the Administrative Authority have been submitted and approved.”
3. Appendix G1(g) is added to read: “When making the initial site investigation and determining the soil characterization and soil absorption rates for graywater systems, the following ASTM standards are incorporated by reference and shall be used. The incorporations do not include later amendments or editions and are available from Registrar of Contractors and are on file with the Office of the Secretary of State:
  - a. ASTM D-5879-95, “Standard Practice for Surface Site Characterization for On-Site Septic Systems;”
  - b. ASTM D-5921-96, “Standard Practice for Subsurface Site Characterization of Test Pits for On-Site Septic Systems;” and
  - c. ASTM D-1452-80 (1990), “Standard Practice for Soil Investigation and Sampling by Auger Borings,” shall be used in areas where the depth to groundwater may be within the required vertical separation from the bottom of the subsurface disposal field for graywater systems.”
4. Appendix G2 is modified to read: “Graywater is untreated household water which has not come into contact with toilet waste. Graywater includes used water from bathtubs, showers, bathroom wash basins, and water from clothes-washing machines and laundry tubs. It shall not include wastewater from kitchen sinks, dishwashers, or deleterious chemicals such as discharge from photo lab sinks.”
5. Appendix G4(a) is modified to read: “A site-specific plot plan drawn to scale completely dimensioned, showing lot lines and structures, direction and approximate slope of surface (2 foot (0.6 m) contour lines), location of all present or proposed retaining walls, drainage channels, water supply lines, wells, paved areas and structures on the lot, number of bedrooms and plumbing fixtures in each structure, location of private sewage disposal system and 100% expansion area, or building sewer connection to the public sewer, and location of the proposed graywater system.”
6. Appendix G4(b) is modified to read: “Details of construction, including system profile and construction sections necessary to assure compliance with the requirements of this Appendix, together with a full description of the complete installation, including installation methods, construction and materials as required by the Administrative Authority.”
7. Appendix G4(c) is modified to read: “A log of soil formations, percentage of rock, texture, structure, consistence, and mottles as provided in ASTM D-5921-96 and depth to groundwater below the land surface as determined by test holes dug in close proximity to any proposed irrigated area and soil classification. The Administrative Authority may require an additional determination of water absorption characteristics of the soil at the proposed site by approved percolation tests or by alternate means to determine equivalent function of subsurface irrigation/disposal field.”
8. Appendix G5(a)(1) is modified to read: “All applicable provisions of this Appendix and the inspection requirements shall be complied with. The Administrative Authority shall confirm the soil suitability for a graywater system, inspect the disposal area following excavation, and inspect the piping system installation.”
9. Appendix G5(a)(3) is modified to read: “Holding/surge tanks shall be installed on dry, level, well-compacted soil if underground, or on a level 3 inch (76.2 mm) concrete slab, if above ground.”
10. Appendix G5(a)(4) is modified to read: “Above ground holding/surge tanks of cylindrical design shall be anchored against overturning.”
11. Appendix G5(b)(1) is modified to read: “Holding/surge tanks shall be filled with water to the overflow line prior to and during inspection. All seams and joints shall be left exposed and the tank shall remain watertight.”
12. Appendix G5(b)(2) is modified to read: “A flow test shall be performed through the system to the point of graywater irrigation/disposal. All conveyance lines and components shall be watertight.”
13. Appendix G7 is modified to read: “Each irrigation zone shall have the minimum effective irrigation area in square feet as determined by Table G-2 for the type of soil found in the excavation, based upon a calculation of estimated graywater discharge pursuant to Section G-6 of this Appendix. The effective area of the irrigation/disposal zone shall be equal to the aggregate length of the perforated pipe sections within the irrigation zone times the width of the proposed irrigation/disposal zone. Each proposed graywater system shall include at least 1 irrigation zone. Each zone shall be in compliance with the provisions of this section. No excavation for an irrigation/disposal field shall extend to a depth where graywater may contaminate the groundwater or surface water. The minimum vertical separation distance from the bottom of the irrigation zone shall be at least 1 foot (0.30 m) of normally unsaturated soil.”
14. Appendix G8(a) is modified to read: “Irrigation/disposal field size shall be computed from Table G-2. Rock fragments as defined by ASTM D-5921-96 shall be excluded from the field sizing.”
15. Appendix G8(c) is modified to read: “When a percolation test is required, no graywater system shall be permitted if the test shows the absorption capacity of the soil is outside the range of 2 minutes per inch (0.79 minutes per cm) to 60 minutes per inch (23.6 minutes per cm). Soils with excessively high or low permeability are unsuitable.”
16. Appendix G9 is modified to read: “Holding/Surge Tank Construction”

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

17. Appendix G9(a) is modified to read: “Plans for holding/surge tanks, if utilized, shall be submitted to the Administrative Authority for approval. Such plans shall show all dimensions and such other pertinent data as may be required. A minimum capacity of 50 gallons (189.2 L) is required, when a holding/surge tank is utilized.”
18. Appendix G9(b) is modified to read: “Holding/surge tanks shall be constructed of solid durable materials, not subject to excessive corrosion or decay, and shall be watertight.”
19. Appendix G9(c) is modified to read: “Each holding/surge tank shall be vented as required by Chapter 9 of this Code and shall have a locking, gasketed access opening, or approved equivalent, to allow for inspections and cleaning.”
20. Appendix G9(d) is modified to read: “Each holding/surge tank shall have its rated capacity permanently marked on the unit. In addition, a sign “GRAYWATER IRRIGATION SYSTEM, DANGER – UNSAFE WATER” shall be permanently marked on the holding/surge tank.”
21. Appendix G9(e) is modified to read: “Each holding/surge tank installed above ground shall have an emergency drain, separate from that connecting the tank with the irrigation/disposal fields, and an overflow drain. The emergency and overflow drains shall have permanent connections to the building drain or building sewer, upstream of the septic tanks, if any. The overflow drain shall not be equipped with a shutoff valve.”
22. Appendix G9(f) is modified to read: “The overflow and emergency drain pipes shall not be less in size than that of the inlet pipe. The vent size shall be determined based on the total graywater fixture units, as outlined in Table 7-5 of this Code. Unions or equally effective fittings shall be provided for all piping connected to the holding/surge tank.”
23. Appendix G9(g) is modified to read: “Each holding/surge tank shall be structurally designed to withstand all anticipated earth or other loads. All holding/surge tank covers shall be capable of supporting an earth load of not less than 300 pounds per square foot (14.4 kPa) when the tank is designed for underground installation.”
24. Appendix G9(h) is modified to read: “If a holding/surge tank is installed underground, the system must be designed so that the tank overflow will gravity drain to the existing sewer line or septic tank. The tank shall be protected against sewer line backflow by a backwater valve.”
25. Appendix G9(i)(1) is modified to read: “Steel holding/surge tanks shall be protected from corrosion, both externally and internally, by a coating acceptable to the Administrative Authority.”
26. Appendix G9(i)(2) is modified to read: “Holding/surge tanks constructed of concrete, fiberglass or alternative material may be approved by the Administrative Authority.”
27. Appendix G10 is modified to read: “Graywater piping discharging into the holding/surge tank or having a direct connection to the sanitary drain or sewer piping shall be downstream of an approved waterseal type trap or traps. If no such trap or traps exist, an approved vented running trap shall be installed upstream of the connection to protect the building from any possible waste or sewer gases. All graywater piping shall be marked or shall have a continuous tape marked with the words “DANGER – UNSAFE WATER.” All valves, including the 3-way valve, shall be readily accessible and shall be approved by the Administrative Authority. A backwater valve, installed pursuant to this Code, shall be provided on all holding/surge tank drain connections to the sanitary drain or sewer piping.”
28. Appendix G11(b) is modified to read: “Aggregate or clean stone, varying in size from 3/4 inch (19.1 mm) to 2-1/2 inches (63.5 mm) shall be placed in the trench to the depth and grade required by this section. The perforated section shall be laid on the aggregate in an approved manner. The perforated section shall then be covered with aggregate to the minimum depth required by this section. The aggregate shall then be covered with geotextile or landscape filter fabric materials, or similar porous material to prevent closure of voids with earth backfill. No earth backfill shall be placed over the aggregate cover until after inspection and acceptance.”
29. Appendix G11(c) is modified. Refer to Table A.
30. Appendix G12(a) is modified to read: “Other collection and distribution systems may be approved by the Administrative Authority as allowed by Section 301.0 [Standards and Alternatives] of this Code.”
31. Appendix G12(b) is modified to read: “Nothing contained in this appendix shall be construed to prevent the Administrative Authority from requiring an alternative design if the Administrative Authority determines that the 1st submitted design will not maintain a safe and sanitary condition.”
32. Table G-1 is modified. Refer to Table B – Location of Graywater System and Setback Requirements.
33. Table G-2 is modified. Refer to Table C – Effluent Application Loading Rates to Soil for Graywater Systems.
34. Figure G-1 is modified. Refer to Illustration A – Graywater System Tank – Gravity.
35. Figure G-2 is modified. Refer to Illustration B – Graywater System Tank – Pumped.
36. Figure G-3 is modified. Refer to Illustration C – Graywater System Multiple Tank Installation.
37. Figure G-4 is modified. Refer to Illustration D – Graywater System Underground Tank – Pumped.
38. Figure G-5 is modified. Refer to Illustration E – Graywater System Typical Irrigation Zone Layout.

**TABLE A. Irrigation Disposal Fields.**

Irrigation/disposal fields shall be constructed as follows:

	<u>Minimum</u>	<u>Maximum</u>

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

<u>Number of perforated drain lines per irrigation zone</u>	<u>1</u>	<u>==</u>
<u>Length of each perforated drain line</u>	<u>==</u>	<u>100 ft. (30.5 m)</u>
<u>Bottom width of trench</u>	<u>6 in. (15.2 cm)</u>	<u>24 in. (61.0 cm)</u>
<u>Spacing of lines, center-to-center</u>	<u>4 ft. (1/2 m)</u>	<u>==</u>
<u>Depth of earth cover over aggregate</u>	<u>9 in. (22.9 cm)</u>	
<u>Depth of aggregate cover over the lines</u>	<u>2 in. (5.1 cm)</u>	<u>==</u>
<u>Depth of aggregate beneath lines</u>	<u>3 in. (7.6 cm)</u>	<u>==</u>
<u>Grade of perforated lines</u>	<u>Level</u>	<u>3 in./100 ft. (7.6 cm/30.5 m)</u>
<u>Total depth of trench</u>	<u>17 in. (43.1 cm)</u>	<u>24 in. (61 cm)''</u>

**TABLE B. Location of Graywater System and Setback Requirements.**

<u>Minimum Horizontal Distance in Clear Required From:</u>	<u>Holding/Surge Tank (feet)(meters)</u>	<u>Irrigation/Disposal Field (feet)(meters)</u>
<u>Building structures 1</u>	<u>52 ft. (1.5 m)</u>	<u>23 ft. (0.6 m)</u>
<u>Property line adjoining private property</u>	<u>5 ft. (1.5 m)</u>	<u>See footnote 4</u>
<u>Water supply wells 5</u>	<u>100 ft. (30.5 m)</u>	<u>100 ft. (30.5 m)</u>
<u>Streams, lakes, and reservoirs 5</u>	<u>100 ft. (30.5 m)</u>	<u>1006 ft. (30.5 m)</u>
<u>Domestic water source 7</u>	<u>200 ft. (61.0 m)</u>	<u>200 ft. (61.0 m)</u>
<u>Dry wash/drainage easements 10</u>	<u>50 ft. (15.2 m)</u>	<u>50 ft. (15.2 m)</u>
<u>Sewage pits</u>	<u>5 ft. (1.5 m)</u>	<u>5 ft. (1.5 m)</u>
<u>Disposal field and 100% expansion area</u>	<u>5 ft. (1.5 m)</u>	<u>48 ft.</u>
<u>Septic tank</u>	<u>0 ft.</u>	<u>5 ft. (1.5 m)</u>
<u>On-site domestic water service line</u>	<u>5 ft. (1.5 m)</u>	<u>5 ft. (1.5 m)</u>
<u>Pressurized public water main</u>	<u>10 ft. (3.0 m)</u>	<u>109 ft. (3.0 m)</u>

Notes: When irrigation/disposal fields are installed in sloping ground, the minimum horizontal distance between any part of the distribution system and the ground surface shall be 15 feet (4.6 m).

- 1 Including porches and steps, whether covered or uncovered, breezeways, roofed patios, carports, covered walks, covered driveways and similar structures or appurtenances.
- 2 The distance may be reduced to 0 feet for above-ground tanks when 1st approved by the Administrative Authority.
- 3 Assumes a 45° angle from foundation.
- 4 The setback requirement is 5 feet (1.5 m) unless the property is not served by a central system for the distribution of water and:  
There is no existing or proposed individual well on adjoining private property, in which case the setback is 50 feet (15.2m); or
  - a. A 100-foot (30.5m) separation distance cannot be maintained from an existing or proposed individual well, in which case the setback is the distance necessary to maintain the 100-foot (30.5m) separation; or
  - b. The applicable setback requirement in (a) or (b) may be reduced to a minimum of 5 feet (1.5m) with a variance from the Administrative Authority.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

- 5 Where special hazards are involved, the distance required shall be increased as may be directed by the Administrative Authority.
- 6 These minimum clear horizontal distances shall also apply between the irrigation/disposal field and the maximum lake or reservoir level.
- 7 A point of water intake or suction pipeline from any stream, lake, or reservoir that is used for the purpose of providing water for human consumption.
- 8 Plus 2 feet (0.6 m) for each additional foot (meter) of depth in excess of 1 foot (0.3 m) below the bottom of the drain line.
- 9 For parallel construction/for crossings, approval by the Administrative Authority shall be required.
- 10 50-foot (15.2 m) setback is measured from the edge of the defined natural channel bank for a drainage area of at least 5 acres (2 hectare) or a drainage easement, whichever is less. Setback may be reduced to 25 feet (7.6 m) up gradient from the system, if channel erosion protection is provided (naturally or man-made) and approved by the Administrative Authority.

**TABLE C. Effluent Application Loading Rates to Soil for Graywater Systems.**

Instructions: Read questions in sequence beginning with A. The maximum soil loading rate in gallons per day per square foot (gpd/sq. ft.) (Lpd/sq. m.) corresponds to the 1st "yes" response to the questions.

	<u>Soil Application Rates gpd/sq. ft. (Lpd/sq. m.)</u>	<u>Percolation Rate Range minutes/inch (min./cm.)</u>
<u>A. Is the horizon gravelly coarse sand or coarser?</u>	<u>0 (0)1</u>	<u>--</u>
<u>B. Is the structure of the horizon moderate or strongly platy?</u>	<u>0 (0)1</u>	<u>--</u>
<u>C. Is the texture of the horizon sandy clay loam, clay loam, silty clay loam, or finer and structure weak and platy?</u>	<u>0 (0)1</u>	<u>--</u>
<u>D. Is the moist consistence stronger than firm or any cemented class?</u>	<u>0 (0)1</u>	<u>--</u>
<u>E. Is texture sandy clay, clay, or silty clay of high clay content and structure massive or weak?</u>	<u>0 (0)1</u>	<u>--</u>
<u>F. Is texture sandy clay loam, clay loam, silty clay loam, or silty loam and structure massive?</u>	<u>0 (0)1</u>	<u>--</u>
<u>G. Is the texture of the horizon loam or sandy loam and the soil structure massive?</u>	<u>.20 (8.15)</u>	<u>16-45 (6.3-17.7)</u>
<u>H. Is texture sandy clay, clay or silty clay of low clay content and the structure moderate or strong?</u>	<u>.20 (8.15)</u>	<u>45-60 (17.7-23.6)</u>
<u>I. Is texture sandy clay loam, clay loam, or silty loam and structure weak?</u>	<u>.20 (8.15)</u>	<u>45-60 (17.7-23.6)</u>
<u>J. Is texture sandy clay loam, clay loam, or silty clay loam and structure moderate or strong?</u>	<u>.40 (16.30)</u>	<u>45-60 (17.7-23.6)</u>
<u>K. Is texture sandy loam, loam, silty loam and structure weak?</u>	<u>.40 (16.30)</u>	<u>16-45 (6.3-17.7)</u>
<u>L. Is texture sandy loam, loam, silty loam and structure moderate or strong?</u>	<u>.60 (24.45)</u>	<u>16-45 (6.3-17.7)</u>
<u>M. Is texture fine sand, very fine sand, loamy fine sand, or loamy very fine sand?</u>	<u>.40 (16.30)</u>	<u>10-30 (3.9-11.8)</u>
<u>N. Is texture loamy sand or sand?</u>	<u>.80 (32.59)</u>	<u>10-20 (3.9-7.9)</u>
<u>O. Is texture coarse sand?</u>	<u>1.20 (48.89)</u>	<u>2-10 (0.8-3.9)</u>

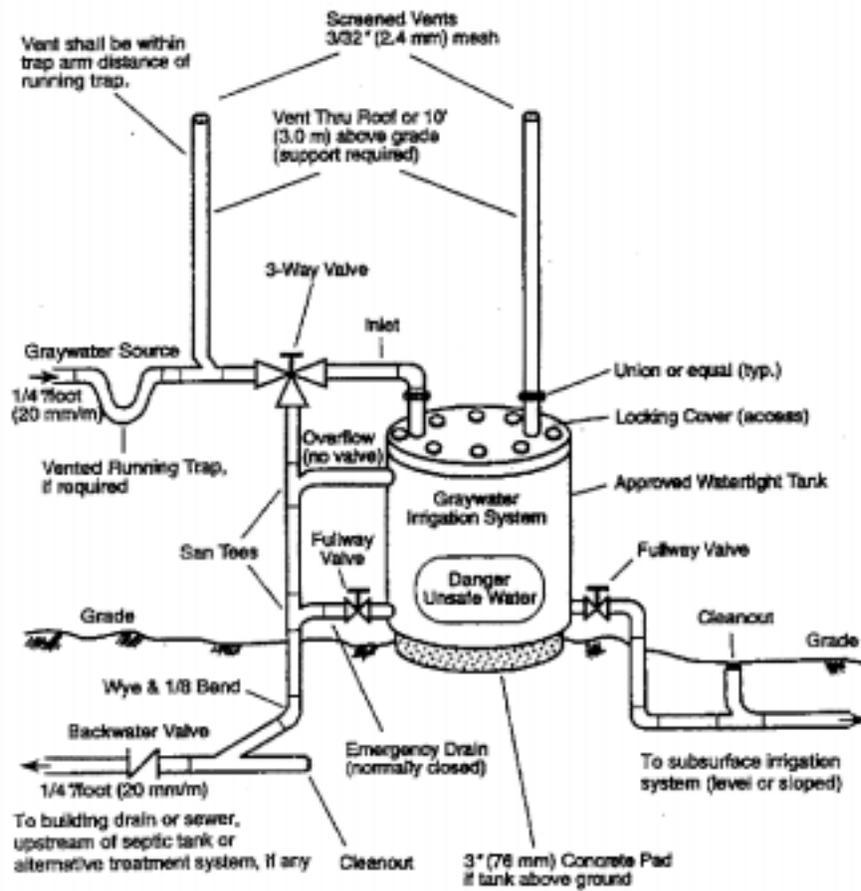
*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

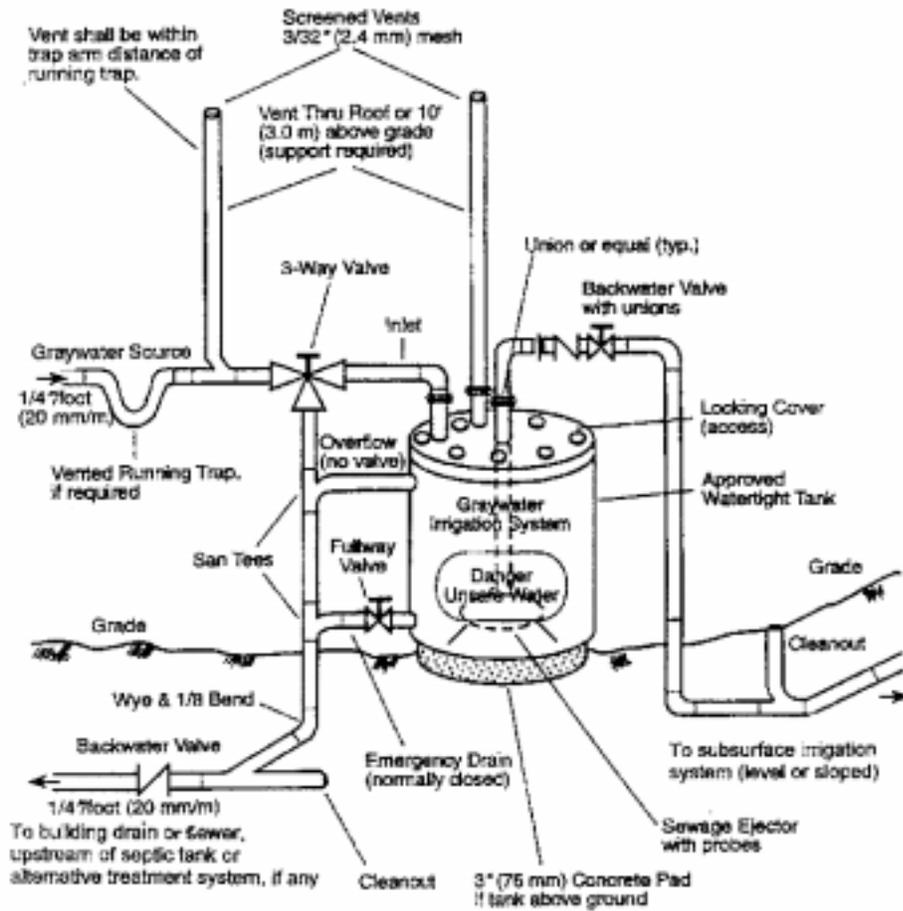
Notes:

- 1 Graywater systems for these soil types shall comply with paragraph G12(a) and G12(b) of this appendix.

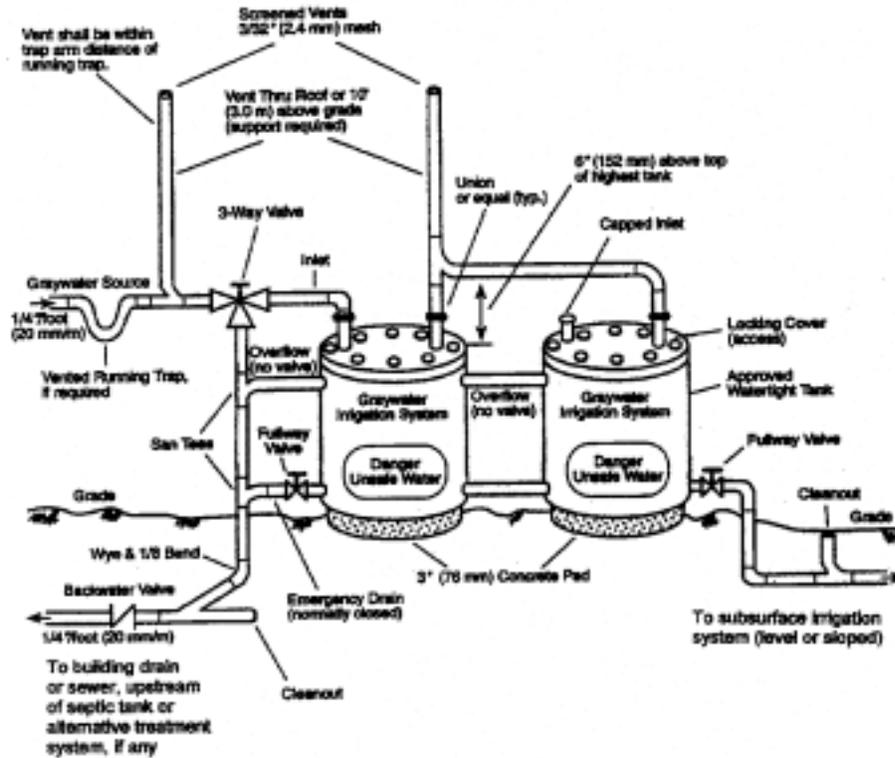
**Illustration A. Graywater System Tank - Gravity**



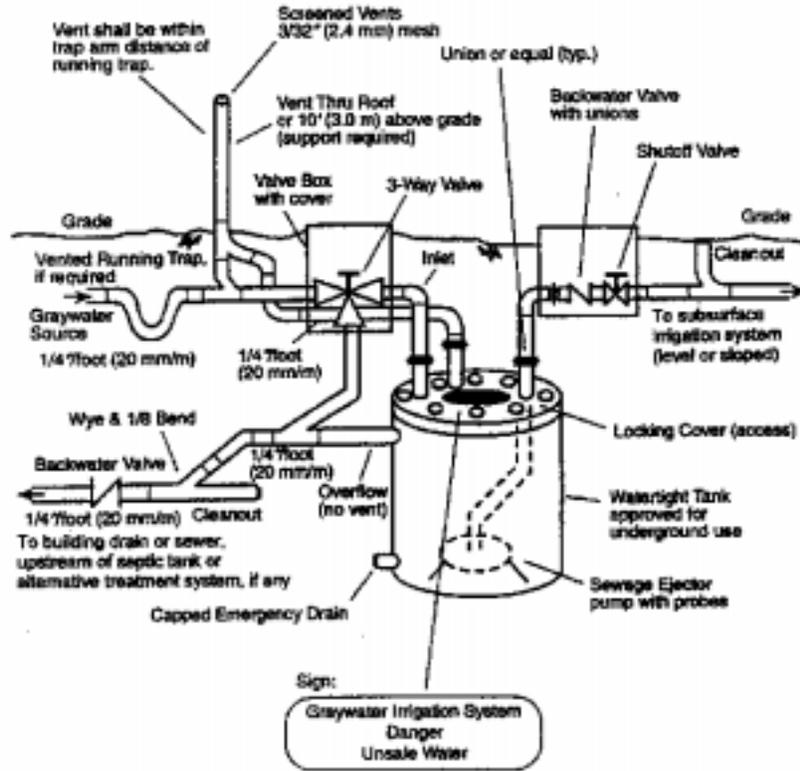
**Illustration B. Graywater System Tank - Pumped**



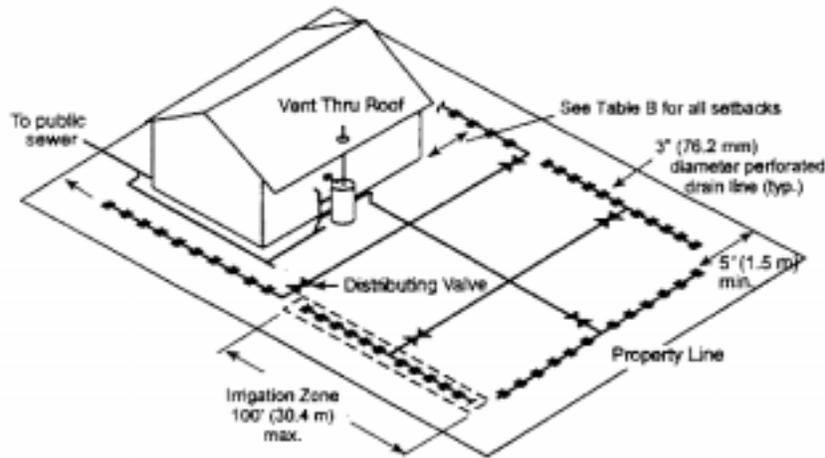
**Illustration C. Graywater System Multiple Tank Installation**



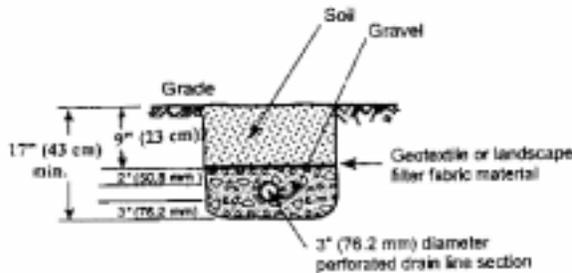
**Illustration D. Graywater System Underground Tank – Pumped**



**Illustration E. Graywater System Typical Irrigation Zone Layout**



Note: Each irrigation zone shall have a minimum effective absorption/irrigation area in square feet predicated on the estimated graywater discharge in gallons per day and on the type of soil found in the area. The area of the field shall be equal to the aggregate length of perforated pipe sections within the irrigation zone times the width of the proposed zone.



**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
 ADMINISTRATION**

**PREAMBLE**

**1. Sections Affected**

- R9-22-101
- R9-22-112
- R9-22-112
- R9-22-204
- R9-22-210
- R9-22-215
- R9-22-705
- R9-22-1201
- R9-22-1201
- R9-22-1202
- R9-22-1202

**Rulemaking Action**

- Amend
- Repeal
- New Section
- Amend
- Amend
- Amend
- Amend
- Repeal
- New Section
- Repeal
- New Section

Arizona Administrative Register

Notices of Final Rulemaking

R9-22-1203	Repeal
R9-22-1203	New Section
R9-22-1204	Repeal
R9-22-1204	New Section
R9-22-1205	Repeal
R9-22-1205	New Section
R9-22-1206	Repeal
R9-22-1206	New Section
R9-22-1207	Repeal
R9-22-1207	New Section
R9-22-1208	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. § 36-2903.01

Implementing statutes: A.R.S. §§ 36-2907(E) and 41-1092 et seq.

**3. The effective date of the rules:**

December 13, 1999

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notices of Rulemaking Docket Opening: 5 A.A.R. 461, February 5, 1999, and 5 A.A.R. 2013, June 18, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 2598, August 13, 1999

Notice of Public Information: 5 A.A.R. 3238, September 17, 1999

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

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: 801 East Jefferson, Mail Drop 4200  
Phoenix, AZ 85034

Telephone Number: (602) 417-4198

Fax Number: (602) 256-6756

**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

Four Articles in 9 A.A.C. 22 have been opened for the following reasons:

1. To make the language comply with Laws 1999, Ch. 313, § 8, which shifts the responsibility for behavioral health services for non-seriously mentally ill (non-SMI) 18-, 19-, and 20-year-old members from the AHCCCS health plans to the Arizona Department of Health Services (ADHS).
2. To make the language conform with current agency practice regarding behavioral health services;
3. To make the language comply with the Secretary of State's requirements;
4. To make the language clearer and more concise and understandable.

**7. A reference to any study that the agency relied 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.

**8. 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.

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

The AHCCCS Administration, ADHS, each Regional Behavioral Health Authority (RBHA), each AHCCCS health plan, AHCCCS providers, and AHCCCS acute care members will be moderately impacted by the changes in rule language due to the shift in responsibility for the 18-, 19-, and 20-year-old non-SMI population from the health plans to ADHS. This change, which is required by state statute, integrates behavioral health services for all acute care AHCCCS members into 1 delivery system. The Administration will have to implement several operational changes as well as monitor the transition of this population from 1 delivery system to another. ADHS will have to amend its contract with each RBHA as well as coordinate and monitor the transition of members from the health plans to the RBHAs. Each RBHA will have to update its contracts with its providers, as well as ensure transition of members from 1 provider to another in some instances.

AHCCCS providers that are business entities may be moderately affected because they could lose or gain members due to the rule change. AHCCCS 18-, 19-, and 20-year-old non-SMI members who receive behavioral health services when the change goes into effect may be moderately impacted due to the transition from the health plan system to the RBHA system.

In addition, ADHS and each RBHA will be impacted by the change in state law that mandates the Office of Administrative Hearings (OAH) conduct evidentiary hearings involving the AHCCCS program, effective July 1, 1999. The Administration anticipates the rule change will have a minimal impact to ADHS and the RBHAs with regard to behavioral health services. The current law allows for a complex dual grievance process. The Administration and ADHS are seeking a legislative remedy during the upcoming session to remove any inconsistencies in law. This rule package allows the existing grievance process to remain in place until a permanent solution is achieved.

The AHCCCS Administration, ADHS, the RBHAs, provider agencies, individual providers, and members may be impacted by the rule language that states initial behavioral health evaluations performed by behavioral health professionals and behavioral health technicians must now only be conducted by a behavioral health professional. However, the impact should be minimal in Maricopa County because the rule reflects the language in the existing agency contract between ADHS and AHCCCS. In the other counties the impact could be minimal to significant depending on the number of behavioral health professionals already in the RBHA's network for each county.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

The changes between the proposed rule and the final rule include:

1. Added the word "initial" before evaluation in R9-22-112;
2. Added cross-reference citations to Title 20 rules for partial care;
3. Corrected grammar to make the language clearer and more concise and understandable.

**11. A summary of the principal comments and the agency response to them:**

The Administration received comments from 3 entities. The comments requested the removal of the term "state alien" and the insertion of the term "qualified" to reflect the proper usage from statute. The Administration cross-referenced to the provider contract when necessary to clarify provider requirements and agency practice. The Administration added the citation to the statutes to clarify the appeal process for disputes and how it applies to ADHS.

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

Not applicable.

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

42 U.S.C. 1396u-2, August 5, 1997, incorporated in R9-22-210.

42 CFR 456, August 23, 1996, incorporated in R9-22-1206.

**14. Was this rule previously adopted as an emergency rule?**

No.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 1. DEFINITIONS**

Section

- R9-22-101. Location of Definitions  
~~R9-22-112. Behavioral Health Services Related Definitions~~  
~~R9-22-112. Behavioral Health Services Related Definitions~~

**ARTICLE 2. SCOPE OF SERVICES**

Section

- R9-22-204. Inpatient General Hospital Services  
R9-22-210. Emergency Medical and Behavioral Health Services  
R9-22-215. Other Medical Professional Services

**ARTICLE 7. STANDARDS FOR PAYMENTS**

Section  
R9-22-705. Payments by Contractors

~~**ARTICLE 12. BEHAVIORAL HEALTH SERVICES**~~

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES**

Section  
~~R9-22-1201. Definitions~~  
R9-22-1201. General Requirements  
~~R9-22-1202. Eligibility~~  
R9-22-1202. ADHS and Health Plan Responsibilities  
~~R9-22-1203. Service Delivery System and Referral~~  
R9-22-1203. Eligibility for Covered Services  
~~R9-22-1204. Covered Behavioral Health Services for Eligible Persons and Members~~  
R9-22-1204. General Service Requirements  
~~R9-22-1205. Qualifications and Standards of Participation for Service Providers~~  
R9-22-1205. Scope of Behavioral Health Services  
~~R9-22-1206. Payments~~  
R9-22-1206. General Provisions and Standards for Service Providers  
~~R9-22-1207. Grievance and Appeal Process~~  
R9-22-1207. Standards for Payments  
~~R9-22-1208. Grievance and Appeal Process~~

**ARTICLE 1. DEFINITIONS**

**R9-22-101. Location of Definitions**

A. Location of definitions. Definitions applicable to Chapter 22 are found in the following:

Definition	Section or Citation
1. "210"	R9-22-114
2. "1931"	R9-22-114
3. "1-time income"	R9-22-116
4. "1st-party liability"	R9-22-110
5. "3-month income period"	R9-22-116
6. "3rd-party"	R9-22-110
7. "3rd-party liability"	R9-22-110
8. "Accommodation"	R9-22-107
9. "Act"	R9-22-114
10. "Acute mental health services"	R9-22-112
11. "Adequate notice"	R9-22-114
<u>12. "ADHS"</u>	<u>R9-22-112</u>
<del>12-13.</del> "Administration"	R9-22-106, R9-22-114, and A.R.S. § 36-2901
<del>13-14.</del> "Adverse action"	R9-22-114
<del>14-15.</del> "AEC"	R9-22-117
<del>15-16.</del> "Affiliated corporate organization"	R9-22-106
<del>16-17.</del> "Aged"	R9-22-115
<del>17-18.</del> "Aggregate"	R9-22-107
<del>18-19.</del> "AHCCCS"	R9-22-101
<del>19-20.</del> "AHCCCS-disqualified dependent"	R9-22-101
<del>20-21.</del> "AHCCCS-disqualified spouse"	R9-22-101
<del>21-22.</del> "AHCCCS hearing officer"	R9-22-108
<del>22-23.</del> "AHCCCS inpatient hospital day or days of care"	R9-22-107
<del>23-24.</del> "Ambulance"	R9-22-102
<del>24-25.</del> "Ancillary department"	R9-22-107
<del>25-26.</del> "Annual enrollment choice"	R9-22-117
<del>26-27.</del> "Appeal"	R9-22-108
<del>27-28.</del> "Appellant"	R9-22-114
<del>28-29.</del> "Applicant"	R9-22-101
<del>29-30.</del> "Application"	R9-22-101

**Notices of Final Rulemaking**

<u>30-31.</u>	“Assignment”	R9-22-101
<u>31-32.</u>	“Assistance unit”	R9-22-114
<u>32-33.</u>	“Authorized representative”	R9-22-114
<u>33-34.</u>	“Auto-assignment algorithm”	R9-22-117
<u>34-35.</u>	“Baby Arizona”	R9-22-114
<u>36.</u>	“ <u>Behavior management services</u> ”	<u>R9-22-112</u>
<u>37.</u>	“ <u>Behavioral health paraprofessional</u> ”	<u>R9-22-112</u>
<u>38.</u>	“ <u>Behavioral health professional</u> ”	<u>R9-22-112</u>
<u>39.</u>	“ <u>Behavioral health service</u> ”	<u>R9-22-112</u>
<u>40.</u>	“ <u>Behavioral health technician</u> ”	<u>R9-22-112</u>
<u>35-41.</u>	“BHS”	R9-22-114
<u>36-42.</u>	“Billed charges”	R9-22-107
<u>37-43.</u>	“Blind”	R9-22-115
<u>44.</u>	“ <u>Board-eligible for psychiatry</u> ”	<u>R9-22-112</u>
<u>38-45.</u>	“Bona fide funeral agreement”	R9-22-114
<u>39-46.</u>	“Burial plot”	R9-22-114
<u>40-47.</u>	“Capital costs”	R9-22-107
<u>41-48.</u>	“Capped fee-for-service”	R9-22-101
<u>42-49.</u>	“Caretaker relative”	R9-22-114
<u>50.</u>	“ <u>Case management services</u> ”	<u>R9-22-112</u>
<u>43-51.</u>	“Case record”	R9-22-101
<u>44-52.</u>	“Cash assistance”	R9-22-114
<u>45-53.</u>	“Categorically eligible”	A.R.S. § 36-2901(4)(b) and 36-2934
<u>46-54.</u>	“Certification”	R9-22-109
<u>47-55.</u>	“Certification error”	R9-22-109
<u>48-56.</u>	“Certification period”	R9-22-115 and R9-22-116
<u>57.</u>	“ <u>Certified psychiatric nurse practitioner</u> ”	<u>R9-22-112</u>
<u>49-58.</u>	“Child welfare agency”	R9-22-114
<u>50-59.</u>	“Clean claim”	A.R.S. § 36-2904
<u>60.</u>	“ <u>Clinical supervision</u> ”	<u>R9-22-112</u>
<u>51-61.</u>	“CMDP”	R9-22-117
<u>52-62.</u>	“Continuous stay”	R9-22-101
<u>53-63.</u>	“Contract”	R9-22-101
<u>54-64.</u>	“Contractor”	R9-22-101
<u>55-65.</u>	“Contractor of record”	R9-22-101
<u>56-66.</u>	“Copayment”	R9-22-107
<u>57-67.</u>	“Corrective action plan”	R9-22-109
<u>58-68.</u>	“Cost-to-charge ratio”	R9-22-107
<u>59-69.</u>	“Countable income”	R9-22-116
<u>60-70.</u>	“County eligibility department”	R9-22-109
<u>61-71.</u>	“County eligibility staff”	R9-22-116
<u>62-72.</u>	“Covered charges”	R9-22-107
<u>63-73.</u>	“Covered services”	R9-22-102
<u>64-74.</u>	“CPT”	R9-22-107
<u>65-75.</u>	“CRS”	R9-22-114
<u>66-76.</u>	“Date of determination”	R9-22-116
<u>67-77.</u>	“Date of discontinuance”	R9-22-116
<u>68-78.</u>	“Date of enrollment action”	R9-22-117
<u>69-79.</u>	“Day”	R9-22-101
<u>70-80.</u>	“DCSE”	R9-22-114
<u>71-81.</u>	“Deductible medical expense”	R9-22-116
<u>72-82.</u>	“Deemed application date”	R9-22-116
<u>83.</u>	“ <u>De novo hearing</u> ”	<u>R9-22-112</u>
<u>73-84.</u>	“Dentures”	R9-22-102
<u>74-85.</u>	“Department”	R9-22-114
<u>75-86.</u>	“Dependent child”	R9-22-114 and R9-22-116
<u>76-87.</u>	“DES”	R9-22-101
<u>77-88.</u>	“Determination”	R9-22-116
<u>78-89.</u>	“Diagnostic services”	R9-22-102

**Notices of Final Rulemaking**

<del>79-90.</del>	"Disabled"	R9-22-115
<del>80-91.</del>	"Discontinuance"	R9-22-116
<del>81-92.</del>	"Discussions"	R9-22-106
<del>82-93.</del>	"Disenrollment"	R9-22-117
<del>83-94.</del>	"District Medical Consultant"	R9-22-114
<del>84-95.</del>	"DME"	R9-22-102
<del>85-96.</del>	"DRI inflation factor"	R9-22-107
<del>86-97.</del>	"E.P.S.D.T. services"	R9-22-102
<del>87-98.</del>	"EAC"	R9-22-101
<del>88-99.</del>	"Earned income"	R9-22-116
<del>89-100.</del>	"Educational income"	R9-22-116
<del>90-101.</del>	"ELIC"	R9-22-101
<del>91-102.</del>	"Eligibility determination date"	R9-22-114
<del>92-103.</del>	"Eligible assistance children"	A.R.S. § 36-2905.03(B)
<del>93-104.</del>	"Eligible applicant"	A.R.S. § 36-2901(4)
<del>94-105.</del>	"Eligible low-income children"	A.R.S. § 36-2905.03(C) and (D)
<del>95-106.</del>	"Emancipated minor"	R9-22-116
<del>96-107.</del>	"Emergency medical condition"	42 U.S.C. 1396b(v)
<del>97-108.</del>	"Emergency medical services"	R9-22-102
<del>98-109.</del>	"Encounter"	R9-22-107
<del>99-110.</del>	"Enrollment"	R9-22-117
<del>100-111.</del>	"Enumeration"	R9-22-101
<del>101-112.</del>	"Equity"	R9-22-101
<del>113.</del>	<u>"Evaluation"</u>	<u>R9-22-112</u>
<del>102-114.</del>	"Expressly emancipated minor"	R9-22-116
<del>103-115.</del>	"FAA" or "Family Assistance Administration"	R9-22-114
<del>104-116.</del>	"Facility"	R9-22-101
<del>105-117.</del>	"Factor"	R9-22-101
<del>106-118.</del>	"FBR"	R9-22-101
<del>107-119.</del>	"Federal Benefit Rate"	R9-22-101
<del>108-120.</del>	"Federal emergency services program"	R9-22-101
<del>109-121.</del>	"FESP"	R9-22-101
<del>110-122.</del>	"Foster care maintenance payment"	R9-22-114
<del>111-123.</del>	"Foster child"	R9-22-114
<del>112-124.</del>	"FPL"	R9-22-114
<del>113-125.</del>	"FQHC"	R9-22-101
<del>114-126.</del>	"Fraudulent information"	R9-22-109
<del>115-127.</del>	"Grievance"	R9-22-108
<del>116-128.</del>	"GSA"	R9-22-101
<del>117-129.</del>	"Guardian"	R9-22-116
<del>118-130.</del>	"Head-of-household"	R9-22-116
<del>119-131.</del>	"Hearing aid"	R9-22-102
<del>120-132.</del>	"Home health services"	R9-22-102
<del>121-133.</del>	"Homebound"	R9-22-114
<del>122-134.</del>	"Hospital"	R9-22-101
<del>123-135.</del>	"Hospitalized"	R9-22-116
<del>124-136.</del>	"ICU"	R9-22-107
<del>125-137.</del>	"IHS"	R9-22-117
<del>138.</del>	<u>"IMD"</u>	<u>R9-22-112</u>
<del>126-139.</del>	"Income"	R9-22-114 and R9-22-116
<del>127-140.</del>	"Income-in-kind"	R9-22-116
<del>128-141.</del>	"Indigent"	A.R.S. § 11-297
<del>129-142.</del>	"Inmate of a public institution"	42 CFR 435.1009
<del>143.</del>	<u>"Inpatient psychiatric facilities for individuals under age 21"</u>	<u>R9-22-112</u>
<del>130-144.</del>	"Interested party"	R9-22-106
<del>131-145.</del>	"Interim change"	R9-22-116

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

<del>132-146.</del> “JTPA” or “Job Training Partnership Act”	R9-22-114
<del>133-147.</del> “License” or “licensure”	R9-22-101
<del>134-148.</del> “Liquid assets”	R9-22-114 and R9-22-116
<del>135-149.</del> “Liquid resources”	R9-22-116
<del>136-150.</del> “Lump-sum income”	R9-22-116
<del>137-151.</del> “Mailing date”	R9-22-114
<del>138-152.</del> “Medical education costs”	R9-22-107
<del>139-153.</del> “Medical record”	R9-22-101
<del>140-154.</del> “Medical review”	R9-22-107
<del>141-155.</del> “Medical services”	R9-22-101
<del>142-156.</del> “Medical supplies”	R9-22-102
<del>143-157.</del> “Medical support”	R9-22-114
<del>144-158.</del> “Medically necessary”	R9-22-101
<del>145-159.</del> “Medicare claim”	R9-22-107
<del>146-160.</del> “Medicare HMO”	R9-22-101
<u>161.</u> “Mental disorder”	<u>R9-22-112</u>
<del>147-162.</del> “MI/MN”	A.R.S. § 36-2901(4)(a) and (c)
<del>148-163.</del> “Minor parent”	R9-22-114
<del>149-164.</del> “Month of determination”	R9-22-116
<del>150-165.</del> “New hospital”	R9-22-107
<del>151-166.</del> “NICU”	R9-22-107
<del>152-167.</del> “Noncontracting provider”	A.R.S. § 36-2931
<del>153-168.</del> “Nonliquid resources”	R9-22-116
<del>154-169.</del> “Nonparent caretaker relative”	R9-22-114
<del>155-170.</del> “Nursing facility” “ <u>NF</u> ”	42 U.S.C. 1396r(a)
<del>156-171.</del> “Occupational therapy”	R9-22-102
<del>157-172.</del> “Offeror”	R9-22-106
<del>158-173.</del> “Operating costs”	R9-22-107
<del>159-174.</del> “Outlier”	R9-22-107
<del>160-175.</del> “Outpatient hospital service”	R9-22-107
<del>161-176.</del> “Ownership change”	R9-22-107
<u>177.</u> “Partial Care”	<u>R9-22-112</u>
<del>162-178.</del> “Peer group”	R9-22-107
<del>163-179.</del> “Pharmaceutical service”	R9-22-102
<del>164-180.</del> “Physical therapy”	R9-22-102
<del>165-181.</del> “Physician”	R9-22-102
<del>166-182.</del> “Post-stabilization services”	42 CFR 438.114
<del>167-183.</del> “Practitioner”	R9-22-102
<del>168-184.</del> “Pre-enrollment process”	R9-22-114
<del>169-185.</del> “Prescription”	R9-22-102
<del>170-186.</del> “Primary care provider”	R9-22-102
<del>171-187.</del> “Primary care provider services”	R9-22-102
<del>172-188.</del> “Prior authorization”	R9-22-102
<del>173-189.</del> “Private duty nursing services”	R9-22-102
<del>174-190.</del> “Proposal”	R9-22-106
<del>175-191.</del> “Proposal of discontinuance”	R9-22-116
<del>176-192.</del> “Prospective rate year”	R9-22-107
<del>177-193.</del> “Prospective rates”	R9-22-107
<del>178-194.</del> “Prudent layperson standard”	42 U.S.C. 1396u-2
<u>195.</u> “Psychiatrist”	<u>R9-22-112</u>
<u>196.</u> “Psychologist”	<u>R9-22-112</u>
<u>197.</u> “Psychosocial rehabilitation”	<u>R9-22-112</u>
<del>179-198.</del> “Public assistance”	R9-22-116
<del>180-199.</del> “Quality control case analysis”	R9-22-109
<del>181-200.</del> “Quality control sample review”	R9-22-109
<del>182-201.</del> “Quality management”	R9-22-105
<del>183-202.</del> “Radiology”	R9-22-102
<u>203.</u> “RBHA”	<u>R9-22-112</u>

**Notices of Final Rulemaking**

<del>184-204.</del> “Rebasing”	R9-22-107
<del>185-205.</del> “Recipient”	R9-22-114
<del>186-206.</del> “Redetermination”	R9-22-116
<del>187-207.</del> “Referral”	R9-22-101
<del>188-208.</del> “Rehabilitation services”	R9-22-102
<del>189-209.</del> “Reinsurance”	R9-22-107
<del>190-210.</del> “Resources”	R9-22-114 and R9-22-116
<del>191-211.</del> “Respiratory therapy”	R9-22-102
<del>192-212.</del> “Responsible offeror”	R9-22-106
<del>193-213.</del> “Responsive offeror”	R9-22-106
<del>194-214.</del> “Review”	R9-22-114
<del>195-215.</del> “RFP”	R9-22-105 and R9-22-106
<del>196-216.</del> “Scope of services”	R9-22-102
<del>217.</del> “Screening”	<u>R9-22-112</u>
<del>197-218.</del> “SDAD”	R9-22-107
<del>198-219.</del> “Separate property”	A.R.S. § 25-213
<del>199-220.</del> “Service location”	R9-22-101
<del>200-221.</del> “Service site”	R9-22-101
<del>201-222.</del> “SESP”	R9-22-101
<del>202-223.</del> “S.O.B.R.A.”	R9-22-101
<del>203-224.</del> “Specialist”	R9-22-102
<del>204-225.</del> “Specified relative”	R9-22-114 and R9-22-116
<del>205-226.</del> “Speech therapy”	R9-22-102
<del>206-227.</del> “Spendthrift restriction”	R9-22-114
<del>207-228.</del> “Spouse”	R9-22-101
<del>208-229.</del> “SSA”	P.L. 103-296, Title I
<del>209-230.</del> “SSI”	R9-22-101
<del>210-231.</del> “SSN”	R9-22-101
<del>211-232.</del> “State alien”	R9-22-101
<del>212-233.</del> “State emergency services program”	R9-22-101
<del>213-234.</del> “Sterilization”	R9-22-102
<del>214-235.</del> “Subcontract”	R9-22-101
<del>236.</del> “Substance abuse”	<u>R9-22-112</u>
<del>215-237.</del> “SVES” or “State Verification and Exchange System”	R9-22-114
<del>216-238.</del> “Tier”	R9-22-107
<del>217-239.</del> “Tiered per diem”	R9-22-107
<del>218-240.</del> “Title IV-A”	R9-22-114
<del>219-241.</del> “Title IV-D”	R9-22-114
<del>220-242.</del> “Title IV-E”	R9-22-114
<del>243.</del> “Title XIX”	<u>42 U.S.C. 1396</u>
<del>221-244.</del> “TMA”	R9-22-114
<del>222-245.</del> “Total inpatient hospital days”	R9-22-107
<del>246.</del> “Treatment”	<u>R9-22-112</u>
<del>223-247.</del> “Unearned income”	R9-22-116
<del>224-248.</del> “Utilization management”	R9-22-105

**B. General definitions.** In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. “AHCCCS” means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to an eligible person.
2. “AHCCCS-disqualified dependent” means a dependent child of an AHCCCS-disqualified spouse who resides in the same household of an AHCCCS-disqualified spouse.
3. “AHCCCS-disqualified spouse” means the spouse of an MI/MN applicant, who is ineligible for MI/MN benefits because the value of that spouse’s separate property, when combined with the value of other resources owned by household members, exceeds the allowable resource limit.
4. “Applicant” means a person who submits or whose representative submits, a written, signed, and dated application for AHCCCS benefits that has not been approved or denied.
5. “Application” means an official request for medical assistance made under this Chapter.
6. “Assignment” means enrollment of an eligible person with a contractor by the Administration.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

7. "Capped fee-for-service" means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific AHCCCS covered service and equipment provided to an eligible applicant. A payment is made in accordance with an upper, or capped, limit established by the Director.
8. "Case record" means the file and all documents in the file that are used to establish eligibility.
9. "Categorically eligible" means a person who is eligible as defined by A.R.S. §§ 36-2901(4)(b) and 36-2934.
10. "Continuous stay" means the period of time during which an eligible person receives inpatient hospital services without interruption beginning with the date of admission and ending with the date of discharge or date of death.
11. "Contract" means a written agreement entered into between a person, an organization, or other entity and the Administration, to provide health care services to a member under A.R.S. Title 36, Chapter 29, and these rules.
12. "Contractor" means a person, an organization, or an entity that agrees through a direct contracting relationship with the Administration, to provide goods and services specified by the contract under the requirements of the contract and these rules.
13. "Contractor of record" means an organization or an entity in which a person is enrolled for the provision of AHCCCS services.
14. "Day" means a calendar day unless otherwise specified in the text.
15. "DES" means the Department of Economic Security.
16. "EAC" means eligible assistance children.
17. "ELIC" means eligible low-income children.
18. "Eligible assistance children" means the children defined by A.R.S. § 36-2905.03(B).
19. "Eligible low-income children" means the children defined by A.R.S. § 36-2905.03(C) and (D).
20. "Eligible applicant" means the applicant defined in A.R.S. § 36-2901(4).
21. "Enumeration" means the assignment of a specific 9-digit identification number to a person by the Social Security Administration.
22. "Equity" means the county assessor full cash or market value of a resource minus valid liens, encumbrances, or both.
23. "Facility" means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution, under A.R.S. Title 36, Chapter 4, to provide a medical service, a nursing service, or other health care or health-related services.
24. "Factor" means an organization, a collection agency, a service bureau, or a person who advances money to a provider for accounts receivable that the provider assigns, sells, or otherwise transfers, including transfers through the use of a power of attorney, to the organization, the collection agency, the service bureau, or the person that receives an added fee or a deduction of a portion of the face value of the accounts receivable in return for the advanced money. The term "factor" does not include a business representative, such as a billing agent or an accounting firm described within these rules, or a health care institution.
25. "FBR" means Federal Benefit Rate, defined in R9-22-101(B)26.
26. "Federal Benefit Rate" means the maximum monthly Supplemental Security Income payment rate for an eligible person or a married couple.
27. "Federal emergency services program" means a program designed to provide emergency medical services covered under 42 U.S.C. 1396b(v), to treat an emergency medical condition for a categorically eligible person who is determined eligible under A.R.S. § 36-2903.03.
28. "FESP" means federal emergency services program.
29. "FQHC" means federally qualified health center.
30. "GSA" means a geographical service area designated by the Administration within which a contractor of record provides, directly or through a subcontract, a covered health care service to a member enrolled with that contractor of record.
31. "Hospital" means a health care institution that is licensed as a hospital by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4, Article 2, and certified as a provider under Title XVIII of the Social Security Act, as amended, or is currently determined to meet the requirements of certification.
32. "Indigent" means meeting eligibility criteria under A.R.S. § 11-297.
33. "Inmate of a public institution" means a person defined by 42 CFR 435.1009.
34. "License" or "licensure" means a nontransferable authorization that is based on established standards in law, is issued by a state or a county regulatory agency or board, and allows a health care provider to render a health care service lawfully.
35. "Medical record" means all documents that relate to medical and behavioral health services provided to a member by a physician or other licensed practitioner of the healing arts and that are kept at the site of the provider.
36. "Medical services" means health care services provided to an eligible person by a physician, a practitioner, a dentist, or by a health professional and technical personnel under the direction of a physician, a practitioner, or a dentist.
37. "Medically necessary" means a covered service provided by a physician or other licensed practitioner of the healing arts and within the scope of practice under state law to:
  - a. Prevent disease, disability, and other adverse health conditions or their progression; or

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- b. Prolong life.
38. "Medicare HMO" means a health maintenance organization that has a current contract with the Health Care Financing Administration (HCFA) for participation in the Medicare program under 42 CFR 417(L).
39. "MI/MN" means medically indigent and medically needy defined in A.R.S. § 36-2901(4)(a) and (c).
40. "Nursing facility" means a nursing facility defined in 42 U.S.C. 1396r(a).
41. "Noncontracting provider" means the provider defined in A.R.S. § 36-2931.
42. "Referral" means the process by which an eligible person is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.
43. "Separate property" means property defined in A.R.S. § 25-213.
44. "Service location" means any location at which a member obtains any health care service provided by a contractor of record under the terms of a contract.
45. "Service site" means a location designated by a contractor of record as the location at which a person is to receive health care services.
46. "SESP" means state emergency services program.
47. "S.O.B.R.A." means Section 9401 of the Sixth Omnibus Budget Reconciliation Act, 1986, amended by the Medicare Catastrophic Coverage Act of 1988, 42 U.S.C. 1396a(a)(10)(A)(ii)(IX), July 1, 1988.
48. "Spouse" means the husband or wife who has entered into a contract of marriage, recognized as valid by Arizona.
49. "SSA" means Social Security Administration defined in P.L. 103-296, Title I.
50. "SSI" means Supplemental Security Income under Title XVI of the Social Security Act, as amended.
51. "SSN" means social security number.
52. "State alien" means an unqualified alien described in A.R.S. § 36-2903.03(C).
53. "State emergency services program" means a program designed to provide emergency medical services identified as covered under R9-22-217 to treat an emergency medical condition for a person who is determined eligible under A.R.S. § 36-2905.05.
54. "Subcontract" means an agreement entered into by a contractor with any of the following:
- a. A provider of health care services who agrees to furnish covered services to a member;
  - b. A marketing organization; or
  - c. Any other organization or person who agrees to perform any administrative function or service for a contractor specifically related to securing or fulfilling the contractor's obligation to the Administration under the terms of a contract.

**R9-22-112. Behavioral Health Services Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning: "Acute mental health services" means inpatient or outpatient health services provided to treat mental or emotional disorders, as necessary for crisis stabilization, evaluation, and determination of future service needs.

**R9-22-112. Behavioral Health Services Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. "ADHS" means the Arizona Department of Health Services, the state agency mandated to serve the public health needs of all Arizona residents.
2. "Behavior management services" specified in 9 A.A.C. 20.
3. "Behavioral health paraprofessional" defined in 9 A.A.C. 20, Article 1.
4. "Behavioral health professional" defined in 9 A.A.C. 20, Article 1.
5. "Behavioral health service" defined in 9 A.A.C. 20, Article 1.
6. "Behavioral health technician" defined in 9 A.A.C. 20, Article 1.
7. "Board-eligible for psychiatry" means completion of an accredited psychiatry residency program approved by the American College of Graduate Medical Education or the American Osteopathic Association. Documentation of completion of a residency program includes a certificate of residency training including exact dates of residency, or a letter of verification of residency training from the training director including the exact dates of training period.
8. "Case management services" means supportive services and activities that enhance treatment, compliance, and effectiveness of treatment. This definition is applicable for purposes of 9 A.A.C. 22, Article 12 only.
9. "Certified psychiatric nurse practitioner" as specified in A.R.S. § 32-1601 and certified under the American Nursing Association's Statement and Standards for Psychiatric-Mental Health Clinical Nursing Practice under R4-19-505.
10. "Clinical supervision" specified in 9 A.A.C. 20.
11. "De novo hearing" defined in 42 CFR 431.202.
12. "Evaluation" means the initial assessment of a member's medical, psychological, psychiatric, or social condition to determine if a behavioral health disorder exists and if so, to establish a treatment plan for all medically necessary services.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

13. "IMD" means an Institution for Mental Diseases as described in 42 CFR 435.1009 and licensed by ADHS.
14. "Inpatient psychiatric facilities for individuals under age 21" means a licensed hospital or a psychiatric hospital or a Residential Treatment Center (RTC) licensed as a Level I behavioral health facility by ADHS and accredited by an AHCCCS-approved accrediting body as specified in contract and authorized by federal law or regulations. These facilities provide room and board and treatment for behavioral health disorder of an individual who is under 21 years of age.
15. "Mental disorder" defined in A.R.S. § 36-501.
16. "Partial Care" means:
  - a. "Basic partial care" specified in 9 A.A.C. 20.
  - b. "Intensive partial care services" specified in 9 A.A.C. 20.
17. "Psychiatrist" specified in A.R.S. §§ 32-1401 or 32-1800 and 36-501.
18. "Psychologist" specified in A.R.S. §§ 32-2061 and 36-501.
19. "Psychosocial rehabilitation" specified in 9 A.A.C. 20.
20. "RBHA" means the Regional Behavioral Health Authority defined in 9 A.A.C. 21, Article 1.
21. "Screening" means a face-to-face interaction with a member to determine the need for behavioral health services and the referral of the member for further evaluation, diagnosis, or care and treatment.
23. "Substance abuse" defined in 9 A.A.C. 20, Article 1.
24. "Treatment" defined in 9 A.A.C. 20, Article 1.

**ARTICLE 2. SCOPE OF SERVICES**

**R9-22-204. Inpatient General Hospital Services**

- A.** Inpatient services provided in a general hospital shall be ~~covered~~ provided by contractors, ~~or provided by~~ fee-for-service providers, or noncontracting providers and shall include:
1. Hospital accommodations and appropriate staffing, supplies, equipment, and services for:
    - a. Maternity care;
    - b. Neonatal intensive care (NICU);
    - c. Intensive care (ICU);
    - d. Surgery;
    - e. Nursery;
    - f. Routine care; and
    - g. Behavioral health (~~psychiatric~~) care:
      - i. Emergency crisis behavioral health services ~~may~~ shall be provided ~~for not to exceed~~ 3 days per acute episode and ~~a maximum of no more than~~ 12 days per AHCCCS contract year for ~~each member or eligible person unless services are provided under Article 12 a MI/MN, EAC, or ELIC member as defined in 9 A.A.C. 22, Article 1, or a SES or FES person as specified in R9-22-217.~~
      - ii. Emergency behavioral health services for a member eligible under A.R.S. § 36-2901(4)(b) shall be provided as specified in 9 A.A.C. 22, Article 12.
      - iii. For purposes of this Section, the AHCCCS contract year shall be October 1 through September 30.
  2. Ancillary services as specified by the Director and included in contract:
    - a. Labor, delivery and recovery rooms, and birthing centers;
    - b. Surgery and recovery rooms;
    - c. Laboratory services;
    - d. Radiological and medical imaging services;
    - e. Anesthesiology services;
    - f. Rehabilitation services;
    - g. Pharmaceutical services and prescribed drugs;
    - h. Respiratory therapy;
    - i. Blood and blood derivatives;
    - j. Central supply items, appliances, and equipment not ordinarily furnished to all patients and ~~which are~~ customarily reimbursed as ancillary services;
    - k. Maternity services; and
    - l. Nursery and related services.
- B.** The following limitations apply to general inpatient hospital services that are provided by fee-for-service providers and for which the Administration is financially responsible:
1. The cost of inpatient hospital accommodation for an eligible person shall be incorporated into the rate paid for the level of care as specified in subsection (A)(1).
  2. Prior authorization shall be obtained from the Administration for the following inpatient hospital services provided to an eligible person:

- a. Nonemergency and elective admission, including psychiatric hospitalization, ~~shall be authorized prior to the scheduled admission;~~
- b. Elective surgery, with the exception of voluntary sterilization procedures, shall be authorized ~~prior to~~ before the surgery;
- c. An emergency hospitalization that exceeds 3 days or an intensive care unit admission that exceeds 1 day;
- d. Hospitalization beyond the number of days initially authorized shall be covered only if determined medically necessary through AHCCCS Administration concurrent team review; and
- e. Services or items furnished to cosmetically reconstruct appearance after the onset of trauma or serious injury ~~shall be authorized prior to~~ before service delivery; and,
- f. Behavioral health services for an eligible person who is 18, 19, or 20 years of age that are provided on an emergency basis for crisis stabilization, and exceed 3 days per episode, or 12 days per contract year.

**R9-22-210. Emergency Medical and Behavioral Health Services**

- A. Provision of and payment for emergency services. An emergency ~~medical service and a behavioral health emergency or crisis stabilization~~ medical or behavioral health service shall be provided based on the prudent layperson standard to a member or an eligible person by a licensed provider, registered with AHCCCS to provide the services. Emergency services ~~and stabilization services~~ shall be provided ~~for and paid for as specified in 42 CFR 438.114 as of September 29, 1998, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. as specified in 42 U.S.C. 1396u-2, August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- B. Verification. A provider of emergency services shall verify eligibility and enrollment status through the Administration to determine the need for notification to a contractor for a member, or the Administration for an eligible person, and to determine the party responsible for payment of services rendered.
- C. Access. Access to an emergency room, ~~and~~ emergency medical, ~~and~~ or behavioral health services shall be available 24 hours-per-day, 7 days-per-week in each contractor's service area. The use of an examining or a treatment room shall be available when required by a physician or a practitioner for the provision of emergency services.
- D. ~~Consultation. Evaluation. Consultation~~ Evaluation provided by a psychiatrist or a psychologist ~~shall~~ may be covered as an emergency service as specified in R9-22-210 if required to evaluate or stabilize an acute episode of mental ~~illness~~ disorder or substance abuse. Evaluation for Title XIX members shall be covered as specified in R9-22-1205.
- E. Prior authorization. An emergency service does not require prior authorization, ~~but~~ however, a provider shall comply with the following notification requirements:
  1. A provider, a nonprovider, and a noncontracting provider furnishing emergency services to a member shall notify a member's contractor within 12 hours from the time a member presents for services;
  2. A provider of emergency services for an eligible person is not required to notify the Administration; and
  3. If a member's medical condition is determined not to be an emergency medical condition, as defined in Article 1 of this Chapter, a provider shall:
    - a. ~~notify~~ Notify a member's contractor before initiation of treatment; and
    - b. ~~follow~~ Follow the prior authorization requirements and protocol of a contractor regarding treatment of a member's nonemergent condition. Failure to provide timely notice or comply with prior authorization requirements of a contractor constitutes cause for denial of payment.
- F. Post-stabilization services. After a member's emergent condition has been stabilized, a provider, a nonprovider, and a noncontracting provider shall request authorization from a contractor for post-stabilization services as specified in 42 U.S.C. 1396u-2, August 5, 1997, incorporated by reference in subsection (A). ~~A contractor shall pay for the post-stabilization services if:~~
  1. The service is prior authorized by a contractor; or
  2. A contractor does not respond to an authorization request within the time frame specified in 42 CFR 438.114, as of September 29, 1998, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. ~~This incorporation by reference contains no future editions or amendments.~~

**R9-22-215. Other Medical Professional Services**

- A. The following medical professional services provided to a member by a contractor, or an eligible person through the Administration, shall be covered services when provided in an inpatient, outpatient, or office setting within limitations specified below:
  1. Dialysis;
  2. Family planning services including medications, supplies, devices, and surgical procedures provided to delay or prevent pregnancy. Family planning services are limited to:
    - a. Contraceptive counseling, medications, supplies, and associated medical and laboratory examinations, including HIV blood screening as part of a package of sexually transmitted disease tests provided with a family planning service;

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- b. Sterilization; and
  - c. Natural family planning education or referral;
  - 3. Certified nurse midwife services provided by a certified nurse practitioner in midwifery;
  - 4. Licensed midwife service for prenatal care and home births in low-risk pregnancies;
  - 5. Podiatry services when ordered by a member's primary care provider or an eligible person's attending physician or practitioner;
  - 6. Respiratory therapy;
  - 7. Ambulatory and outpatient surgery facilities services;
  - 8. Home health services in A.R.S. § 36-2907(D);
  - 9. Private or special duty nursing services when medically necessary and prior authorized;
  - 10. Rehabilitation services including physical therapy, occupational therapy, audiology and speech therapy within limitations in this Article;
  - 11. Total parenteral nutrition services; and
  - 12. Chemotherapy; and
  - 13. ~~Consultation for acute episodes of mental illness or substance abuse provided by a psychiatrist or psychologist regarding evaluation, stabilization, and treatment plan determination, except consultation services provided under Article 12. Services shall be through a referral from a member's primary care provider, or an eligible person's attending physician or practitioner unless the requirement for referral is waived by the Administration.~~
- B.** Prior authorization from the Administration for eligible persons is required for services listed in subsections (A)(4) through (11).
- C.** The following shall be excluded as AHCCCS covered services:
- 1. Occupational and speech therapies provided on an outpatient basis for members and eligible persons 21 years of age or older;
  - 2. Physical therapy provided only as a maintenance regimen;
  - 3. Abortion counseling; or
  - 4. Services or items furnished solely for cosmetic purposes.

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**R9-22-705. Payments by Contractors**

- A.** Authorization. A contractor shall pay for all admissions and covered services rendered to its members if a covered service or an admission has been arranged by a contractor's agent or an employee, a subcontracting provider, or other individual acting on a contractor's behalf and if necessary authorization has been obtained. A contractor shall not require prior authorization for a medically necessary covered service provided during any prior period for which a contractor is responsible. A contractor is not required to pay a claim for a covered service that is:
- 1. ~~submitted~~ Submitted more than 6 months after the date of the service or more than 6 months after the date of eligibility posting, whichever is later, or
  - 2. ~~that is submitted~~ Submitted as a clean claim more than 12 months after the date of the service or more than 12 months after the date of eligibility posting, whichever is later.
- B.** Timeliness of provider claim payment.
- 1. A contractor shall reimburse, or provide written notice for a claim that is denied or reduced by a contractor, to a subcontracting provider for the provision of medically necessary health care services to a contractor's member, within the time period specified by the subcontract.
  - 2. Unless the subcontract specifies otherwise, a contractor shall pay valid clean claims according to 42 U.S.C. 1396u-2, ~~as of August 5, 1997, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments and states that:~~
    - a. 90% of valid clean claims shall be paid within 30 days of the date of receipt of a claim,
    - b. 99% of valid clean claims shall be paid within 90 days of the date of receipt of a claim, and
    - c. The remaining 1% of valid clean claims shall be paid within 12 months of the date of receipt of ~~a~~ the claim.
  - 3. Unless the subcontract specifies otherwise, a contractor shall provide notice of a denial or a reduction of a claim for:
    - a. 90% of the claims within 30 days of the date of receipt of a claim,
    - b. 99% of the claims within 90 days of the date of receipt of a claim, and
    - c. The remaining 1% of the claims within 12 months of the date of receipt of a claim.
  - 4. A notice of denial or reduction shall include a statement describing the right to grieve the contractor's denial or reduction of a claim according to ~~A.A.C. R9-22, Article 8~~ A.A.C. 22, Article 8.
- C.** Date of Claim. A contractor's date of receipt of an inpatient or an outpatient hospital claim shall be the date the claim is received by ~~a~~ the contractor as indicated by the date stamp on the claim, the claim reference number, or the date-specific number system assigned by ~~a~~ the contractor. A hospital claim shall be considered paid on the date indicated on the disbursement check. A denied hospital claim shall be considered adjudicated on the date of its denial. A claim that is pending

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

for additional supporting documentation ~~will~~ shall receive a new date of receipt upon receipt of the additional documentation; however, a claim that is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01(J) or ~~A.R.S. § 36-2904(K)~~, as applicable, will not receive a new date of receipt. A contractor and a hospital may, through a contract approved as specified in R9-22-715(A), adopt a method for identifying, tracking, and adjudicating a claim that is different from the method described in this subsection.

**D.** Payment for medically necessary outpatient hospital services.

1. A contractor shall reimburse a subcontracting and a noncontracting provider for the provision of outpatient hospital services rendered on or after March 1, 1993, at either a rate specified by a subcontract or, in absence of a subcontract, the AHCCCS hospital-specific outpatient cost-to-charge ratio multiplied by covered charges. Subcontract rates, terms, and conditions are subject to review, and approval or disapproval, under A.R.S. § 36-2904(K)(1)(b) and R9-22-715.
2. A contractor shall pay for all emergency care services rendered to a member by a noncontracting provider or a non-provider when the services:
  - a. Are rendered according to the prudent layperson standard specified in R9-22-210;
  - b. Conform to the definition of emergency medical ~~and or acute mental-behavioral~~ health services in 9 A.A.C. 22, Articles 1 and 12 and conform to the emergency behavioral health emergency services requirements in R9-22-1205(E); and
  - c. Conform to the notification requirements in 9 A.A.C. 22, Article 2.

**E.** Payment for inpatient hospital services. A contractor shall reimburse an out-of-state hospital for the provision of hospital services at negotiated discounted rates, the Arizona average cost-to-charge ratio multiplied by covered charges or, if reasonably and promptly available, the Medicaid rate ~~that is~~ in effect at the time a service is provided in the state in which the hospital is located, whichever is lowest. A contractor shall reimburse an in-state subcontractor and a noncontracting provider for the provision of inpatient hospital services rendered with an admission date on or after March 1, 1993, at either a rate specified by a subcontract or, in absence of ~~a~~ the subcontract, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and R9-22-712. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904(K)(1)(b) and R9-22-715. This subsection does not apply to a contractor participating in the pilot program described in R9-22-718.

**F.** Payment for inpatient emergency behavioral health services. A contractor shall reimburse a provider for inpatient emergency behavioral health services as specified in R9-22-204 and R9-22-210 for members eligible according to A.R.S. § 36-2901(4)(a), (b), (c), (h), or (j). The payment methodology shall be as specified in R9-22-705 or R9-22-718.

**G.** Payment for observation days. A contractor may reimburse a subcontracting and a noncontracting provider for the provision of observation days at either a rate specified by a subcontract or, in the absence of a subcontract, the AHCCCS hospital-specific outpatient cost-to-charge ratio multiplied by covered charges.

**~~G.~~ H.** Review of hospital claims.

1. If a contractor and a hospital do not agree on reimbursement levels, terms, and conditions, the reimbursement levels established under A.R.S. § 36-2903.01 and R9-22-712 or R9-22-718 shall apply. In these cases, a hospital shall obtain prior authorization from an appropriate contractor for nonemergency admissions. A contractor shall consider the medical condition of a member, length of stay, and other factors when issuing its prior authorization. A contractor shall not require prior authorization for medically necessary services provided during any prior period for which ~~a~~ the contractor is responsible. If a contractor and a hospital agree to a subcontract, the parties shall abide by the terms of the contract regarding utilization control activities. Failure to obtain prior authorization when it is required shall be cause for nonpayment or denial of a claim. A hospital shall cooperate with a contractor's reasonable activities necessary to perform concurrent review and make a hospital's medical records, specific to a member enrolled with a contractor, available for review.
2. Regardless of prior authorization or concurrent review activities, all hospital claims, including outlier claims, are subject to prepayment medical review and post-payment review by a contractor. Post-payment reviews shall be consistent with A.R.S. § 36-2903.01(O), and an erroneously paid claim is subject to recoupment. If prior authorization was given for a specific level of care, but medical review of a claim indicates that a different level of care was appropriate, a contractor may adjust a claim to reflect the more appropriate level of care. An adjustment in level of care shall be effective on the date when the different level of care was medically appropriate.
3. A contractor and a hospital may enter into a subcontract that includes hospital claims review criteria and procedures different from those in this subsection if a subcontract binds both parties and meets the requirements of R9-22-715.

**~~H.~~ I.** Timeliness of hospital claim payment. Payment by a contractor for inpatient hospital admissions and outpatient hospital services on and after March 1, 1993, shall be subject to Laws 1993, 2nd Special Session, Ch. 6, § 29, as amended by Laws 1995, 1st Special Session, Ch. 5, § 8; Laws 1993, 2nd Special Session, Ch. 6, § 27, as amended by Laws 1995, 1st Special Session, Ch. 5, § 6; and A.R.S. § 36-2903.01(J)(6).

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

~~ARTICLE 12. BEHAVIORAL HEALTH SERVICES~~

**ARTICLE 12. BEHAVIORAL HEALTH SERVICES**

**~~R9-22-1201.~~ Definitions**

The following words and phrases, in addition to definitions contained in A.R.S. Title 36, Chapter 29, and A.A.C. Title 9, Chapter 22, Article 1, have the following meanings unless the context of the Article explicitly requires another meaning:

1. "Administration standards" means the standards established in the Title XIX state plan, federal and state statutes, and Administration rules and policies, and any subsequent amendments.
2. "Alternative residential care facilities" means ADHS-licensed Level I, II, or III facilities that are Title XIX-certified and have 16 or fewer beds.
3. "Arizona Department of Health Services (ADHS)" means the state department mandated to serve the public health needs of all Arizona residents.
4. "Case manager" means an individual certified as a behavioral health professional or a behavioral health technician, or an individual with a high school diploma or GED and a combination of 3 years of behavioral health education and experience, supervised by a behavioral health professional or a clinical supervisor, who participates in the development of behavioral health treatment services, is responsible for developing the most cost-effective, clinically appropriate individual service plan; arranges for service provision; and monitors treatment to ensure that the behavioral health needs of the member or eligible person are met.
5. "Clinical supervisor" means an individual who meets the qualifications as defined in Laws 1992, Chapter 310.
6. "Individual service plan" means a specific plan of treatment including specific behavioral health services, service units, anticipated time frames, and provider(s) of care for an eligible person or member.
7. "Behavioral health professional" means a psychiatrist, psychologist, social worker, counselor, certified nurse practitioner, registered nurse, or physician's assistant who meets appropriate licensure and/or certification requirements.
8. "Behavioral health services" means those Title XIX covered and medically necessary treatment services for behavioral health or substance abuse disorders as set forth in Administration standards.
9. "Behavioral health technician" means an individual with a bachelor's degree in a behavioral health-related field; or a bachelor's degree in any field, plus one year of experience in a behavioral health service delivery; or a high school diploma or GED and a combination of behavioral health education and experience totaling 4 years. Behavioral health technicians shall be supervised by a behavioral health professional or a clinical supervisor.
10. "Certified nurse practitioner" means a registered nurse certified by the Arizona Board of Nursing to A.R.S. Title 32, Chapter 15.
11. "Physician's assistant" means a person who is certified by the Joint Board on the Regulation of Physician's Assistants pursuant to A.R.S. Title 32, Chapter 25. In addition, physician's assistants providing behavioral health services to eligible persons or members must have a minimum of one year of experience in a behavioral health-related field.
12. "Psychiatrist" means a psychiatrist who is professionally licensed pursuant to A.R.S. Title 32, Chapter 13 or Chapter 17, Board-certified or Board-eligible under the standards of the American Board of Psychiatry and Neurology or the Osteopathic Board of Neurology and Psychiatry.
13. "Psychologist" means a person who is licensed by the Arizona Board of Psychologist Examiners pursuant to A.R.S. Title 32, Chapter 19.1.
14. "Referral" means directing, as appropriate, an eligible person or member requiring behavioral health services to a RBHA or contractor for screening, evaluation, and treatment.
15. "Regional Behavioral Health Authority" (or "RHBA") means an organization under contract with ADHS to coordinate the delivery of behavioral health services in a geographically specific service area of the state.
16. "Registered nurse" means a person who is licensed by the Arizona Board of Nursing pursuant to A.R.S. Title 32, Chapter 15. In addition, registered nurses providing behavioral health services to eligible persons or members must have a minimum of one year of experience in a behavioral health related field.
17. "Seriously Mentally Ill" (or "SMI") means adult persons whose emotional or behavioral functioning is so impaired as to interfere with their capacity to remain in the community without supportive treatment or services of a long term or indefinite duration. The mental disability is severe and persistent and may result in a long term limitation of their functional capabilities for primary activities of daily living, interpersonal relationships, homemaking, self-care, employment, or recreation. The mental impairment may limit their ability to seek or receive local, state, or federal assistance such as housing, medical and dental care, rehabilitation services, income assistance, and food stamps or protective services. Although persons with primary diagnoses of mental retardation, head injuries, senile dementia, or Alzheimer's Disease frequently have similar problems or limitations, they are not to be included in this definition.
18. "Substance abuse" means the chronic, habitual or compulsive use of any chemical matter which, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological or physiological dependence and/or impaired mental, social or educational functioning. Nicotine addiction is not considered substance abuse.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

19. “Title XIX” means Title XIX of the Social Security Act, as amended, which is the federal statute authorizing Medicaid.
20. “Treatment” means the range of behavioral health care received by an eligible person or member that is consistent with the therapeutic goals outlined in the individual service plan.
21. “Tribal government” means the recognized governing body of any federally recognized tribe in Arizona. A tribal government may be any legally established organization of American Indians which is controlled, sanctioned or chartered by the above governing body, or which is democratically elected by the adult members of the American Indian community to be served by such an organization.

**R9-22-1201. General Requirements**

General requirements. The following general requirements apply to behavioral health services provided under this Article, subject to all exclusions and limitations.

1. Administration. The program shall be administered as specified in A.R.S. § 36-2903.
2. Provision of services. Behavioral health services shall be provided as specified in A.R.S. § 36-2907 and this Chapter.
3. Definitions. The following definitions apply to this Article:
  - a. “Alternative Residential Care Facility” means an ADHS-licensed facility with 16 or fewer beds. Alternative residential care facilities include Level I facilities licensed to provide emergency services, or detoxification services, or Level II and III facilities.
  - b. “Emergency or crisis behavioral health services” specified in 9 A.A.C. 20.
  - c. “Health plan” means a plan that contracts directly with AHCCCS to provide services specified by contract under the requirements of the contract and this Article.
  - d. “Physician assistant” specified in A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.
  - e. “TRBHA” means a Tribal Regional Behavioral Health Authority.

**R9-22-1202. Eligibility**

All categorically eligible persons and members with a behavioral or substance abuse disorder shall be eligible for covered services set forth in R9-22-1204.

**R9-22-1202. ADHS and Health Plan Responsibilities**

**A. ADHS responsibilities. Behavioral health services shall be provided by a RBHA through a contract with ADHS. ADHS shall:**

1. Contract with a RBHA for the provision of behavioral health services in R9-22-1205 for all Title XIX members as specified in A.R.S. § 36-2907. ADHS shall ensure that an RBHA provides behavioral health services to members directly or through subcontracts with qualified service providers who meet the qualifications specified in R9-22-1206. If behavioral health services are unavailable within a RBHA’s service area, ADHS shall ensure that a RBHA provides behavioral health services to a Title XIX member outside the RBHA’s service area.
2. Diagnose and evaluate a child who may be in need of behavioral health services for an eligibility determination and who is not already enrolled with Title XIX or Title XXI under A.R.S. §§ 36-2901(4)(b), 36-2931, or 36-2981.
3. Ensure that a member’s behavioral health service is provided in collaboration with a member’s primary care provider.
4. Coordinate the transition of care and medical records, specified in A.R.S. §§ 36-2903, 36-509, R9-22-512, and in contract, when a member transitions from:
  - a. A behavioral health provider to another behavioral health provider.
  - b. An RBHA to another RBHA.
  - c. An RBHA to a health plan.
  - d. A health plan to an RBHA, or
  - e. A health plan to another health plan.

**B. ADHS may contract with a TRBHA for the provision of behavioral health services for Native American members. In the absence of a contract with ADHS, Native American members may:**

1. Receive behavioral health services from an IHS facility or a TRBHA, or
2. Be referred off-reservation to an RBHA for covered behavioral health services.

**C. Health plan responsibilities. A health plan shall:**

1. Refer a member to an RBHA according to the contract terms;
2. Provide EPSDT developmental and behavioral health screening specified in R9-22-213;
3. Provide inpatient emergency behavioral health services specified in R9-22-1205 for a member not yet enrolled with an RBHA;
4. Provide psychotropic medication services for a member, in consultation with the member’s RBHA as needed, for behavioral health conditions specified in contract and within the primary care provider’s scope of practice; and
5. Coordinate a member’s transition of care and medical records specified in R9-22-1202.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**~~R9-22-1203. Service-Delivery System and Referral~~**

- ~~A.~~ The Arizona Department of Health Services (ADHS) shall be responsible, pursuant to A.R.S. § 36-2907, for the provision of medically necessary behavioral health services set forth under this Article to categorically eligible persons and members under 18 years of age, SMI adults 18 years of age and older, and non-SMI adults 21 years of age or older.
- ~~1.~~ ADHS shall contract with RBHAs for the provision of behavioral health services set forth in R9-22-1204 to eligible persons and members.
  - ~~2.~~ RBHAs shall arrange for the availability of covered behavioral health services through contracts with qualified services providers within and, if unavailable, outside their service areas.
- ~~B.~~ ADHS may contract with federally recognized tribal governments for the provision of behavioral health services to eligible persons and members. In the absence of such contracts, eligible persons or members who are enrolled in the Indian Health Service (IHS) may receive on-reservation behavioral health services through the IHS or the eligible person or member may be referred off-reservation to the RBHA which is responsible for the provision of covered behavioral health services off-reservation.
- ~~C.~~ Contracts shall be responsible for:
- ~~1.~~ The provision of covered behavioral health services to non-SMI categorically eligible persons and members 18 through 20 years of age; and
  - ~~2.~~ The referral of members under 18 years of age, SMI adults 18 years of age and older, and non-SMI adults 21 years of age and older to RBHAs in accordance with standards established by the Director.
- ~~D.~~ The Administration shall provide appropriate authorizations and services for 18 through 20-year-old, non-SMI eligible persons not enrolled with a contractor.

**R9-22-1203. Eligibility for Covered Services**

- A.** Title XIX members. A member determined eligible according to A.R.S. § 36-2901(4)(b) shall receive medically necessary covered services specified in R9-22-1205.
- B.** FES members. A person who would be eligible under A.R.S. § 36-2901(4)(b) except for the failure to meet the U.S. citizenship or qualified alien status requirements prescribed in A.R.S. § 36-2903.03 is eligible for emergency services only.
- C.** State-funded members. A member determined eligible according to A.R.S. §§ 36-2901(4)(a), (c), (h), or (j), 36-2905.03, and 36-2905.05 shall receive only emergency behavioral health services, as specified in R9-22-204(A). The emergency behavioral health services shall be provided through a health plan or an AHCCCS-registered FFS provider.
- D.** Ineligibility. A person is not eligible for behavioral health services if the person is:
1. An inmate of a public institution as defined in 42 CFR 435.1009,
  2. A resident of an institution for the treatment of tuberculosis, or
  3. Age 21 through 64 and a resident of an IMD.

**~~R9-22-1204. Covered Behavioral Health Services for Eligible Persons and Members~~**

- ~~A.~~ The following general service requirements apply with respect to behavioral health services provided under this Article, subject to all applicable exclusions and limitations:
- ~~1.~~ The service shall be medically necessary, cost effective and Title XIX reimbursable.
  - ~~2.~~ The service shall be provided by qualified service providers pursuant to R9-22-1205.
  - ~~3.~~ Service providers, as applicable, shall contract with the RBHAs or contractors.
  - ~~4.~~ Services shall be authorized, as applicable, by the RBHA or contractor and shall be consistent with prior authorization, federal certification of need and inspection of care requirements and utilization review standards established by the Director.
  - ~~5.~~ The person shall be eligible for Title XIX on the date the service is provided and shall not be in an institution for mental diseases (IMD) unless the eligible person or member is under 21 years of age and in a Title XIX participating inpatient psychiatric facility, or 65 years of age or older and in a Title XIX participating IMD.
  - ~~6.~~ Services shall be provided in appropriate residential settings which meet state and federal licensing standards.
- ~~B.~~ The following behavioral health services shall be covered, subject to the limitations and exclusions in this Article, and further subject to approval by the Health Care Financing Administration:
- ~~1.~~ Inpatient services, including:
    - ~~a.~~ Inpatient hospital services for treatment of acute episodes, generally of a short duration, in participating acute general hospitals.
    - ~~b.~~ Inpatient psychiatric facility services under the direction of a psychiatrist for persons under 21 years of age in a residential treatment center (RTC) or an inpatient psychiatric hospital accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO).
    - ~~c.~~ IMD services under the direction of a psychiatrist for persons 65 years of age or older in an inpatient psychiatric hospital or nursing care facility providing diagnosis, medical attention, nursing care and related services to persons with mental disease.
    - ~~d.~~ Limitations:
      - ~~i.~~ Room and board is not a covered service in residential settings except for inpatient services as set forth in

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- subsection (B)(1).
  - ii. Inpatient substance abuse services initially may be authorized for up to 4 days of medically necessary detoxification. If medically necessary, additional days subsequently may be authorized if ordered by a physician and approved by the RBHA, the contractor's Medical Director, or the Administration.
2. Professional services, including:
- a. Individual therapy and counseling provided by a behavioral health professional or a behavioral health technician in face to face interaction with the eligible person or member.
  - b. Group and/or family therapy/counseling provided by a behavioral health professional or a behavioral health technician in face to face interaction with the eligible person or member and his/her family, and/or spouse, or other group.
  - c. Psychotropic medication adjustment and monitoring which includes prescriptions, review of the effects and side effects of psychotropic medications, and adjustment of the type and dosage of medication provided by a psychiatrist, or a physician's assistant, certified nurse practitioner, or registered nurse under the direction of a physician.
  - d. Limitations: Only psychiatrists and psychologists may bill independently for services provided. Other behavioral health professionals and behavioral health technicians shall be affiliated with a qualified agency such as a rehabilitation or clinic agency or an inpatient or outpatient hospital, RTC, or an alternative residential care facility and services provided by these individuals shall be billed through that agency.
3. Rehabilitation services, including:
- a. Basic partial care services which are provided by a behavioral health professional or a behavioral health technician following residential or inpatient treatment, or to prevent placement in a more restrictive setting. Basic partial care services are provided within a structured, coordinated, and continuous program of goal oriented therapeutic activities.
  - b. Intensive partial care services which are provided by a behavioral health professional or a behavioral health technician as an alternative to inpatient care. Intensive partial care services are a planned, structured, and coordinated program of intensive care, which are scheduled on a regular basis, providing active treatment for full or partial resolution of the eligible person's or member's acute or episodic behavioral health problems and includes on site visits with a psychiatrist.
  - c. Emergency/crisis behavioral health services provided by a behavioral health professional or a behavioral health technician. Emergency/crisis behavioral health services are immediate and intensive, time limited, community based, face to face crisis interventions and resolution services which are available on a 24 hour basis in situations where an eligible person or member is a danger to self or others.
  - d. Behavior management services provided by a behavioral health professional or a behavioral health technician. Behavior management services primarily involve direct patient behavior management and may also include services related to activities of daily living and household services incidental to and consistent with the behavioral health rehabilitation needs of the eligible person or member.
  - e. Psychosocial rehabilitation services provided by a behavioral health professional or a behavioral health technician. Psychosocial rehabilitation services are a comprehensive program of active treatment, including activities of daily living, training in communication, and assistance with psychotropic medication.
  - f. Limitations:
    - i. Intensive partial care services shall be limited to eligible persons or members whose emotional, behavioral, or substance abuse problems indicate a serious emotional disturbance and/or evidence of abuse or neglect.
    - ii. Prevocational or vocational activities and school attendance educational hours are not included in intensive and basic partial care services and may not be billed simultaneously with these services.
    - iii. Emergency/crisis behavioral health services are limited to emergencies or crises as defined in R9-22-101.
4. Evaluation and case management services, including:
- a. Screening provided by a behavioral health professional or a behavioral health technician. Screening is an in person interaction with the eligible person or member to determine the need for behavioral health services and the assignment of the eligible person or member for further evaluation, diagnosis, or care and treatment.
  - b. Evaluation services provided by a behavioral health professional or a behavioral health technician. Evaluation is the assessment of the eligible person's or member's medical, psychiatric, psychological, or social conditions to determine if a mental disorder exists and, if so, to provide diagnosis for the direction of care.
  - c. Case management services. Case management consists of a set of services and activities through which appropriate and cost effective Title XIX covered services are identified, planned, coordinated, obtained, monitored, and continuously evaluated.
  - d. Limitations:
    - i. Screening services are limited to no more than once for every 6 month period of continuous behavioral health services.
    - ii. Reimbursement for evaluation services and non-emergency medication monitoring provided to SMI eligible persons or members is included in the clinical case management per diem rate and must not be billed sepa-

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

rately. An SMI clinical case management team member must not bill independently for the delivery of behavioral health services.

- iii. ~~SMI clinical case management services shall only be provided by a RBHA to SMI eligible persons or members.~~
- 5. Behavioral health related services, including:
  - a. ~~Psychotropic medications defined by the ADHS Title XIX formulary or contractor formulary, as appropriate.~~
  - b. ~~Laboratory and radiology services provided by medical laboratories and outpatient hospitals, which are used to regulate and monitor psychotropic medications and to diagnose mental illnesses.~~
- 6. ~~Transportation services which include emergency and medically necessary transportation to and from settings providing behavioral health services. Limitations:~~
  - a. ~~Medically necessary transportation must be prior authorized as applicable by the RBHA or contractor.~~
  - b. ~~Emergency and medically necessary transportation services must be provided in accordance with R9-22-211.~~
  - c. ~~Emergency transportation is limited to situations where there is an imminent threat of harm to the eligible person or member if care is not rendered expeditiously.~~

**R9-22-1204. General Service Requirements**

- A.** Services. Behavioral health services include both mental health and substance abuse services.
- B.** Medical necessity. A service shall be medically necessary as specified in R9-22-201.
- C.** Prior authorization. A service shall be provided by contractors, subcontractors, and providers consistent with the prior authorization requirements established by the Director and specified in R9-22-210 and R9-22-1205.
- D.** EPSDT. For Title XIX members under age 21, EPSDT services shall include all medically necessary, Title XIX-covered services that are necessary to provide behavioral health services to a member.
- E.** Experimental services. The Director shall determine if a service is experimental, or whether a service is provided primarily for the purpose of research. Those services shall not be covered.
- F.** Gratuities. A service or an item, if furnished gratuitously to a member, is not covered and payment shall be denied to a provider.
- G.** Service area. Behavioral health services rendered to a member shall be provided within the RBHA's service area except when:
  - 1. A health plan's primary care provider refers a member to another area for medical specialty care.
  - 2. A member's medically necessary covered service is not available within the service area, or
  - 3. A net savings in behavioral health service delivery costs can be documented by the RBHA for a member. Undue travel time or hardship shall be considered for a member or a member's family.
- H.** Travel. If a member travels or temporarily resides out of a behavioral health service area, covered services are restricted to emergency behavioral health care, unless otherwise authorized by the member's RBHA.
- I.** Non-covered services. If a member requests a behavioral health service that is not covered by AHCCCS or is not authorized by an RBHA, the behavioral health service may be provided by an AHCCCS-registered behavioral health service provider under the following conditions:
  - 1. The requested service and the itemized cost of each service is documented and provided to the member or member's guardian; and
  - 2. The member or the member's guardian signs a statement acknowledging:
    - a. Services have been explained to the member or member's guardian, and
    - b. The member or member's guardian accepts responsibility for payment.
- J.** Referral. If a member is referred out of an RBHA's service area to receive an authorized medically necessary behavioral health service or a medically necessary covered service the services shall be provided by the health plan or RBHA.
- K.** Restrictions and limitations. The restrictions, limitations, and exclusions in this Article shall not apply to a health plan or an RBHA when electing to provide a non-covered service.
- L.** Residential settings. Partial care, outpatient, emergency services, and other behavioral health services shall be covered if medically necessary, when provided in a residential setting by a licensed provider. Room and board is not a covered service unless provided in an inpatient facility specified in R9-22-1205(B).

**R9-22-1205. Qualifications and Standards of Participation for Service Providers**

- A.** To provide behavioral health services to eligible persons or members, qualified service providers shall, at a minimum:
  - 1. Be employed by or contracted in writing with either a RBHA or a contractor to provide behavioral health services to eligible persons or members.
  - 2. Have all applicable state licenses or certifications or comply with alternative requirements established by the Administration;
  - 3. Register with the Administration as a service provider;
  - 4. Comply with all applicable criteria under A.A.C. Title 9, Chapter 22, Article 5, and this Article.
- B.** Utilization control.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- ~~1. Service providers shall cooperate with utilization review and quality management programs of the RBHA, contractors, the ADHS and the Administration.~~
- ~~2. Service providers shall comply with applicable procedures set forth in 42 CFR 456, incorporated by reference herein and on file with the Office of the Secretary of State.~~

**R9-22-1205. Scope and Coverage of Behavioral Health Services**

- A. Inpatient behavioral health services. The following inpatient services shall be covered subject to the limitations and exclusions in this Article.**
1. Inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment. The behavioral health service shall be provided under the direction of a physician in:
    - a. A general acute care hospital;
    - b. An inpatient psychiatric facility for a person under 21 years of age, licensed as a psychiatric hospital or a residential treatment center licensed as a Level I Psychiatric Facility and accredited by an AHCCCS-approved accrediting body as specified in contract and authorized by federal laws and regulations; or
    - c. An IMD for a member under age 21 or 65 years of age and older, licensed as a psychiatric hospital or a NF.
  2. Inpatient service limitations:
    - a. Inpatient services, other than emergency services specified in this Section, shall be prior authorized.
    - b. Inpatient services shall be reimbursed on a per diem basis and shall be inclusive of all services except, the following may bill independently for services:
      - i. A psychiatrist.
      - ii. A certified psychiatric nurse practitioner.
      - iii. A physician assistant as defined in this Article, or
      - iv. A psychologist.
    - c. The following services may be billed independently if prescribed by a provider specified in R9-22-1205(B)(1)(b) for a member residing in a residential treatment center:
      - i. Laboratory.
      - ii. Radiology, and
      - iii. Psychotropic medications.
    - d. A member age 21 through 64 defined in 42 CFR 441.150 is not eligible for behavioral health services provided in an IMD except as specified in 42 CFR 441.151.
- B. Partial care. The following partial care services shall be covered subject to the limitations and exclusions in this Article.**
1. Partial care shall be provided as either a basic or intensive level of care to:
    - a. Meet a member's need for behavioral health treatment, and
    - b. Prevent placing a member in a higher level of care or a more restrictive environment.
      - i. Basic partial care services shall be provided specified in 9 A.A.C. 20.
      - ii. Intensive partial care services shall be provided specified in 9 A.A.C. 20.
  2. Partial care service limitations. All services shall be included in the partial care reimbursement rate, except the following practitioners may bill independently:
    - a. A psychiatrist.
    - b. A certified psychiatric nurse practitioner.
    - c. A physician assistant as defined in this Article, and
    - d. A psychologist.
  3. Partial care service exclusions. Vocational activities, school attendance, and educational hours shall not be included as a basic or intensive partial care service and shall not be billed concurrently with these services.
- C. Outpatient services. The following outpatient services shall be covered subject to the limitations and exclusions in this Article.**
1. Outpatient services shall include the following:
    - a. Screening provided by a behavioral health professional or a behavioral health technician;
    - b. Evaluation provided by a behavioral health professional;
    - c. Counseling including individual therapy, group, and family therapy provided by a behavioral health professional or a behavioral health technician under the clinical supervision of a behavioral health professional;
    - d. Behavior management provided by a behavioral health professional, a behavioral health technician, or a behavioral health paraprofessional; and
    - e. Psychosocial rehabilitation provided by a behavioral health professional, a behavioral health technician, or a behavioral health paraprofessional.
  2. Outpatient service limitations:
    - a. The following practitioners may bill independently:
      - i. A psychiatrist.
      - ii. A certified psychiatric nurse practitioner.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- iii. A physician assistant as defined in this Article, and
- iv. A psychologist.

- b. Other behavioral health professionals, behavioral health technicians, and behavioral health paraprofessionals not specified in subsection (C)(2)(a) shall be employed by or contracted with, an AHCCCS-registered behavioral health agency.

**D. Behavioral health emergency services. The following emergency services are covered subject to the limitations and exclusions in this Article.**

- 1. An RBHA shall ensure that behavioral health emergency services are provided by the qualified personnel specified in R9-22-1206. The emergency services shall be available 24 hours-per-day, 7 days-per-week in the RBHA's service area in emergency situations when a member is a danger to self or others or is otherwise determined in need of immediate unscheduled behavioral health services. Behavioral health emergency services may be provided on either an inpatient or outpatient basis.
- 2. A health plan shall provide behavioral health emergency services on an inpatient basis not to exceed 3 days per emergency episode and 12 days per contract year, for a member not yet enrolled with a RBHA.
- 3. An inpatient emergency service provider shall verify the eligibility and enrollment of a member through the Administration to determine the need for notification to a health plan or an RBHA and to determine the party responsible for payment of services under 9 A.A.C. 22, Article 7.
- 4. Behavioral health emergency service limitations:
  - a. An emergency behavioral health service does not require prior authorization. The provider shall, however, comply with the notification requirements specified in R9-22-210.
  - b. A behavioral health service for an unrelated condition, that requires evaluation, diagnosis, and treatment shall be prior authorized by an RBHA.

**E. Other behavioral health services. Other behavioral health services include:**

- 1. Case management as defined in R9-22-112;
- 2. Laboratory and radiology services for behavioral health diagnosis and medication management;
- 3. Psychotropic medication and related medication included in a health plan's or a RBHA's formulary; and
- 4. Medication monitoring, administration, and adjustment for psychotropic medication and related medications.

**F. Transportation services.**

- 1. Emergency transportation shall be covered for a behavioral health emergency specified in R9-22-211. Emergency transportation is limited to behavioral health emergencies.
- 2. Non-emergency transportation shall be covered to and from covered behavioral health service providers.

**R9-22-1206. Payments-**

- ~~A. All payments to ADHS and contractors shall be made pursuant to the terms and conditions of agreements executed with the Administration in accordance with requirements set forth in A.A.C. Title 9, Chapter 22, Article 7, unless otherwise specified in this Article.~~
- ~~B. ADHS shall receive a monthly capitation payment, based on the number of acute care categorically eligible persons and members at the beginning of each month, in accordance with standards established by the Administration. Administrative costs shall be incorporated into the capitation payment.~~
- ~~C. Contractors shall be paid for behavioral health services provided to enrolled non-SMI members 18 through 20 years of age through a capitation adjustment in their contract with the Administration.~~
- ~~D. Claims submissions-~~
  - 1. ~~Contracted service providers shall submit clean claims to ADHS or its designated representative, as specified in the ADHS contract with the Administration.~~
  - 2. ~~Payments for fee-for-service claims for non-SMI eligible persons 18 through 20 years of age submitted to the Administration shall be limited to amounts that do not exceed the capped fee schedule adopted by the Administration, adjusted for third-party payments. The fee schedule is on file at the central office of the Administration.~~
  - 3. ~~Claims submitted to contractors and the Administration for non-SMI members or eligible persons 18 through 20 years of age shall comply with the time-frames and other applicable procedures set forth in Article 7.~~

**R9-22-1206. General Provisions and Standards for Service Providers**

**A. Qualified service provider. A qualified behavioral health service provider shall:**

- 1. Be employed by, or contracted in writing with a RBHA or a health plan, to provide behavioral health services to a member;
- 2. Have all applicable state licenses or certifications, or comply with alternative requirements established by the Administration;
- 3. Register with the Administration as a service provider; and
- 4. Comply with all requirements specified in 9 A.A.C. 22, Article 5, and this Article.

**B. Quality and utilization management.**

Arizona Administrative Register

Notices of Final Rulemaking

- 1. Service providers shall cooperate with the quality and utilization management programs of an RBHA, a health plan, ADHS, and the Administration according to R9-22-522 and contract.
- 2. Service providers shall comply with applicable procedures specified in 42 CFR 456, August 23, 1996, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

**R9-22-1207. Grievance and Appeal Process**

- A. All grievances relating to any adverse action, decision, or policy regarding behavioral health issues shall be processed in accordance with standards by the Administration pursuant to contract with the ADHS, contractors, and provider agreements.
- B. An appeal of a grievance decision under this Article shall be conducted as a contested case pursuant to A.A.C. Title 9, Chapter 22, Article 8 and the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6, Article 6).

**R9-22-1207. Standards for Payments**

- A. Payment to ADHS. ADHS shall receive a monthly capitation payment, based on the number of acute care members at the beginning of each month. ADHS administrative costs shall be incorporated into the capitation payment.
- B. Claims submissions.
  - 1. ADHS shall require all contracted service providers to submit clean claims no later than the time-frame specified in the ADHS contract with the Administration.
  - 2. A claim for emergency services for a member not yet enrolled with an RBHA shall be submitted to a health plan by a provider and shall comply with the time-frames and other applicable payment procedures in 9 A.A.C. 22, Article 7.
- C. Prior authorization. Payment to a provider for services or items requiring prior authorization may be denied if prior authorization is not obtained from the Administration, an RBHA, or a health plan as specified in R9-22-705.

**R9-22-1208. Grievance and Appeal Process**

- A. Processing of a grievance. All grievances regarding any adverse action, decision, or policy regarding behavioral health services shall be reviewed according to A.R.S. §§ 36-2903.01, 36-3413, 41-1092.02 and 9 A.A.C. 22, Articles 8 and 13.
- B. Member appeal. A member's appeal of a grievance under this Article shall be conducted as a contested case as specified in Article 8.
- C. Other appeals. An appeal of the ADHS director's decision after an Office of Administrative Hearing decision other than de novo hearing requests by a member shall be limited to an appellate review by the Administration to determine whether substantial evidence in the record supports the decision.

**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R9-28-101	Amend
R9-28-111	Amend
R9-28-1101	Repeal
R9-28-1101	New Section
R9-28-1102	Repeal
R9-28-1102	New Section
R9-28-1103	Repeal
R9-28-1103	New Section
R9-28-1104	Repeal
R9-28-1104	New Section
R9-28-1105	Repeal
R9-28-1105	New Section
R9-28-1106	Repeal
R9-28-1106	New Section
R9-28-1107	New Section
R9-28-1108	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. § 36-2932(M)

Implementing statute: A.R.S. §§ 36-2939(A)(2) and 41-1092 et seq.

**3. The effective date of the rules:**

December 13, 1999

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 462, February 5, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 2619, August 13, 1999

Notice of Public Information: 5 A.A.R. 3238, September 17, 1999

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

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: 801 East Jefferson, Mail Drop 4200  
Phoenix, AZ 85034

Telephone Number: (602) 417-4198

Fax Number: (602) 256-6756

**6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

Two Articles in 9 A.A.C. Chapter 28 have been opened for the following reasons:

1. To make the language conform with current agency practice regarding behavioral health services;
2. To make the language comply with the Secretary of State's requirements;
3. To make the language clearer and more concise and understandable.

**7. A reference to any study that the agency relied 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.

**8. 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.

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

AHCCCS Arizona Long-term Care System (ALTCS) contractors and its sub-contractors will be minimally impacted by the change in rule necessitated by the change in state law mandating the Office of Administrative Hearing's (OAH) responsibility for conducting evidentiary hearings involving the ALTCS program effective July 1, 1999. The Administration anticipates a minimal impact to ADHS and the RBHAs regarding behavioral health services provided to the Department of Economic Security/Division of Developmental Disabilities (DES/DDD) members. The current statutes for AHCCCS and ADHS allow for a complex dual grievance process. However, the Administration and ADHS are seeking a legislative remedy during the upcoming session to remove any inconsistencies in law. This rule package allows the existing grievance process to remain in place until a permanent solution is achieved.

The Administration, ALTCS contractors and sub-contractors, provider agencies, individual providers, and members may be impacted by the rule language that initial behavioral health evaluations performed by behavioral health professionals and behavioral health technicians must now only be conducted by a behavioral health professional. This change was made to have rule language reflect the language in the existing contract between the Administration and its contractors effective October 1, 1999. For the elderly and physically disabled ALTCS population, the impact will be minimal because the ALTCS program contractors use few, if any, behavioral health technicians in the provider networks. For DES/DDD, (approximately 35% of the total ALTCS population) whose behavioral health services are provided to members through the ADHS/RBHA system, the Administration anticipates that there will be a minimal to significant impact depending on the number of behavioral health professionals already in the sub-contractors network for each county.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

The changes between the proposed rule and the final rule include:

1. Added cross-reference citations to 9 A.A.C. 20 rules for partial care; and
2. Corrected grammar to make the language more clear, concise, and understandable.

**11. A summary of the principal comments and the agency response to them:**

The Administration did not receive any comments on this rulemaking.

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

Not applicable.

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

42 CFR 456, August 23, 1996, incorporated in R9-28-1106.

**14. Was this rule previously adopted as an emergency rule?**

No.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)**

**ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 1. DEFINITIONS**

Section

R9-28-101. General Definitions

R9-28-111. Behavioral Health Services Related Definitions

**ARTICLE 11. BEHAVIORAL HEALTH SERVICES**

**ARTICLE 11. BEHAVIORAL HEALTH SERVICES**

~~R9-28-1101.~~ Definitions

~~R9-28-1101.~~ General Requirements

~~R9-28-1102.~~ Eligibility

~~R9-28-1102.~~ Contractor Responsibilities

~~R9-28-1103.~~ Service Delivery System

~~R9-28-1103.~~ Eligibility for Covered Services

~~R9-28-1104.~~ ALTCS-covered Behavioral Services

~~R9-28-1104.~~ General Service Requirements

~~R9-28-1105.~~ Qualifications and Standards of Participation for Service Providers

~~R9-28-1105.~~ Scope of Behavioral Health Services

~~R9-28-1106.~~ Payments

~~R9-28-1106.~~ General Provisions and Standards for Service Providers

~~R9-28-1107.~~ Standards for Payments

~~R9-28-1108.~~ Grievance and Appeal Process

**ARTICLE 1. DEFINITIONS**

**R9-28-101. General Definitions**

A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition	Section or Citation
1. "211"	R9-28-104
2. "217"	R9-28-104
3. "236"	R9-28-104
4. "Administration"	A.R.S. § 36-2931
5. " <u>ADHS</u> "	<u>R9-28-111</u>
<del>5-6.</del> "AFDC"	R9-22-101
<del>6-7.</del> "Aggregate"	R9-22-107
<del>7-8.</del> "AHCCCS"	R9-22-101
<del>8-9.</del> "AHCCCS hearing officer"	R9-22-108
<del>9-10.</del> "ALTCS"	A.R.S. § 36-2932
<del>10-11.</del> "ALTCS acute care services"	R9-28-104
<del>11-12.</del> "Alternative HCBS setting"	R9-28-101
<del>12-13.</del> "Ambulance"	R9-22-102
<del>13-14.</del> "Appeal"	R9-22-108

**Notices of Final Rulemaking**

<u>14-15.</u>	“Bed hold”	R9-28-102
<u>15-16.</u>	“Behavior intervention”	R9-28-102
<u>17.</u>	“Behavior management services”	<u>R9-28-111</u>
<u>18.</u>	“Behavioral health paraprofessional”	R9-28-111
<u>19.</u>	“Behavioral health professional”	<u>R9-28-111</u>
<u>20.</u>	“Behavioral health service”	<u>R9-28-111</u>
<u>21.</u>	“Behavioral health technician”	<u>R9-28-111</u>
<u>16-22.</u>	“Billed charges”	R9-22-107
<u>23.</u>	“Board eligible for psychiatry”	<u>R9-28-111</u>
<u>17-24.</u>	“Capped fee-for-service”	R9-22-101
<u>18-25.</u>	“Case management plan”	R9-28-101
<u>26.</u>	“Case management services”	<u>R9-28-111</u>
<u>19-27.</u>	“Case manager”	R9-28-101
<u>20-28.</u>	“Case record”	R9-22-101
<u>21-29.</u>	“Categorically eligible”	A.R.S. § 36-2934
<u>22-30.</u>	“Certification”	R9-28-105
<u>31.</u>	“Certified psychiatric nurse practitioner”	<u>R9-28-111</u>
<u>23-32.</u>	“CFR”	R9-28-101
<u>24-33.</u>	“Clean claim”	A.R.S. § 36-2904
<u>34.</u>	“Clinical supervision”	<u>R9-28-111</u>
<u>25-35.</u>	“Community Spouse”	R9-28-104
<u>26-36.</u>	“Community Spouse Resource Deduction”	R9-28-104
<u>27-37.</u>	“Comprehensive plan for delivery of services”	R9-28-105
<u>28-38.</u>	“Contract”	R9-22-101
<u>29-39.</u>	“Contractor”	R9-22-101
<u>30-40.</u>	“County of fiscal responsibility”	R9-28-107
<u>31-41.</u>	“Covered services”	R9-22-102
<u>32-42.</u>	“CPT”	R9-22-107
<u>33-43.</u>	“CSR”	R9-28-104
<u>34-44.</u>	“Day”	R9-22-101
<u>45.</u>	“De novo hearing”	<u>R9-28-111</u>
<u>35-46.</u>	“Developmental disability”	A.R.S. § 36-551
<u>36-47.</u>	“Diagnostic services”	R9-22-102
<u>37-48.</u>	“Disenrollment”	R9-22-117
<u>38-49.</u>	“DME”	R9-22-102
<u>39-50.</u>	“Eligible person”	A.R.S. § 36-2931
<u>40-51.</u>	“Emergency medical services”	R9-22-102
<u>41-52.</u>	“Encounter”	R9-22-107
<u>42-53.</u>	“Enrollment”	R9-22-117
<u>43-54.</u>	“Estate”	A.R.S. § 14-1201
<u>55.</u>	“Evaluation”	<u>R9-28-111</u>
<u>44-56.</u>	“Facility”	R9-22-101
<u>45-57.</u>	“Factor”	R9-22-101
<u>46-58.</u>	“Fair consideration”	R9-28-104
<u>47-59.</u>	“FBR”	R9-22-101
<u>48-60.</u>	“Grievance”	R9-22-108
<u>49-61.</u>	“Guardian”	R9-22-116
<u>50-62.</u>	“HCBS”	A.R.S. §§ 36-2931 and 36-2939
<u>51-63.</u>	“Home”	R9-28-101
<u>52-64.</u>	“Home health services”	R9-22-102
<u>53-65.</u>	“Hospital”	R9-22-101
<u>54-66.</u>	“ICF-MR”	R9-28-101
<u>55-67.</u>	“IHS”	R9-28-101
<u>56-68.</u>	“IMD”	42 CFR 435.1009
<u>69.</u>	“Inpatient psychiatric facilities for individuals under age 21”	<u>R9-28-111</u>
<u>57-70.</u>	“Inspection of care”	R9-28-105

**Notices of Final Rulemaking**

<u>58-71.</u>	“Institutionalized”	R9-28-104
<u>59-72.</u>	“JCAHO”	R9-28-101
<u>60-73.</u>	“License” or “licensure”	R9-22-101
<u>61-74.</u>	“Medical record”	R9-22-101
<u>62-75.</u>	“Medical services”	R9-22-101
<u>63-76.</u>	“Medical supplies”	R9-22-102
<u>64-77.</u>	“Medically eligible”	R9-28-104
<u>65-78.</u>	“Medically necessary”	R9-22-101
<u>66-79.</u>	“Member”	A.R.S. § 36-2931
<u>80.</u>	“Mental disorder”	<u>R9-28-111</u>
<u>67-81.</u>	“MMMNA”	R9-28-104
<u>68-82.</u>	“NF”	42 U.S.C. 1396r(a)
<u>69-83.</u>	“Noncontracting provider”	A.R.S. § 36-2931
<u>70-84.</u>	“Occupational therapy”	R9-22-102
<u>85.</u>	“Partial care”	<u>R9-28-111</u>
<u>71-86.</u>	“PAS”	R9-28-103
<u>72-87.</u>	“PASARR”	R9-28-103
<u>73-88.</u>	“Pharmaceutical service”	R9-22-102
<u>74-89.</u>	“Physical therapy”	R9-22-102
<u>75-90.</u>	“Physician”	R9-22-102
<u>76-91.</u>	“Post-stabilization services”	42 CFR 438.114
<u>77-92.</u>	“Practitioner”	R9-22-102
<u>78-93.</u>	“Primary care provider”	R9-22-102
<u>79-94.</u>	“Primary care provider services”	R9-22-102
<u>80-95.</u>	“Prior authorization”	R9-22-102
<u>81-96.</u>	“Private duty nursing services”	R9-22-102
<u>82-97.</u>	“Program contractor”	A.R.S. § 36-2931
<u>83-98.</u>	“Provider”	A.R.S. § 36-2931
<u>84-99.</u>	“Prudent layperson standard”	42 U.S.C. 1396u-2
<u>100.</u>	“Psychiatrist”	<u>R9-28-111</u>
<u>101.</u>	“Psychologist”	<u>R9-28-111</u>
<u>102.</u>	“Psychosocial rehabilitation”	<u>R9-28-111</u>
<u>85-103.</u>	“Quality management”	R9-22-105
<u>104.</u>	“RBHA”	<u>R9-28-111</u>
<u>86-105.</u>	“Radiology”	R9-22-102
<u>87-106.</u>	“Reassessment”	R9-28-103
<u>88-107.</u>	“Redetermination”	R9-28-104
<u>89-108.</u>	“Referral”	R9-22-101
<u>90-109.</u>	“Reinsurance”	R9-22-107
<u>91-110.</u>	“Representative”	R9-28-104
<u>92-111.</u>	“Respiratory therapy”	R9-22-102
<u>93-112.</u>	“Respite care”	R9-28-102
<u>94-113.</u>	“RFP”	R9-22-105
<u>95-114.</u>	“Room and board”	R9-28-102
<u>96-115.</u>	“Scope of services”	R9-22-102
<u>116.</u>	“Screening”	<u>R9-28-111</u>
<u>97-117.</u>	“Speech therapy”	R9-22-102
<u>98-118.</u>	“Spouse”	R9-28-104
<u>99-119.</u>	“SSA”	P.L. 103-296, Title I
<u>100-120.</u>	“SSI”	R9-22-101
<u>101-121.</u>	“Subcontract”	R9-22-101
<u>122.</u>	“Substance abuse”	<u>R9-28-111</u>
<u>123.</u>	“Treatment”	<u>R9-28-111</u>
<u>102-124.</u>	“Utilization management”	R9-22-105
<u>103-125.</u>	“Ventilator dependent”	R9-28-102

**B.** General definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

1. “AHCCCS” is defined in 9 A.A.C. 22, Article 1.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

2. "ALTCS" means the Arizona Long-Term Care System as authorized by A.R.S. § 36-2932.
3. "Alternative HCBS setting" means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS including:
  - a. For a person with a developmental disability (DD) specified in A.R.S. § 36-551:
    - i. Community residential setting defined in A.R.S. § 36-551;
    - ii. Group home defined in A.R.S. § 36-551;
    - iii. State-operated group home defined in A.R.S. § 36-591;
    - iv. Family foster home defined in 6 A.A.C. 5, Article 58;
    - v. Group foster home defined in 6 A.A.C. 5, Article 59;
    - vi. Licensed residential facility for a person with traumatic brain injury as specified in A.R.S. § 36-2939(C); and
    - vii. Behavioral health service agency as specified in A.R.S. § 36-2939(B)(2) and 9 A.A.C. 20, Articles 6, 7, and 8 for Levels I, II, or III;
  - b. For a person who is elderly or physically disabled (EPD), ~~provided~~ and the facility, setting, or institution is registered with AHCCCS:
    - i. Adult foster care homes defined in A.R.S. § 36-401; and as authorized in A.R.S. § 36-2939; and an assisted living home or a residential unit, as defined in A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939.
    - ii. Licensed residential facility for a person with a traumatic brain injury specified in A.R.S. § 36-2939(C); and
    - iii. Behavioral health service agency specified in A.R.S. § 36-2939(C) and 9 A.A.C. 20, Articles 6, 7, and 8 for ~~levels~~ Levels I and II.
4. "Case management plan" means a service plan developed by a case manager that involves the overall management of a member's or an eligible person's care, and the continued monitoring and reassessment of the member's or the eligible person's need for services.
5. "Case manager" means a person who is either a degreed social worker, a licensed registered nurse, or a person with a minimum of 2 years of experience in providing case management services to a person who is elderly and physically disabled or has developmental disabilities.
6. "CFR" means Code of Federal Regulations, unless otherwise specified in this Chapter.
7. "Contract" is defined in 9 A.A.C. 22, Article 1.
8. "Contractor" is defined in 9 A.A.C. 22, Article 1.
9. "Day" is defined in 9 A.A.C. 22, Article 1.
10. "Disenrollment" is defined in 9 A.A.C. 22, Article 1.
11. "Eligible person" has the meaning in A.R.S. § 36-2931.
12. "Enrollment" is defined in 9 A.A.C. 22, Article 1.
13. "Facility" is defined in 9 A.A.C. 22, Article 1.
14. "Factor" is defined in 9 A.A.C. 22, Article 1.
15. "HCBS" means home and community based services defined in A.R.S. §§ 36-2931 and 36-2939.
16. "Home" means a residential dwelling that is owned, rented, leased, or occupied at no cost to a member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion and any of these, licensed or certified by a regulatory agency of the state as a:
  - a. Health care institution defined in A.R.S. § 36-401;
  - b. Residential care institution defined in A.R.S. § 36-401;
  - c. Community residential facility defined in A.R.S. § 36-551; or
  - d. Behavioral health service facility defined in 9 A.A.C. 20, Articles 6, 7, and 8.
17. "Hospital" is defined in 9 A.A.C. 22, Article 1.
18. "ICF-MR means an intermediate care facility for the mentally retarded and is defined in 42 CFR 435.1009 and 440.150.
19. "IHS" means the Indian Health Services.
20. "JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.
21. "License" or "licensure" is defined in 9 A.A.C. 22, Article 1.
22. "Medical record" is defined in 9 A.A.C. 22, Article 1.
23. "Medical services" is defined in 9 A.A.C. 22, Article 1.
24. "Medically necessary" is defined in 9 A.A.C. 22, Article 1.
25. "Member" has the meaning in A.R.S. § 36-2931.
26. "NF" means nursing facility and is defined in 9 A.A.C. 22, Article 1.
27. "Noncontracting provider" has the meaning in A.R.S. § 36-2931.
28. "Program contractor" has the meaning in A.R.S. § 36-2931.
29. "Provider" has the meaning in A.R.S. § 36-2931.
30. "Referral" is defined in 9 A.A.C. 22, Article 1.
31. "SSA" means Social Security Administration defined in P.L. 103-296, Title I.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

32. "SSI" is defined in 9 A.A.C. 22, Article 1.
33. "Subcontract" is defined in 9 A.A.C. 22, Article 1.

**R9-28-111. Behavioral Health Services Related Definitions**

Definitions. The following words and phrases in this Chapter, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following same meaning as specified in 9 A.A.C. 22, Article 1, unless the context of the Chapter explicitly requires another meaning: "IMD" means an institution for mental disease as defined in 42 CFR 435.1009

**ARTICLE 11. BEHAVIORAL HEALTH SERVICES**

**ARTICLE 11. BEHAVIORAL HEALTH SERVICES**

**R9-28-1101. Definitions**

The definitions set forth in A.A.C. R9-28-101 and R9-22-1201 apply to terminology in this Article. Where definitions under these rule sections may conflict, the definitions set forth in R9-28-101 are applicable.

**R9-28-1101. General Requirements**

General requirements. The following general requirements apply to behavioral health services provided under this Article, subject to all exclusions and limitations.

1. Administration. The program shall be administered as specified in A.R.S. § 36-2932.
2. Provision of services. Behavioral health services shall be provided as specified in A.R.S. § 36-2939 and this Chapter.
3. Definitions. The following definitions apply to this Article:
  - a. "Emergency or crisis behavioral health services" specified in 9 A.A.C. 20.
  - b. "Physician assistant" specified in A.R.S. § 32-2501. In addition, a physician assistant providing a behavioral health service shall be supervised by an AHCCCS-registered psychiatrist.

**R9-28-1102. Eligibility**

Persons with a behavioral health or substance abuse disorder and eligible pursuant to A.R.S. § 36-2931(5) shall be eligible for covered behavioral health services set forth in R9-28-1104.

**R9-28-1102. Contractor Responsibilities**

- A. Contractor responsibilities.** Contractors shall provide behavioral health services for members as specified in this Article.
1. A contractor shall determine whether a member needs behavioral health services and, if medically necessary, may subcontract through its service provider network for the behavioral health services in R9-28-1105.
  2. A contractor shall coordinate the transition of care and medical records as specified in A.R.S. §§ 36-2932, 36-509, R9-28-514 and in contract when a member transitions from:
    - a. A behavioral health provider to another behavioral health provider.
    - b. An RBHA to a contractor.
    - c. A contractor to an RBHA, or
    - d. A contractor to a contractor.
  3. A contractor shall ensure that the member's medical records are transferred during the transition in this Section.
- B. Administration responsibilities.** If a contractor is not available to provide behavioral health services in a county, the Administration shall provide the service.

**R9-28-1103. Service Delivery System**

Program contractors, including the Administration for counties in which there is no program contractor, shall be responsible for the provision of medically necessary behavioral health services set forth under this Article to members.

1. Program contractors shall determine if members need behavioral health services and, if determined to be medically necessary, arrange for behavioral health services set forth in R9-28-1104.
2. Program contractors shall ensure the provision of covered services through the direct provision of services (if the Administration grants a waiver pursuant to A.R.S. 36-2940(A)) or through contracts or agreements with qualified providers.
3. Program contractors may contract with a Regional Behavioral Health Authority (RBHA) which will be responsible for the provision of behavioral health services through its service provider network.

**R9-28-1103. Eligibility for Covered Services**

- A. Eligibility for covered services.** A member determined eligible under A.R.S. § 36-2934 shall receive medically necessary covered services specified in R9-28-1105.
- B. Ineligibility.** A person is not eligible for behavioral health services if the person is:
1. An inmate of a public institution as defined in 42 CFR 435.1009.
  2. A resident of an institution for the treatment of tuberculosis, or

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

3. Age 21 through 64 and a resident of an IMD.

**~~R9-28-1104. ALTCS covered Behavioral Health Services~~**

- ~~A. The following general service requirements apply with respect to behavioral health services provided under this Article, subject to all applicable exclusions and limitations set forth in this Article:~~
- ~~1. The service shall be medically necessary, cost effective, and Title XIX reimbursable.~~
  - ~~2. The service shall be provided by qualified service providers pursuant to R9-28-1105.~~
  - ~~3. Services shall be authorized, as applicable, by the program contractor and shall be consistent with prior authorization, federal certification of need and inspection of care requirements and utilization review standards established by the Director.~~
  - ~~4. The person is eligible for Title XIX on the date the service is provided and is not a resident in an institution for mental diseases (MD), unless the member or eligible person is under 21 years of age and in a Title XIX participating inpatient psychiatric facility, or 65 years of age and older and in a Title XIX participating IMD.~~
  - ~~5. Services shall be provided in appropriate residential settings which meet state and federal licensing standards and which are allowable under A.R.S. § 36-2939.~~
- ~~B. The following behavioral health services shall be covered, subject to the limitations and exclusions in this Article and further subject to approval by the Health Care Financing Administration:~~
- ~~1. Inpatient services, including:~~
    - ~~a. Inpatient hospital services for treatment of acute episodes, generally of a short duration, in participating acute general hospitals.~~
    - ~~b. Inpatient psychiatric facility services under the direction of a psychiatrist, for persons under 21 years of age in a residential treatment center (RTC) or an inpatient psychiatric hospital accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) or an inpatient psychiatric hospital.~~
    - ~~c. IMD services for persons 65 years of age and older.~~
    - ~~d. Limitations:~~
      - ~~i. Inpatient substance abuse services initially may be authorized for up to 4 days of medically necessary detoxification. If medically necessary, additional days subsequently may be authorized if ordered by a physician and approved by the program contractor's Medical Director or the Administration.~~
      - ~~ii. Room and board is not a covered service in residential settings except for inpatient services set forth in subsection (B)(1).~~
  - ~~2. Professional services, including:~~
    - ~~a. Individual therapy and counseling provided by a behavioral health professional or a behavioral health technician in face-to-face interaction with the member or eligible person.~~
    - ~~b. Group and/or family therapy/counseling provided by a behavioral health professional or a behavioral health technician in face-to-face interaction with the member or eligible person and his or her family, and/or spouse or other group.~~
    - ~~c. Limitations: Only psychiatrists and psychologists may bill independently for services provided. Other behavioral health professionals and behavioral health technicians shall be affiliated with qualified agencies such as a rehabilitation or clinic agency or hospital, and services provided by these individuals shall be billed through that agency.~~
  - ~~3. Rehabilitation services, including:~~
    - ~~a. Basic partial care services which are provided by a behavioral health technician following residential or inpatient treatment, or to prevent placement in a more restrictive setting. Basic partial care services are provided within a structured, coordinated, and continuous program of goal-oriented therapeutic activities.~~
    - ~~b. Intensive partial care services which are provided by a behavioral health professional or a behavioral health technician as an alternative to inpatient care for members or eligible persons who are developmentally disabled. Intensive partial care services are a planned, structured, and coordinated program of intensive care which is scheduled for a minimum of 3 consecutive hours on a regular basis, providing active treatment for full or partial resolution of the member's or eligible person's acute or episodic behavioral health problems and includes on-site visits with a psychiatrist.~~
    - ~~c. Emergency/erisis behavioral health services provided by a behavioral health professional or a behavioral health technician. Such services are immediate and intensive, time limited, community based, face to face crisis interventions and resolution services available on a 24-hour basis in situations where a member or eligible person is a danger to self or others.~~
    - ~~d. Behavior management services provided by a behavioral health professional or a behavioral health technician. Behavior management services primarily involve direct patient behavior management for home and community-based services and may also include services related to activities of daily living and household services incidental to and consistent with the behavioral health rehabilitation needs of the member or eligible person.~~

Notices of Final Rulemaking

4. ~~Evaluation services provided by a behavioral health professional or a behavioral health technician. Evaluation services include the assessment of the member's or eligible person's psychiatric, psychological, or social conditions to determine if a mental disorder exists and, if so, to provide diagnosis for the direction of care.~~
5. ~~Behavioral health related services, including:~~
  - a. ~~Psychotropic medications defined by the program contractor Title XIX formulary.~~
  - b. ~~In addition to the behavioral health services covered in subsection (B), the covered services set forth in R9-28-202 shall incorporate behavioral health needs as appropriate.~~
6. ~~Limitations:-~~
  - a. ~~Intensive partial care services shall be limited to members or eligible persons whose emotional, behavioral, or substance abuse problems indicate a serious emotional disturbance and/or evidence of abuse or neglect.~~
  - b. ~~Prevocational or vocational activities and school attendance educational hours are not included in intensive and basic partial care services and shall not be billed simultaneously with these services.~~
  - c. ~~Emergency/erisis behavioral health services are limited to emergencies or crises as defined in R9-22-101.~~

**R9-28-1104. General Service Requirements**

- A.** Services. Behavioral health services include both mental health and substance abuse services.
- B.** Medical necessity. A service shall be medically necessary as specified in R9-28-201.
- C.** Prior authorization. A service shall be provided by contractors, subcontractors, and providers consistent with prior authorization requirements established by the Director and specified in R9-28-1105.
- D.** EPSDT. For Title XIX members, EPSDT services shall include all medically necessary Title XIX-covered behavioral health services for a member.
- E.** Experimental services. The Director shall determine whether a service is experimental, or whether a service is provided primarily for the purpose of research. Those services shall not be covered.
- F.** Gratuities. A service or an item, if furnished gratuitously to a member by a provider, is not covered and payment shall be denied.
- G.** Service area. Behavioral health services rendered to a member shall be provided within the contractor's service area except when:
  1. A contractor's primary care provider refers a member to another area for medical specialty care.
  2. A member's medically necessary covered service is not available within the service area.
  3. A net savings in behavioral health service delivery costs can be documented by the RBHA for a member. Undue travel time or hardship shall be considered for a member or a member's family, or
  4. A member is placed in a NF or Alternative HCBS setting located out of the contractor's service area.
- H.** Travel. If a member travels or temporarily resides out of a behavioral health service area, covered services are restricted to emergency behavioral health care, unless otherwise authorized by the member's contractor.
- I.** Non-covered services. If a member requests a behavioral health service that is not covered by the Administration or is not authorized by a contractor, the behavioral health service may be provided by an AHCCCS-registered behavioral health service provider under the following conditions:
  1. The requested service and the itemized cost of each service is documented by a contractor and provided to the member or the member's guardian; and
  2. The member or member's guardian signs a statement acknowledging:
    - a. Services have been explained to the member or member's guardian, and
    - b. The member or member's guardian accepts responsibility for payment.
- J.** Referral. If a member is referred out of a contractor's service area to receive a prior authorized medically necessary behavioral health service or a medically necessary covered service, the service shall be provided by the contractor.
- K.** Restrictions and limitations. The restrictions, limitations, and exclusions in this Article shall not apply to a contractor when electing to provide a non-covered service.
- L.** Residential placement. Behavioral health services are covered in an Alternative HCBS setting or home as specified in R9-28-101(B). Room and board is not a covered service as defined in R9-28-102 unless provided in an inpatient facility specified in R9-28-1105(B).
- M.** Appropriate settings. A behavioral health service shall be provided in an allowable Alternative HCBS setting that meets state and federal licensing standards and that is allowable under A.R.S. § 36-2939.

**R9-28-1105. Qualifications and Standards of Participation for Service Providers**

~~To provide behavioral health services to members or eligible persons, service providers shall comply with requirements set forth in R9-22-1205.~~

**R9-28-1105. Scope of Behavioral Health Services**

- A.** Inpatient behavioral health services. The following inpatient services shall be covered subject to the limitations and exclusions in this Article.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

1. Inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment. The behavioral health service shall be provided under the direction of a physician in:
  - a. A general acute care hospital;
  - b. An inpatient psychiatric facility for a person under 21 years of age, licensed as a psychiatric hospital or a residential treatment center licensed as a Level I Psychiatric Facility and accredited by an AHCCCS-approved accrediting body as specified in contract and authorized by federal laws and regulations; or
  - c. An IMD for a member age 21 through 64, licensed as a psychiatric hospital or a NF.
2. Inpatient service limitations:
  - a. Inpatient services, other than emergency services specified in this Section, shall be prior authorized.
  - b. Inpatient services shall be reimbursed on a per diem basis and shall be inclusive of all services except, the following may bill independently for services:
    - i. A psychiatrist.
    - ii. A certified psychiatric nurse practitioner.
    - iii. A physician assistant as defined in this Article, or
    - iv. A psychologist.
  - c. The following services may be billed independently if prescribed by a provider specified in R9-28-1105(B)(1)(b) for a member residing in a residential treatment center:
    - i. Laboratory;
    - ii. Radiology; and
    - iii. Psychotropic medication, medication monitoring, and medication adjustment.
  - d. A member age 21 through 64 as defined in 42 CFR 441.150 is not eligible for behavioral health services provided in an IMD except as specified in 42 CFR 441.151.
- B.** Partial care. The following partial care services shall be covered subject to the limitations and exclusions in this Article.
  1. Partial care shall be provided as either a basic or intensive level of care as medically necessary to:
    - a. Meet a member's need for behavioral health treatment, and
    - b. Prevent placing a member in a higher level of care or a more restrictive environment.
      - i. Basic partial care services shall be provided as specified in 9 A.A.C. 20.
      - ii. Intensive partial care services shall be provided as specified in 9 A.A.C. 20.
  2. Partial care service limitations. All services shall be included in the partial care reimbursement rate except, the following practitioners may bill independently:
    - a. A psychiatrist.
    - b. A certified psychiatric nurse practitioner.
    - c. A physician assistant as defined in this Article, and
    - d. A psychologist.
  3. Partial care service exclusions. Vocational activities, school attendance, and educational hours shall not be included as a basic and intensive partial care service and shall not be billed concurrently with these services.
- C.** Outpatient services. The following outpatient services shall be covered subject to the limitations and exclusions in this Article.
  1. Outpatient services shall include the following:
    - a. Screening provided by a behavioral health professional or a behavioral health technician;
    - b. Evaluation provided by a behavioral health professional;
    - c. Counseling including individual therapy, group, and family therapy provided by a behavioral health professional or a behavioral health technician under clinical supervision of a behavioral health professional;
    - d. Behavior management provided by a behavioral health technician or a behavioral health paraprofessional; and
    - e. Psychosocial rehabilitation provided by a behavioral health professional, a behavioral health technician, or a behavioral health paraprofessional.
  2. Outpatient service limitations:
    - a. The following practitioners may bill independently:
      - i. A psychiatrist.
      - ii. A certified psychiatric nurse practitioner.
      - iii. A physician assistant as defined in this Article, and
      - iv. A psychologist.
    - b. Other behavioral health professionals, behavioral health technicians, and behavioral health paraprofessionals shall be employed by or contracted with, an AHCCCS-registered behavioral health agency.
- D.** Behavioral health emergency services. The following emergency services shall be covered subject to the limitations and exclusions in this Article.
  1. Behavioral health emergency services may be provided on either an inpatient or outpatient basis. A contractor shall ensure services are provided by the qualified personnel specified in R9-28-1106. The emergency services shall be

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

available 24 hours-per-day, 7 days-per-week in the contractor's service area in situations when a member is a danger to self or others or is otherwise determined in need of immediate unscheduled behavioral health services.

2. An inpatient emergency service provider shall verify the eligibility and enrollment of a member through the Administration to determine the need for notification to a contractor, and to determine the party responsible for payment of services under Article 7.
3. Prior authorization for a consultation provided by a psychiatrist, a certified psychiatric nurse practitioner, a physician assistant, or a psychologist is not required if necessary to evaluate or stabilize a behavioral health emergency.
4. Inpatient behavioral health service limitations as specified in this Section apply to emergency services provided to a member on an inpatient basis.

**E.** Other behavioral health services. Other behavioral health services include:

1. Laboratory and radiology services for behavioral health diagnosis and medication management;
2. Psychotropic medication and related medication included in a contractor's formulary; and
3. Medication monitoring, administration, and adjustment for psychotropic medication and related medications.

**F.** Transportation services.

1. Emergency transportation shall be covered for a behavioral health emergency specified in A.A.C. R9-22-211. Emergency transportation is limited to behavioral health emergencies.
2. Non-emergency transportation to and from covered behavioral health service providers shall be covered if prior authorized by a contractor.

**~~R9-28-1106.~~     ~~Payments~~**

~~All payments to program contractors shall be made pursuant to the terms and conditions of agreements executed with the Administration in accordance with the requirements set forth in A.A.C. Title 9, Chapter 28, Article 7, unless otherwise specified in this Article.~~

**R9-28-1106.     General Provisions and Standards for Service Providers**

**A.** Qualified service provider. A qualified behavioral health service provider shall:

1. Be employed by, or contracted in writing with, a contractor or a subcontractor to provide behavioral health services to a member;
2. Have all applicable state licenses or certifications, or comply with alternative requirements established by the Administration;
3. Register with the Administration as a behavioral health service provider; and
4. Comply with all requirements specified in Article 5, and this Article.

**B.** Quality and utilization management.

1. Service providers shall cooperate with the contractor's quality and utilization management, ADHS, and the Administration as specified in R9-28-511 and contract.
2. Service providers shall comply with applicable procedures specified in 42 CFR 456, August 23, 1996, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

**R9-28-1107.     Standards for Payments**

**A.** Payment to contractors. A payment to a contractor shall be made according to the terms and conditions of the contract executed with the Administration as specified in Article 7, unless otherwise specified in this Article.

**B.** Prior authorization. Payment to a provider for services or items requiring prior authorization may be denied if prior authorization is not obtained from the Administration, or a contractor as specified in R9-28-705.

**R9-28-1108.     Grievance and Appeal Process**

**A.** Processing of a grievance. All grievances regarding any adverse action, decision, or policy regarding behavioral health services shall be reviewed according to A.R.S. §§ 36-2932, 36-3413, 41-1092.02, 9 A.A.C. 28, Articles 8 and 12.

**B.** Member appeal. A member's appeal of a grievance under this Article shall be conducted as a contested case as specified in 9 A.A.C. 28, Article 8.

**C.** Other appeals. An appeal of the Director's decision after an Office of Administrative Hearing decision other than de novo hearing requests by a member shall be limited to an appellate review by the Administration to determine whether substantial evidence in the record supports the decision.

**NOTICE OF FINAL RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**PREAMBLE**

**1. Sections Affected**

	<b><u>Rulemaking Action</u></b>
R12-4-101	Amend
R12-4-102	Amend
R12-4-104	Amend
R12-4-109	Repeal
R12-4-202	Amend
R12-4-208	Repeal
R12-4-208	New Section
R12-4-216	Amend
R12-4-217	Amend
R12-4-318	Amend
R12-4-319	New Section
R12-4-412	Amend
R12-4-417	Repeal
R12-4-417	New Section
R12-4-422	Amend
R12-4-426	New Section
R12-4-608	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. § 17-231(A)(1)(2) and (3) for all rules; A.R.S. § 5-311(A)(1) for R12-4-608

Implementing statutes: A.R.S. §§ 17-101, 17-333(A), 17-234, and 41-1005(A)(2) for R12-4-101

A.R.S. §§ 17-333(A)(1) through (29)(31)(32)(33)(35) and (36), 17-333(B), 17-342(A), 17-232, 17-332(B) and (C), and 17-231(B)(7) for R12-4-102

A.R.S. §§ 17-231(A)(2)(3) and (8) for R12-4-104

A.R.S. §§ 17-231(B)(2)(3) and (7) for R12-4-109

A.R.S. § 17-336(2) for R12-4-202

A.R.S. § 17-362 for R12-4-208

A.R.S. § 17-102 for R12-4-216

A.R.S. §§ 17-102 and 17-301(B) for R12-4-217

A.R.S. §§ 17-102 for R12-4-318

A.R.S. §§ 17-102 and 17-301(B) for R12-4-319

A.R.S. §§ 17-238 and 17-306 for R12-4-412

A.R.S. §§ 17-238 and 17-306 for R12-4-417

A.R.S. § 17-238 for R12-4-422

A.R.S. § 17-306 for R12-4-426

A.R.S. § 5-311(A)(1) for R12-4-608

**3. The effective date of the rules:**

R12-4-101, R12-4-102, R12-4-104, R12-4-208, R12-4-216, R12-4-217, R12-4-318, and R12-4-417 are designated within the rules as becoming effective January 1, 2000. Most have to do with licenses valid for a calendar year. In all cases, the effective date is needed for coordinated implementation. R12-4-202, R12-4-319, R12-4-412, R12-4-422, R12-4-426, and R12-4-608 will become effective when filed with the Secretary of State after approval of the Governor's Regulatory Review Council (December 14, 1999). Repeal of R12-4-109 will become effective on May 1, 2000 after Commission adoption of new Section R12-4-109, an exempt rule under A.R.S. § 41-1005(A)(1), and filing of the exempt rule with the Secretary of State.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notices of Rulemaking Docket Opening:

R12-4-101: 5 A.A.R. 765, March 12, 1999  
R12-4-102: 5 A.A.R. 709, March 5, 1999  
R12-4-104: 5 A.A.R. 765, March 12, 1999  
R12-4-109: 5 A.A.R. 765, March 12, 1999  
R12-4-202: 5 A.A.R. 765, March 12, 1999  
R12-4-208: 5 A.A.R. 765, March 12, 1999  
R12-4-216: 5 A.A.R. 765, March 12, 1999  
R12-4-217: 5 A.A.R. 765, March 12, 1999  
R12-4-318: 5 A.A.R. 709, March 5, 1999  
R12-4-319: 5 A.A.R. 709, March 5, 1999  
R12-4-412: 5 A.A.R. 765, March 12, 1999  
R12-4-417: 5 A.A.R. 765, March 12, 1999  
R12-4-422: 5 A.A.R. 765, March 12, 1999  
R12-4-426: 5 A.A.R. 709, March 5, 1999  
R12-4-608: 5 A.A.R. 765, March 12, 1999

Notices of Proposed Rulemaking:

R12-4-101: 5 A.A.R. 2313, July 23, 1999  
R12-4-102: 5 A.A.R. 2208, July 16, 1999  
R12-4-104: 5 A.A.R. 2313, July 23, 1999  
R12-4-109: 5 A.A.R. 2313, July 23, 1999  
R12-4-202: 5 A.A.R. 2313, July 23, 1999  
R12-4-208: 5 A.A.R. 2313, July 23, 1999  
R12-4-216: 5 A.A.R. 2313, July 23, 1999  
R12-4-217: 5 A.A.R. 2313, July 23, 1999  
R12-4-318: 5 A.A.R. 2208, July 16, 1999  
R12-4-319: 5 A.A.R. 2208, July 16, 1999  
R12-4-412: 5 A.A.R. 2313, July 23, 1999  
R12-4-417: 5 A.A.R. 2313, July 23, 1999  
R12-4-422: 5 A.A.R. 2313, July 23, 1999  
R12-4-426: 5 A.A.R. 2208, July 16, 1999  
R12-4-608: 5 A.A.R. 2313, July 23, 1999

Notice of Public Information: 5 A.A.R. 3010, September 3, 1999

For R12-4-101, R12-4-104, R12-4-109, R12-4-202, R12-4-208, R12-4-216, R12-4-217, R12-4-412, R12-4-417, R12-4-422, R12-4-608: (Provided notice of correction to the July 23, 1999 Notice of Proposed Rulemaking. Under question #3, the date of the Rulemaking Docket Opening was incorrectly listed as March 5, 1999. The correct date is March 12, 1999.)

The date the record was closed: October 22, 1999

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

Name: Susan L. Alandar, Rules Manager  
Address: Arizona Game and Fish Department  
2221 West Greenway Road DORR  
Phoenix, AZ 85023-4399  
Telephone: (602) 789-3289  
FAX: (602) 789-3677

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

**R12-4-101. Definitions.** This rule defines the terms used in Game and Fish Commission rules (Title 12, Chapter 4) and Commission orders establishing hunting and fishing seasons. Subsection (A) of the rule properly cross-references the definitions given in A.R.S. § 17-101 and A.A.C. R12-4-401 and R12-4-501. R12-4-401 contains definitions specific to Article 4 of the Commission's rules governing live wildlife. These live wildlife rules address a separate audience from the rest of the Commission's rules, and were therefore collected into a separate Article for the benefit of those persons. R12-4-501, certified May 27, 1992, contains definitions specific to the Commission's rules on the registration and operation of watercraft. Again, the boating and watersports rules address a separate audience from the rest of the Commission's rules.

The rulemaking removes the definition for "falconry" from this rule, as the definition now appears in A.R.S. § 17-101(A)(7). The definition for "falconry" currently in R12-4-101(A)(4) is no longer necessary based upon the 1998

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

passage of S.B. 1128, which, among other changes, amended A.R.S. § 17-101 to include a new definition for “falconry.”

**R12-4-102. Fees for Licenses, Tags, Stamps, and Permits.** This rule prescribes fees, within statutory confines, to cover necessary Department expenditures. The Game and Fish Department receives no appropriation from the State General Fund for routine operations but is supported by those fees prescribed in this rule; license fees are the major source of funding. A.R.S. § 17-333(A)(1) and (3) through (19) and 17-333(B) authorize hunting and fishing license fees and big game tag fees.

**(C)(4). Yearling or Cow Buffalo Permit Tag:** A buffalo tag validates the Arizona class F or G hunting license to take buffalo from the state’s buffalo herds. Authorized by A.R.S. § 17-333(B), as an “additional license or permit”, no ceiling on this fee is set. Under R12-4-102(C)(4), separate buffalo tags are established and resident and nonresident fees for these tags are set. The resident fee for an adult bull or any buffalo tag is \$750; for an adult cow tag is \$450; and for a yearling tag is \$240. These resident fees have been in effect since before 1982. The nonresident fee for an adult bull or any buffalo tag is \$3,750; for an adult cow tag is \$2,250; and for a yearling tag is \$1200. These nonresident fees were established January 1, 1989.

The amendment establishes a 4th combination tag and sets resident and nonresident fees for this tag. This is a combination yearling/cow tag for buffalo at \$450.00 for residents and \$2,250 for nonresidents. The cost of the tag is the same as the cost of the cow tag. The yearling and cow hunts are where most improper harvesting occurs. Differentiation between yearlings and cows is difficult. Many hunters have stated they located the herd but did not shoot because they were unsure of the correct buffalo for their tag. Hunters also harvest the wrong buffalo and swear it was the correct buffalo for their tag as they pulled the trigger. Potential penalties include seizure of the buffalo, citation and fines, and the loss of a once-in-a-lifetime opportunity to legally harvest a buffalo in Arizona. Combining the tags will alleviate these problems, reduce workload in enforcement of restricted hunt regulations which require a lot of time and effort to ensure that hunters take only the sex and age class buffalo for which their tag is valid, and reduce hunting pressure on the herd which causes buffalo to leave the wildlife area. Hunting pressure is reduced when a hunter is able to identify a legal buffalo and harvest it with 1 look at the herd rather than having to engage in continued pursuit to ensure correct identification. The new combination tag will also improve the Department’s ability to effectively manage the buffalo population by increasing the number of buffalo successfully taken in the buffalo harvest.

**(E)(1). Falconer License:** This is a 3-year license that validates an Arizona Class G general hunting license for the taking of quarry with a trained raptor and allows the possessing and transporting of raptors for that purpose consistent with the requirements of the Migratory Bird Treaty Act, 40 STAT 755; 16 U.S.C. 703 through 711, and the Endangered Species Act of 1973, P.L. 93-205; 87 STAT. 884; 16 U.S.C. 1531 through 1544. Authorized by A.R.S. §§ 17-333(A)(36), at \$75.00, the fee under R12-4-102(E)(1) is \$75.00. The amendment changes the name of the license from “falconry license” to “sport falconry license” to correspond to new language in A.R.S. §§ 17-236(B) and 17-333(A)(36) resulting from SB 1128.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-Tags by Drawing.** This rule prescribes application procedures and methods of issuance for “hunt permit-tags,” meaning a tag for a hunt for which the Commission has assigned a hunt number. R12-4-104 sets forth the procedures for obtaining a hunt permit-tag through an automated “drawing.” The drawing is necessary because there are more persons wishing to hunt a particular species in a particular area by a particular method of take than there are available permits for that species. The drawing, which is used and understood by thousands of people annually, ensures that the limited number of tags is distributed fairly and represents a substantial portion of the Department’s annual revenue.

Although the rule is effective in meeting its objective, during the 5-year-review process the Department put together a Total Quality team to map the processes related to the drawing, do a gap analysis of those processes, and determine if they could be improved to be more customer-friendly and more efficient. Recommendations from that team showed that amendments were needed.

The rulemaking requires each applicant for a hunt permit-tag issued by drawing to include the applicant’s social security number on the hunt permit-tag application form to comply with A.R.S. §§ 25-320 and 25-502; makes the hunt permit-tag application form and application schedule information available on the Internet; removes redundant information from and clarifies information in the rule; states in the rule the current Department practice allowing unsuccessful applicants for the spring buffalo hunt to re-apply for the fall buffalo hunt; and causes illegible applications to be rejected from the drawing.

**R12-4-109. Wildlife areas.** This rule prescribes criteria for lands that qualify as wildlife areas; describes the boundaries for wildlife areas; provides protective measures for wildlife and habitat, allows for special management and research practices, and enhances wildlife and habitat conservation; and prescribes how public access to wildlife areas may be restricted or closed to entry.

After additional analysis of this rule, the Department’s Assistant Attorney General has rendered an informal opinion that rules associated with the use of wildlife areas are statutorily exempt from the formal rulemaking process of the Arizona Administrative Procedure Act because they qualify as “public works” under the provisions of A.R.S. § 31-252 and A.R.S. § 41-1005(A)(1). As such, Department-maintained wildlife areas fall within the exemption from rulemaking for “public works” in A.R.S. § 41-1005(A)(1).

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

Based upon this informal opinion of the Department's Assistant Attorney General, the rulemaking will repeal the R12-4-109, Wildlife Area. In place of this rule, the Commission will adopt 1 or more exempt rules for the use of wildlife areas that will adequately protect Arizona's wildlife and wildlife habitats. The effective date of the rule repeal will be May 1, 2000. This will allow the existing rule to remain in effect for all seasons already established by Commission Order. The new exempt rules will be adopted by the Commission at its April 2000 Commission meeting, at the same time it adopts new hunt orders. As required under A.R.S. § 41-1005(A)(1), the Department will post by sign or signal the effect of the exempt rules and will file copies of the exempt rules with the Secretary of State, who will then publish the text of the exempt rules.

It is anticipated that a review of the exempt rules will occur annually in conjunction with the review of the Department's hunt guidelines. In addition, the Department will add the opportunity for public comment on the exempt wildlife area rules to the annual public meetings it already holds at several locations throughout Arizona to receive comment on the Department's hunt guidelines. Public notice and opportunity for comment will also occur prior to and during all Commission meetings at which changes to wildlife area rules will be discussed and/or formally adopted.

**R12-4-202. Disabled Veteran's License.** This rule specifies the application procedures for a disabled veteran's license, ensures that applicants meet the requirements set in A.R.S. § 17-336(2), and prescribes the purposes for which the license is valid. Although the rule is effective in meeting its objectives, the 5-year review of this rule indicated amendments are needed.

The amendments clarify the content and extent of the disability certification that verifies a veteran's eligibility for a disabled veteran's license; eliminate the disability re-certification license reapplication requirement for those veterans whose disability will not require reevaluation; and update the name of "Veteran's Administration" to the current "Department of Veterans Affairs." In addition, subsection (D) is deleted because licensing time-frames are now delineated in R12-4-106, the order of subsections (B)(1) and (2) are reversed, and the rule is revised to make it consistent with required rulemaking language and style.

**R12-4-208. Guide License.** This rule establishes qualifications, criteria, and operating requirements for hunting guide licenses, fishing guide licenses, and hunting and fishing guide licenses. There are currently 600 licensed guides in Arizona. Although the rule is effective in meeting its objectives, the 5-year review of this rule indicated rule amendments are needed. The rule is repealed and replaced with a new Section in order to rewrite it to current, more understandable rulewriting standards.

Substantive changes remove the incorporation by reference of 3 federal laws that the Commission has not adopted as its own rules. Subsection (B) of the rule identifies those preexisting conditions that preclude an applicant from holding a guide license. In response to a request from the U.S. Fish and Wildlife Service, the Department included convictions of violations of 5 federal laws in the grounds for denial or revocation [see also subsection (I)] of a guide license. These 5 federal laws had been incorporated by reference. Recently, the Commission was advised by legal counsel that it is not necessary to incorporate by reference federal statutes and regulations that are not intended to be adopted as the Commission's own rules. Therefore, since the Commission does not intend to adopt these 5 federal laws as the Commission's own rules, the rule is amended to refer to and list the federal laws, without reference to the most current amendment and without incorporation by reference language.

In addition the amendment revises subsection (H) of the rule to clarify prohibited acts. The rule is rewritten in its entirety to make the rule consistent with required rulemaking language and style. Subsection (H) of the rule is intended to preclude a hunting guide from hunting, treeing, or holding at bay an animal for a client who is not present. Such practices are unethical in that they allow an unauthorized person, the guide, to hunt for the authorized person, the licensed hunter. There are currently 495 licensed guides with hunting authority. To date, however, the rule has been difficult to enforce. In the past 6 years, almost a dozen violations of subsection (H) were either abandoned or dismissed. As several county attorneys have advised the Department, the rule language is ambiguous and fails to specify the prohibited acts. In addition, the rule by referencing "licensed guides" creates a legal loophole that has made the prosecution of unlicensed guides difficult. Therefore, the rule is revised to specify prohibited acts and to change "licensed guide" to person acting as a guide.

**R12-4-216. Crossbow Permit.** This rule prescribes a special permit for disabled hunters who cannot draw a bow and arrow, to allow them to hunt with a crossbow during archery-only seasons for deer, javelina, and turkey. Existing prohibitions against the taking of other wildlife with a crossbow are not affected by this rule. No hunter may take wildlife other than deer, javelina, and turkey with a crossbow. Since the rule became effective January 1, 1996, 172 crossbow permits have been issued. Although the rule is effective in meeting its objectives, the 5-year review of this rule indicated amendment was needed.

The amendment clarifies that only M.D.s, doctors of medicine, licensed under A.R.S. § 32-1421 et seq., and D.O.s, doctors of osteopathic medicine, licensed under A.R.S. § 32-1821 et seq., may certify an applicant's disability status. This rule requires that applicants for this permit submit a statement from a licensed physician certifying that their disability is a permanent disability equal to at least 90% impairment of function of 1 arm. The rule requires applicants be certified as meeting the criteria by a physician licensed pursuant to A.R.S. § 32-1421 or 32-1821. This has proven to be unclear. The intent was and is that only physicians licensed as M.D. or D.O. certify whether applicants meet the criteria. Therefore, the rule has been amended. In addition, subsection (E) is deleted because licensing time-frames

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

are now delineated in R12-4-106, the reference to R12-4-608 in subsection (G) is replaced with a reference to the statutes governing appealable actions, and the rule is revised to make it consistent with required rulemaking language and style.

**R12-4-217. Challenged Hunter Access/Mobility Permit.** This rule prescribes a special permit, called CHAMP (Challenged Hunter Access/Mobility Permit), for mobility-impaired hunters who could not normally get to a hunting area because of their mobility impairment and the type of rugged terrain involved in most hunting areas. Since the rule became effective January 1, 1996, 290 CHAMP permits have been issued. Although the rule is effective in meeting its objectives, the 5-year review of this rule indicated amendments were needed.

The amendment clarifies that only M.D.s, doctors of medicine, licensed under A.R.S. § 32-1421 et seq., and D.O.s, doctors of osteopathic medicine, licensed under A.R.S. § 32-1821 et seq., may certify an applicant's disability status. This rule requires that applicants for this permit submit a statement from a licensed physician certifying that their disability is a permanent disability equal to at least 90% impairment of function of 1 leg. The rule requires applicants be certified as meeting the criteria by a physician licensed pursuant to A.R.S. §§ 32-1421 or 32-1821. This has proven to be unclear. The intent was and is that only physicians licensed as M.D. or D.O. certify whether applicants meet the criteria.

In addition, the amendment revises the disability criteria to allow persons with disabilities or combinations of disabilities that are medically equivalent to a minimum 90% loss of function in 1 leg to obtain a permit. Both amendments reflect the original intent of the rule. The disability criteria as currently written excluded persons with disabilities such as severe asthma, emphysema, or serious back injury from getting a permit even though the disabilities are medically equivalent to a 90% or greater absence of function in 1 leg. Because this was not the original intent of the rule, the rule has been revised to clarify that it isn't just the loss of a leg or the absence of 90% or more function in 1 leg that makes the person eligible; it's a disability or combination of disabilities creating a minimum impairment of function *equivalent* to at least 90% loss or absence of function in 1 leg. The disability or combination of disabilities could include many types of disability.

Subsection (E) is also deleted because licensing time-frames are now delineated in R12-4-106, the reference to R12-4-608 in renumbered subsection (G) is replaced with a reference to the statutes governing appealable actions, and the rule has been revised to make it consistent with required rulemaking language and style.

**R12-4-318. Seasons.** This rule prescribes special restrictions or requirements for various hunt structures to achieve management plans and goals for wildlife harvest while providing maximum wildlife oriented benefits to the public. The change to this rule addresses only the "Juniors-only" portion.

The "Juniors-only" hunt was developed to give youngsters the opportunity to hunt in their own structured hunt setting. Encouraging youngsters to hunt is essential to the future of wildlife management. These hunts have been very well received by the public. The Commission is increasing the age of eligibility for youth to participate in these hunts. Currently, the rule allows participation by youth through the calendar year of their 15th birthday. The amendment will extend this to the calendar year of their 17th birthday.

First, it is necessary to explain the reasoning behind the rule's wording. The rule used to restrict participation to those "14 years of age or under." The last 5-year rules review report for this rule found this was confusing for hunters and for enforcement. Junior hunters applied for these hunts at age 14, but turned 15 by the time the hunt began, or during the hunt. The Commission subsequently changed the rule to allow youth to participate in "Juniors-only" hunts up to and throughout the calendar year of their 15th birthday. This has helped the rule meet its objective (by expanding participation at no disadvantage to the agency or the resource) and removed the confusion surrounding "birthday dates." The same reasoning is applied to extending the rule to 16-year olds.

Originally, consideration was given to extending the rule to youth through the calendar year of their 20th birthday. This idea was raised during the Department's annual "hunt recommendation" meetings, which are held prior to the Department's final recommendations for the Arizona Game and Fish Commission regarding the year's hunting seasons (Commission orders establish hunting seasons and are exempt from rulemaking per A.R.S. § 41-1005.) Close to 500 persons attended the meetings in 1999. There was strong opposition to raising the age to 20-21 years old. There was also concern from the Department's law enforcement officers, as persons who are otherwise legally "adults" would be participating in these hunts, making it much more difficult to identify legal participants.

**R12-4-319. Use of Aircraft to Take Wildlife.** This is a new rule prohibiting the use of an aircraft for hunting or harassing wildlife. It also prohibits use of an aircraft for locating big game 48 hours before or during open seasons. During the last year the Arizona Game and Fish Department has received at least 5 written complaints regarding the use of aircraft during big game hunts. In addition, many Game Rangers (Department law enforcement personnel) have received numerous verbal complaints while interacting with the public. Generally, complaints deal with low-flying aircraft disturbing wildlife while people are hunting, chasing animals, and signaling animal locations to hunters on the ground.

On December 22, 1998, 2 complainants filed a petition for rule (per R12-4-601) with the Arizona Game and Fish Commission to regulate the use of aircraft associated with big game hunts. The Commission denied the rule because of problems with the language in the proposal. However, the Commission recognized the merit of the proposal and directed the Department to open a rulemaking docket in order to pursue the intent of the petition.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

Arizona's current law regarding the use of aircraft while hunting is relatively narrow and vague:

A.R.S. § 17-301(B). *A person shall not take wildlife, except aquatic wildlife, or discharge a firearm or shoot any other device from a motor vehicle, including an automobile, aircraft, train or powerboat, or from a sailboat, boat under sail, or a floating object towed by powerboat or sailboat except as expressly permitted by the commission.*

Department personnel and the public are concerned that ongoing legal and illegal aircraft activity will have a negative effect on animal health, quality of hunts, hunt opportunity, public perceptions of hunting, and public safety. Although many activities regarding aircraft are prohibited by the Federal Airborne Hunting Act, the U.S. Fish and Wildlife Service is severely limited in manpower, with only 5 Special Agents assigned to all of Arizona. Having a state statute that overlaps the Act would not create "double jeopardy" and therefore violators could potentially be prosecuted by both the state and federal jurisdictions. Department law enforcement cannot enforce federal law and currently can only refer complaints and lend assistance to federal investigations. Having a state rule would allow the Department to conduct its own investigations, determine prosecution avenues, and be more responsive to the concerns of Arizona hunters. Further, the proposed rule is more restrictive than the federal law in that it would prohibit use of aircraft for scouting purposes 48 hours before the hunt, as well as during the hunt. Federal law only prohibits this activity during the hunt.

Specific concerns related to animal health involve the relatively strict energy and water budgets which wild animals often operate under. Aircraft use related to hunting may cause animals to expend energy and water to the point of negatively effecting individual survival and reproductive potential.

Numerous public complaints have centered on low-flying aircraft disturbing both animals and hunters while stalking game. Since many of the complaints about aircraft are generated during hunts with some of the highest application rates, it's understandable how these disturbances could cause extreme anger among hunters.

Public safety can also become a factor given the frustration level from hunters who have just had the hunt of a lifetime spoiled by inappropriate use of an aircraft. Many Game Rangers have reported threats from frustrated hunters that can be characterized as; "If that ever happens again, I may bag an airplane!" In addition, the above-ground elevation from which wildlife can effectively be observed leads to a relatively thin layer of useful airspace. This constriction, coupled with possible concentrations of wildlife and the distraction of pilots, may also create a safety problem.

At some point, the proliferation of aircraft-assisted hunting along with the extreme advantage gained by their use will significantly increase success rates overall and more specifically for older age class animals. The end result may be a decrease in both hunting opportunity and the older age class segment of wildlife populations.

Much of the rule language is very near to the language of the Federal Airborne Hunting Act. Language used in the definition for "aircraft" was intended to include all the physics involved with movement or suspension within the earth's atmosphere. Because the definition of flight is centered on airflow over a wing surface to provide lift, it was necessary to preclude the use of dirigibles and tethered balloons by using the "lighter-than-air" phrase.

Subsections (D) and (E) contain the "locating" prohibitions. Subsection (D) addresses all big game seasons except "special seasons" (see following) and mountain lion seasons. Aircraft are not effective tools for hunting mountain lion. Subsection (E) addresses "special seasons." These seasons are described in R12-4-318(B). The word "special" is reserved for tags issued under the authority of A.R.S. § 17-346, "Special big game license tags". This law authorizes the Game and Fish Commission to issue big game tags in the name of an incorporated, nonprofit organization for the purpose of raising money for wildlife management projects. These organizations raffle or auction the special tags. No more than 2 tags per species may be issued in a license year. R12-4-120 prescribes procedures related to the tags. The special seasons established by Commission order for the recipients of these special license tags are extremely long and open areas are nearly statewide. Not separating these different situations would virtually eliminate the use of aircraft for scouting between seasons, and there is no reason to do so.

**R12-4-412. Tuberculosis Procedures for Cervidae Possessed by Special License.** The amendment adds a subsection that prescribes Department procedures to prevent, control, and eradicate the disease brucellosis in Cervidae (deer, elk and their relatives) listed in R12-4-406 and possessed under special license. These procedures will be the same as those enacted by the United States Department of Agriculture and used by the Arizona Department of Agriculture. Since the Commission is adopting these federal procedures as the Commission's own procedures, the federal requirements of the USDA's *Brucellosis Eradication in Cervidae -- Uniform Methods and Rules* will be incorporated by reference.

R12-4-412 prescribes procedures for the control and eradication of tuberculosis in Cervidae (deer, elk and their relatives) listed as restricted wildlife in R12-4-406 and possessed under special license. These procedures are necessary to supplement R12-4-409(G) and (H) which require the Department to take action when a disease, which threatens the welfare of wildlife or the public, occurs at facilities where restricted wildlife is held under special license. The rule adopts by reference the United States Department of Agriculture's methods and rules for tuberculosis eradication in Cervidae. These federal procedures are also adopted by reference in the Arizona Department of Agriculture's rule R3-2-305, which gives them jurisdiction over the control of tuberculosis in Cervidae not listed as restricted wildlife. This allows both departments to work together on the effective control and eradication of tuberculosis in all Cervidae. The specific authority of A.R.S. §§ 17-238 and 17-306 authorizes this rule.

When the Commission adopted this rule in 1997, at the request of the Arizona Department of Agriculture and the State Veterinarian, the Commission was unable to include the federal procedures for the prevention, control, and eradication of brucellosis in Cervidae, because the United States Department of Agriculture had not yet finalized its uniform methods and rules for brucellosis. On February 25, 1999, the Commission accepted a petition from the State Veterinarian, indicating that the federal procedures for control of brucellosis had been completed and requesting that they be adopted by the Commission. Therefore, the Commission seeks to add the federal procedures for control of brucellosis, through incorporation by reference, to R12-4-412. The Arizona Department of Agriculture also has rule-making pending to add these procedures by reference to A.A.C. R3-2-503, in order to give them jurisdiction over the control of brucellosis, as well as tuberculosis, in Cervidae not listed as restricted wildlife. The incorporation by reference will include the most recent revision made by United States Department of Agriculture to its uniform methods and rules for Brucellosis. The United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" effective September 30, 1998, was revised effective May 14, 1999. The May 14, 1999, change involves only the revision of the definition of test-eligible animal in Part 1-Definitions. The revision changes the definition from "All Cervidae 6 months or older" to "All Cervidae 1 year of age or older". The agency has confirmed that United States Department of Agriculture and the Arizona Department of Agriculture both view this as a minor change that is less restrictive to the public.

Incorporation of the federal procedures for brucellosis will provide guidance to Department personnel who are charged with enforcement of this rule and enforcement of R12-4-409(G) and (H). Adoption of the federal procedures will protect the Department, special license holders with Cervidae in captivity, Arizona's livestock industry, Arizona's wildlife populations, and the public by creating a standardized and medically sound process for preventing and controlling this disease.

**R12-4-417. Wildlife Holding License.** R12-4-417 and R12-4-422 (following) are amended to address "exhibit" of live wildlife. "Exhibit" is defined within R12-4-401 as "means to display captive live wildlife in public, or to allow photography of captive live wildlife, for any commercial purpose." Exhibit is a commercial activity carefully regulated to control exploitation of wildlife, particularly as it relates to wildlife taken from the wild in Arizona. However, a "petition for rule" submitted by the Arizona Film Commission pointed out some potential benefits for allowing exhibit of raptors possessed by licensed falconers. While the commercial use of many raptors is controlled by federal law, the petition led to an evaluation and determination that permission for exhibit should be offered when it is in concert with federal law and when it poses no hazard to the public or to wildlife.

Consideration was given to creating a new rule for an "exhibit permit." However, it was determined more cost-effective to instead integrate the administrative procedures for allowing permission to "exhibit" into the existing framework for the wildlife holding license under R12-4-417. This permission addresses wildlife already possessed under the authority of R12-4-417, and wildlife possessed under the authority of R12-4-404. In conjunction with this, R12-4-422 is also amended to clarify "exhibit" for licensed falconers.

The purpose of R12-4-417 has been to allow possession of live wildlife for a purpose in the interest of wildlife management, education, the advancement of science, or promotion of the public health or welfare, without posing a threat to wildlife or public safety. Pursuant to mediation with interested parties when this rule was developed in 1988, the license may also be issued for animals no longer useful for the purpose for which they were originally held, or when the facility where they were held no longer exists. It is not the intent of the Commission to provide for the keeping of wildlife where such wildlife is kept to meet the needs of the keeper rather than the needs of the kept.

The 5-year review of this rule conducted in 1998 found that it has proven to meet its objectives. The criteria and application procedures for this permit are more exhaustive and stringent than for most special licenses because it may allow possession of any wildlife on the restricted list, even the most dangerous, the most delicate, and those which are in danger of extinction.

The following describes the substantive changes proposed for this rule. While these substantive changes were being made, the rule was also rewritten in its entirety to bring it to current rulewriting style. This includes renaming the rule from "permit" to "license" to make it consistent with the definition for "special license" in R12-4-401. The substantive changes are:

1. "Exhibit" is allowed to anyone holding a wildlife holding license, as a secondary purpose only – meaning the wildlife holding license for the possession of restricted live wildlife (listed in R12-4-406) would not be issued for the purpose of exhibit alone. If a person meets all other criteria for the license, they could also be given authorization to exhibit the restricted live wildlife. This permission would be addressed on a case-by-case basis, dependent on the Department's evaluation of and stipulations made during the application process. The Department may also require that wildlife for which exhibit is authorized be "permanently marked" when the Department determines this is necessary for the best interest of the wildlife and the public. Examples of permanent marks may include tags, microchips, or tattoos.
2. There is 1 new purpose for issuing a wildlife holding license. This purpose is not to allow possession of restricted live wildlife, but to allow exhibit of wildlife possessed under R12-4-404. R12-4-404 allows wildlife to be taken alive from the wild in Arizona by the holder of a hunting or fishing license, when the governing Commission order sets a live bag and possession limit for that species. That rule further designates the actions allowed by persons possessing such wildlife. Exhibit is not one of the allowed activities, and the agency does not wish to automatically grant this

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

permission. Rather, a person wishing to exhibit 1 of these animals (generally small nongame species) would need to apply for the wildlife holding permit and provide an affidavit to show evidence of legality for the wildlife in possession. This is necessary because while R12-4-404 requires a hunting or fishing license to take the wildlife, it does not require a hunting license for subsequent possession.

3. To allow applications for this license to be submitted to any Department office. The rule currently requires that all applications and reports be submitted to the Department's Phoenix office. An improvement to internal Department processes, which would also ensure that licensing time-frames are met, would be to amend the rule to allow applications and year-end reports to be sent to Department regional offices where the licenses are administered. This would facilitate a shorter application process time.

**R12-4-422. Sport Falconry License.** The purpose of R12-4-422 is to prescribe the requirements for a falconer's license in accordance with federal standards regulating the taking, possession, and transportation of raptors for falconry. The 1998 review of this rule resulted in the proposal to amend this rule to make it consistent with changes to Title 17 of the Arizona Revised Statutes created by SB 1128 relating to sport falconry; clarify that licensed falconers are allowed to exhibit raptors (when otherwise in accordance with federal law); and ensure consistency with federal rules governing falconry.

The amendments are intended to accomplish these objectives. Following is a discussion of the individual changes to the rule:

**Title of rule and license:** The title and references to the license is changed to "Sport Falconry License" to be consistent with new A.R.S. § 17-333(A)(36) (1998 legislation.)

**(A)(2):** "Form 186-A" is now referenced twice in the rule and has been added to the definitions to avoid redundancy. There is also a change to clarify that the form is available from all Department offices. Falconry is now defined in A.R.S. § 17-101; so the definition is deleted from this rule.

**(A)(4):** "Raptor" is defined in this rule as it is defined in A.R.S. § 17-101(B)(11):

Raptors are birds that are members of the order of falconiformes or strigiformes and include falcons, hawks, owls, eagles and other birds that the Commission may classify as raptors.

The definition in this rule lists the raptors that may be used for falconry. The changes to the definition are to make it consistent with the federal rule, which no longer excludes some birds.

**(B):** This new subsection clarifies that a state license is required for any raptor, either a raptor listed as a "migratory bird" or a raptor **not listed** as a "migratory bird" under federal law (50 CFR 10.13), used for sport falconry. Clarification is also added regarding when this state license is not needed.

**(C)(2)(c):** Removes the requirement for a Class II applicant to provide a letter of recommendation from a falconers' association. This is not a federal requirement, but 1 historically included in the rule at the wishes of an Arizona falconers' association. Removing it from the rule reduces red tape and some administrative costs for the Department; it will not increase or decrease the number of licenses issued or have any other impact.

**(D):** Instead of presenting their raptor for inspection at the time of application, a falconer applicant will be required to present the raptor for inspection when the Department inspects the facility. This change simplifies the process for the applicant and the Department.

**(E)(5):** Applicants must provide band number of raptor **if the raptor is banded**. This change coincides with a later change in (K)(6) specifying that banding will be required only for Harris Hawks, Gyrfalcons, or Peregrine falcons. These are the only raptors that have to be banded according to federal law.

**(F), (G), (H):** Federal law limits the number of replacement birds allowed *per 12-month period*, rather than *per calendar year*. In some cases this made the State rule less restrictive than the federal. These changes would make the state rule consistent with the federal.

**(K)(6):** See previous discussion under (E)(5).

**(L):** This amendment allows use of raptors for exhibit. Federal law regarding the exhibit of raptors still applies. See new subsection (X).

In 1997, the Arizona Film Commission (AFC) petitioned the Arizona Game and Fish Commission for an amendment to R12-4-422. The proposed amendment was to allow licensed Arizona falconers to use trained raptors in film, television, and still photography productions. The petition was denied at the September 13, 1997, open meeting of the Commission. However, the Department was instructed to analyze potential beneficial commercial uses of raptors that could be conducted under current federal regulations.

The Department conducted an extensive analysis of options that would address the AFC's concerns. Because of federal laws and policy that are supreme to those of the state, the Commission's options are limited. All native North American raptors (as well as captive-bred hybrids of those species) are protected by the Federal Migratory Bird Treaty Act (MBTA) and may only be possessed under federal permit.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

Under these narrow constraints, it appears that non-native species (not listed in the MBTA) are the only raptors that may be trained and exhibited (for example, used for non-educational, commercial purposes.) Raptors that are not MBTA-listed (50 CFR 10) are exempt from federal permit requirements and prohibitions against commercial use. Because they are not "restricted live wildlife" listed in R12-4-406, a special license is not required to possess them. Several raptor species (not listed in the MBTA) are available from captive breeders in the U.S. and Canada; other species may be legally imported. These birds can be free-flown without a special license or federal permit. These birds can also be pursuit-trained, without a special license or federal permit, using domesticated "prey" (for example, pigeons, rabbits, etc.) or pen-reared game birds (use of the latter requires a Field Trial Training Permit issued under R12-4-416.)

Anyone who pursues or takes wild game with any raptor must comply with Arizona falconry license requirements. Some Arizona falconers will probably want to use raptors (not listed in the MBTA) for both commercial exhibition and sporting purposes. The rule amendment would permit licensed falconers to exhibit raptors for television, film, still photography productions, and other commercial purposes.

**(P):** This change will allow a licensee to transfer a raptor taken from the wild in Arizona to a raptor breeder licensed outside of Arizona, with authorization from the Department. This is a new permission that will not harm the resource, as raptors removed from the wild no longer have impact on the wild resource. Given the limited number of falconers and birds removed from the wild by falconers, this change will have minimal impact.

**(Q):** To transfer a listed raptor to a temporary caregiver, the licensee has to complete a Form 3-186A naming the temporary caregiver as the recipient. This is to be consistent with federal law.

**(T):** It is only necessary to transfer the carcass of a listed raptor to the Department. This is another simplification consistent with federal law.

**(U):** This change allows any falconer to recapture any escaped raptor at any time.

**(X):** This new subsection identifies that there are federal requirements and permits required for sport falconry, and advises licensees to consult applicable U.S. Fish and Wildlife Service regulations governing the possession and use of raptors.

**R12-4-426. Possession of Primates.** This is a new rule that prohibits the sale (or acquisition through barter or gift) or import of infant non-human primates and requires testing for disease of all other non-human primates within 30 days prior to importation into Arizona. It also requires that owners confine their non-human primates and have them tested for pathogens in the event that they bite, scratch, or otherwise expose humans to potential pathogenic organisms.

Currently, only primates of the family *Pongidae* of the order Primates are listed in R12-4-406 (Restricted Live Wildlife.) This encompasses orangutans, chimpanzees, and gorillas. This means that a special license or exemption specified within Article 4 of the Commission's rules is required to possess these animals. R12-4-405 allows all other lawfully possessed wildlife not listed in R12-4-406 to be imported without any license or permit from the Department, and activities are generally unrestricted. This means that all primates other than orangutans, chimpanzees, and gorillas can be imported and bought and sold as pets, often through the classified ads in local newspapers. Macaque monkeys are the most popular type of primates sold to private individuals as pets in Arizona.

The Arizona Department of Health Services began collecting monkey bite report data and following up on potential Herpes B virus exposures with consults to physicians in 1994. In 1996, Health Services organized a meeting with the Arizona Game and Fish Department, Arizona State Veterinarian, and the USDA animal care inspector, to discuss public health issues related to the unrestricted private ownership of non-human primates. In 1997, the Arizona Department of Health Services petitioned the Arizona Game and Fish Commission to add all non-human primates to the restricted list. There was public comment in opposition to this petition, and it became apparent that federal law was not clear on the requirements surrounding possession of non-human primates. At the suggestion of the Arizona Game and Fish Department, Health Services withdrew its petition to participate in a focus group of interested parties to discuss regulation of the private ownership of non-human primates.

Because humans are closely related to non-human primates genetically, both groups share a wide array of diseases. These include diseases caused by mycobacteria, hepatitis viruses, pox viruses, and retroviruses. Thus, non-human primates are good research models for disease; however, they pose a threat to the public's health, particularly when owned by persons who may not know how to protect themselves and others from acquiring zoonotic disease.

Research institutions working with non-human primates tend to have strict protocols in place to minimize risk of disease exposure and to define appropriate responses for disease prevention and control. Despite these measures, occasional diseases or even casualties occur, for example, a primate researcher at Yerkes died of B virus (*herpesvirus simae*) last December after she was exposed in the eye to body fluids from a caged macaque.

B virus occurs naturally among macaques and usually causes minimal or undetectable morbidity in its natural host; however, B virus causes meningoencephalitis in humans which is often (70%) fatal. Other medical facts:

70% - 100% of adult macaques, both captive and wild, are latently infected.

Shedding of virus in body fluids is intermittent (2% - 6% shed at any given point,) but occurs primarily during periods of breeding, disease and stress.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

Transmission to humans can occur through bites, scratches, or exposure to mucous membrane.

As with other herpes infections, there are no vaccines, post-exposure prophylaxis, or treatment.

Pet monkeys, often offspring of infected monkeys, are routinely sold at 1-4 weeks of age. Department of Health Services is aware of at least 1, an infant macaque, which tested positive for B virus at 9 weeks, most likely due to maternal transmission, soon after being sold by a breeder/dealer in Glendale in 1998.

Infant non-human primates are quite manageable at first, but as they mature they develop the typical wild animal behavior that would help them establish dominance in a social hierarchy. Thus, it is not unusual to have non-human primates challenging and attacking their owners. There is particular risk to children, as they are weaker and more easily dominated by an aggressive wild animal.

Arizona Department of Health Services followed up on 35 non-occupational non-human primate bites to humans which were reported from 1994-1997. Follow-up showed that 69% were old-world monkeys. Whereas the concern with new-world monkey bites is primarily infection and traumatic injury, many of the old-world species can carry and transmit potentially serious zoonotic diseases caused by agents such as B virus and Simian immunodeficiency virus. Of the old world species, 80% were macaques, which are often carriers of B virus. All monkeys bite. Along with zoonotic disease risks, severe injuries are common with monkey bites. They are intelligent, agile, and like other wild animals, are very strong for their size or sizes.

**R12-4-608. Appeal from Department Action.** As an agency previously exempt from the comprehensive uniform procedures for appealable agency actions of the Administrative Procedure Act, the Department set forth in R12-4-608 its own appeal procedures for Department actions. Subsection (A) of this rule prescribes procedures to appeal denials of licenses or permits, and subsection (B) prescribes procedures to appeal decisions on the establishment or removal of controlled-use markers. In 1998, the Department's exemption from appealable agency actions was removed from A.R.S. § 41-1092.02. The Department is now required to comply with the uniform administrative appeals procedures for all appealable agency actions and contested cases.

The amendment repeals subsection (A) of the rule. Since all of the Department's appealable actions are now subject to the requirements of the Administrative Procedure Act, a rule prescribing the process for appealable agency actions is no longer necessary. The comprehensive uniform procedures within the Administrative Procedure Act are sufficient to establish Department appeal procedures for all appealable agency actions and contested cases. In addition, subsection (B) has been revised to conform to the language of R12-4-522(C), which establishes the right to appeal the Department's denial of a request for the establishment, change, or removal of controlled-use markers.

**7. A reference to any study that the agency relied 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 and any analysis of the study and other supporting material:**

Not applicable.

**8. 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.

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

**R12-4-101. Definitions.** The proposed rulemaking will result in no added cost to the Department or any other persons.

**R12-4-102. Fees for Licenses, Tags, Stamps, and Permits.** The new buffalo tag created in subsection (C)(4) for the taking of either an adult cow or a yearling on a single tag will provide an additional tag opportunity to the hunting public at no additional cost. The combination tag will eliminate hunter anxiety over buffalo sex and age identification, reduce unintentional violations when a hunter takes a sex or age class buffalo for which the tag is not valid, ease Department workload in enforcement of restricted buffalo hunt regulations, increase the likelihood that the maximum number of buffalo will be successfully harvested, and assist in the effective control of the buffalo population within the carrying capacity of the available habitat. This should result in no added cost to the Department and may marginally increase buffalo permit revenues by adding a buffalo tag option.

Changing the name of the "falconer license" in subsection (E)(1) to "sport falconry license" to correspond to new language in A.R.S. § 17-236(B) and 17-333(A)(36) created by SB 1128 will result in no added cost to the Department or any other persons.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing.** This will have no direct economic impact. A small number of the 200,000 hunters who annually apply for hunt permit-tags by drawing may be rejected from the drawing by the Department for failure to provide the required social security number or for violations of child support court orders, as reported to the Department by the Department of Economic Security. However, applicants have the opportunity to benefit from the new Internet access to the application form and from the clarification that an applicant may give permission to another to sign for the applicant. The rulemaking may also indirectly benefit an undetermined number of children to whom child support payments are owed, by making vital information available to child support enforcement authorities. This will result in no added cost to the Department.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**R12-4-109. Wildlife Areas.** The repeal of this rule will result in no new costs to the Department or any other persons. However, the subsequent adoption of exempt wildlife area rules that adequately protect wildlife and habitat and that correct deficiencies in the existing rule will benefit the public and the Department.

**R12-4-202. Disabled Veteran's License.** The rulemaking will result in no added cost to the Department or any other persons and will benefit disabled veterans applying for hunting and fishing licenses by eliminating the disability re-certification license reapplication requirement for those veterans whose disability will not require reevaluation.

**R12-4-208. Guide License.** The rulemaking will result in no added cost to the Department or any other persons. The rulemaking will benefit applicants by making the overall language of the rule easier to understand. The rulemaking will also benefit licensed guides and their clients by clarifying what a guide may legally do while aiding or assisting a client in the taking of wildlife.

**R12-4-216. Crossbow Permit.** The rulemaking will result in no added cost to the Department or any other persons. Crossbow permit applicants will benefit from the clarification regarding disability certification requirements. However, applicants who use doctors other than Arizona licensed M.D.s and D.O.s may incur indirect costs associated with medical visits required to obtain acceptable disability certification.

**R12-4-217. Challenged Hunter Access/Mobility Permit.** The rulemaking will result in no added cost to the Department or any other persons. Applicants for the Challenged Hunter Access/Mobility Permit ("Champ") will benefit from the clarification regarding disability certification requirements. In addition, the proposed rule amendment will benefit persons with disabilities medically equivalent to at least a 90% absence of function in 1 leg, by allowing them access to the special permit. However, permit applicants who use doctors other than Arizona licensed M.D.s and D.O.s may incur indirect costs associated with medical visits required to obtain acceptable disability certification.

**R12-4-318. Seasons.** The primary beneficiaries of the rule change are hunters between the ages of 16 and 17. It is unknown at this time how many persons this would be. (Some historical data: In 1998, there were 14 Juniors-Only deer seasons, with a total of 808 permits being offered. Two Juniors-Only elk seasons were offered for a total of 400 permits, and 4 Juniors-Only turkey seasons totaling 100 permits. There were also Juniors-Only dove and waterfowl seasons, which do not require permits.) The specific benefit will be eligibility for hunting seasons that may have better odds for being selected in the big game drawing than comparable hunts in the other season structures. It is unknown what percent of eligible hunters will take advantage of junior hunting seasons rather than the general seasons. The Arizona Game and Fish Commission establishes the number of permits available for each season each year. If the Commission offered a high number of junior permits, thereby lowering the odds of being drawn for junior-only hunts, interest in the program would probably increase. There will be no additional costs to hunters because the prices of the hunt permit-tags are the same for junior and adult hunters.

Hunters older than age 17 will not benefit and will lose opportunity that would be given to the junior-only hunters. Of this group, senior hunters may view loss of opportunity to be drawn for a hunt as very undesirable because they have relatively few years left to be hunters. Hunters younger than 16 may also be adversely impacted when competition for permits for junior-only hunts goes up. The younger juniors will be affected by being in the hunting field with older juniors, some that can drive and with more skill, potentially making the junior-only hunts more similar to general season hunts with adults.

There should be little cost to the Department, but enforcement may become more difficult.

**R12-4-319. Use of Aircraft to Take Wildlife.** Hunters who use aircraft directly or vicariously through the guides they hire and the guides themselves who use aircraft may be negatively affected. The number of people adversely affected is roughly estimated to be between 50-100 people. The number of people positively affected is at least potentially equal to the number of people that apply for big game permits each year or about 50,000 individuals. Benefits to those affected will be maintenance of hunt quality and hunt opportunity commensurate with wildlife population dynamics.

Because the rule is slightly to moderately more restrictive than the existing Federal Act, the effect on hunters and guides using aircraft lawfully should be slight to moderate. Attaching an accurate dollar figure to the additional time a hunter or guide will need to spend in the field to maintain their level of success with the new restrictions on aircraft use is not possible. The Department's best guess is less than \$10,000 per year.

**R12-4-412. Tuberculosis Procedures for Cervidae Possessed by Special License.** The rulemaking will result in no added cost to the Department, persons holding Cervidae (deer, elk and their relatives) listed in R12-4-406 under special license, or any other persons. However, the disease prevention and control measures provided by the rulemaking will benefit Arizona's game farms, livestock industry, and wildlife populations.

**R12-4-417. Wildlife Holding Permit.** Granting permission to "exhibit" will have beneficial affect on individuals and perhaps on the general economy, but it is not possible at this time to estimate whether this impact will be more than minor. Other improvements to customer service and Department processes are beneficial but probably minor as they affect only the less than 200 persons statewide to whom wildlife holding permits are annually issued.

**R12-4-422. Sport Falconry License.** Granting permission to "exhibit" will have beneficial affect on individuals and perhaps on the general economy, but it is not possible at this time to estimate whether this impact will be more than

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

minor. The approximately 75 currently licensed falconers in the state will also benefit from the simplification of procedures, consistency with federal laws, improvements to customer service and Department processes.

**R12-4-426. Possession of Non-Human Primates.** Because humans are closely related to non-human primates genetically, both groups share a wide array of diseases. These include diseases caused by mycobacteria, hepatitis viruses, pox viruses, and retroviruses. Thus, non-human primates are good research models for disease; however, they pose a threat to the public's health, particularly when owned by persons who may not know how to protect themselves and others from acquiring zoonotic disease.

Benefit is to those persons currently at risk that would be protected by the provisions of the new rule. Not only owners, but also often the general public, are at risk. Frequently these animals are taken to public areas. In Arizona, bites have occurred in public places such as shopping malls, stores, bars, schools, health club, and neighborhood sidewalks. The public generally is unaware of the risks and approach to pet these animals, which can lead to exposure to a variety of diseases. Another common scenario is the escaped monkey that jumps the fence and bites neighborhood children playing outside.

Children 14 years and younger accounted for 41.7% of the bite victims, and adult owner/handlers accounted for 39% of the bites. The protocol used by the Arizona Department of Health Services for assessing bites is geared toward assessing the rise of zoonoses specific to the species and history of the biting monkey – particularly B virus, since macaques are the most commonly sold pet monkey species in Arizona. Two specific segments will be affected by the rule: people who sell infant non-human primates, and people who possess these animals for pets. Sellers will be affected the most, as this rule will limit their ability to sell infants, which are the most sought-after animals. It is important to note that this aspect of the rule was suggested from members of the focus group that were non-human primate pet owners. Sale of infants was suggested to cause problems for both the animal and the owner as the animal becomes physically and sexually mature and has had no social development with other non-human primates. Thus, the animal was poorly socially adjusted with high potential to be quite aggressive to the owner later in life.

The affect on pet owners will be minimal, as they are not precluded from personal ownership; the only restriction will be that animals cannot be in public places other than a veterinarian's office. While the rule does not impose any direct costs on the pet owner, a pet owner who chooses to import a non-infant primate into Arizona will bear the costs associated with the examinations and laboratory testing of the primate prior to importation, if testing (as specified in the rule) has not already been done. In addition, a pet owner whose primate bites, scratches, or otherwise exposes a human to pathogens will bear the costs associated with the required examination, testing, and maintenance of the primate. Although the agency cannot access the actual dollar amount (as the costs will vary based upon the species of primate, the number and type of tests required, and the frequency of occurrence), examinations and testing for pathogens in primates generally costs between \$200 and \$500. In addition, the rule will limit the profit from the sale of primates, since infants can no longer be sold. The dollar amount of the latter is impossible to assess, as there are no data to indicate the number of sales. These animals are often advertised for as much as \$2,500 each.

This proposed rule will cost the general public nothing.

**R12-4-608. Appeal from Department Action.** The rulemaking will result in no costs or benefits to the Department or any other persons. Any impact to the Department or the public that it serves is caused by the 1998 statutory changes to the Administrative Procedure Act, rather than the rulemaking.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

The Arizona Game and Fish Commission adopted 15 of the 16 proposed rules contained in the notices of proposed rulemaking. The Commission extended the rulemaking on R12-4-108, based upon public input, to consider substantive changes to the proposed rule language.

Changes between the text of the rule contained in the notice of proposed rulemaking filed with the Secretary of State and the text of the rule as finally adopted, are as follows:

**R12-4-102. Fees for Licenses, Tags, Stamps, and Permits.** The amendment to increase the Class U Urban Fishing License from \$12.00 to \$14.00 in subsection (B)(10) has been removed. Adoption of this fee increase would have become effective January 1, 2000. In addition, another pending fee increase resulting from legislative changes to increase the agency's fee ceiling could result in a 2nd change effective January 1, 2001. The agency has decided that, rather than making 2 changes, it will consider 1 change only, which would become effective January 1, 2001, in separate rulemaking. Because the proposed rulemaking to increase the urban fishing license fee will continue as part of another rule package, and because the amendments to subsections (C)(4) and (E)(1) have not changed, this is not a substantive change.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. In addition, the reference in Section R12-4-608(G) was replaced with a reference to A.R.S. Title 41, Chapter 6, Article 10 to conform to the amendment of R12-4-608 adopted by the Arizona Game and Fish Commission on October 22, 1999. The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**R12-4-202. Disabled Veteran's License.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**R12-4-208. Guide License.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**R12-4-217. Challenged Hunter Access/Mobility Permit.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**R12-4-319. Use of Aircraft to Take Wildlife.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. In addition, the definition of "aircraft" found in subsection (A)(1) was changed to remove "or image-producing contrivance orbiting the earth." As originally proposed, the definition of aircraft included this language in order to preclude the use of same-day satellite imagery, currently available in the field, in locating wildlife. This prohibition was included as a precautionary and proactive measure. After further analysis of the use of satellites as a wildlife locating tool and in response to questions raised by staff at the Governor's Regulatory Review Council regarding the economic impact of this aspect of the rule, however, the agency found that sufficient evidence is not currently available to show that the current use of satellites to locate wildlife has a negative effect on animal health, quality of hunts, hunt opportunity, public perceptions of hunting, or public safety. Based upon this finding, the agency cannot justify the economic impact that precluding the use of satellites for locating wildlife may have on business involved with satellite communications, equipment, or systems. Therefore, the agency has removed satellites ("image-producing contrivances orbiting the earth") from the definition of "aircraft" contained in the rule. This change, which makes the rule less restrictive, is not substantive, in that it is not a material change in the subject matter of the rule and does not materially change the effects of the rule.

**R12-4-412. Tuberculosis Procedures for Cervidae Possessed by Special License.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. In addition, the rule has been revised to include a May 14, 1999, revision date for the incorporation by reference found in subsection (B). R.D. Willer, DVM, State Veterinarian, Arizona Department of Agriculture, notified the agency that the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" effective September 30, 1998, was revised effective May 14, 1999, and suggested that the change, although minor, be included in the proposed amendment to R12-4-412. The May 14, 1999, change involves only the revision of the definition of test-eligible animal in Part 1-Definitions. The revision changes the definition from "All Cervidae 6 months or older" to "All Cervidae 1 year of age or older". The agency has confirmed that United States Department of Agriculture and the Arizona Department of Agriculture both view this as a minor change that is less restrictive to the public. The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**R12-4-417. Wildlife Holding License.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. In addition, formatting and content changes have been made to increase the clarity of the rule. The phrase "exhibit to promote economic development or commerce" was shortened to "exhibit" in subsection (A) since the term "exhibit" is already defined under R12-4-401(8). Information under subsection (C)(5) is now listed in a new subsection (D) and the remaining subsections have been renumbered. In addition, (F)(7) and (8) were revised and (F)(9) was added to make the language consistent with that found in subsection (C) and the new subsection (D). The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**R12-4-422. Sport Falconry License.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. In addition, in response to a request from the U.S. Fish and Wildlife Service, the agency has revised subsection (A) to incorporate by reference the newest version of federal "Form 3-186A" and to update the federal address from which the form may be obtained. The new version of "Form 3-186A" contains the same content as the 1991 version; the only changes are in the formatting of the form. In addition, to avoid redundancy, the agency has removed information regarding federal requirements from subsections (D) and (L) and referenced all federal requirements in a new subsection (X). The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**R12-4-426. Possession of Non-Human Primates.** The rule as originally proposed was the actual language that resulted from an agreement between interested parties who participated in a focus group to discuss regulation of the private ownership of non-human primates. The rule has been rewritten to meet current style requirements of the Governor's Regulatory Review Council and to further clarify the intent of the rule language. Definitions for "primate", "infant," and "zoonotic" have been added as subsection (A), and the remaining subsections have been renumbered. The term "Non-Humane" has been deleted from the rule title, since "primate" is now defined as "non-human" in subsection (A). Subsection (B) has been added to clarify that the prohibition against the sale of infant primates in Arizona includes all forms of legal transfer of ownership, that is, buying, selling, bartering, and gifting. Subsection (C) now clarifies that tests done prior to primate import into Arizona must be done by qualified persons as determined by

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

the agency. Subsection (D) has been revised to clarify that primates must be in cages, crates, or carriers during transport; and that adult primates may be transported within Arizona to complete a legal sale. Subsection (E) has been revised to clarify that the primate's legal owner shall pay all costs associated with examination, laboratory testing, and maintenance. Subsection (F) has been revised to allow a primate to be disposed of with the agreement of the primate's legal owner. The changes are not substantive, in that they do not materially change a person's understanding of how the rule will affect their interests; they are not material changes in the subject matter of the rule; and they do not change the effects of the rule.

**R12-4-608. Appeal from Department Action.** Minor editorial changes were made to conform to current style requirements of the Governor's Regulatory Review Council. The changes are not substantive, in that they do not change the subject matter of the rule, do not change the effect of the rule, and do not change a person's understanding of the rule.

**11. A summary of the principal comments and the agency response to them:**

During the period of June 19, 1999, to September 6, 1999, oral and written comments were received on R12-4-104, R12-4-216, R12-4-412, R12-4-417, R12-4-422, R12-4-318, R12-4-319, and R12-4-426. No comments were received on R12-4-101, R12-4-102, R12-4-109, R12-4-202, R12-4-208, R12-4-217, and R12-4-608. The arguments and their evaluations are as follows.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing**

**1. Argument:** The comment was made that R12-4-104(A) should be revised to increase the number of individuals who can apply as a group from 4 to 8 for deer hunts. The point was made that this should be done to allow 2 or 3 families to hunt together in the same draw unit. (Oral Comment 104-1, June 19, 1999; Written Comment 104-2)

**Evaluation:** The agency strongly supports and encourages family and group hunting and fishing activities and believes that fellowship is an important component of the sportsmen experience. The agency also believes that fostering family and group outdoor recreational activities is important to the recruitment and retention of hunters. However, the agency cannot implement an increase in the number of individuals applying as a group for deer hunt permit-tags issued by drawing without a significant time delay. Changing the number of applicants allowed in a group would require a re-programming of the agency's computerized draw system. It would take over 1 year to accomplish the re-programming at a cost to agency of over \$100,000; and it would be an additional 12 to 18 months before the change could be implemented in an actual deer permit-tag drawing. In addition, the change, which would directly benefit only a few hunters, may negatively impact other hunters by indirectly influencing draw odds. Although the change could provide an additional deer hunt opportunity for individuals wishing to hunt in groups of 5, 6, 7, or 8, if the group is drawn, it could also reduce the odds of the group being drawn if the number of tags available is less than the number of individuals in the group. In addition, the increase in the group number could lower the overall draw odds for other deer hunters, because the number of overall tags available to individuals or groups of less than 5 would be additionally reduced each time a group of more than 4 is drawn.

**2. Argument:** The comment was made that R12-4-104(A) should be revised to increase the number of individuals who can apply as a group from 4 to 8 in deer units with 200 permits or more; in deer units where those applicants won't exceed a certain percentage of the total tags for that unit if they are drawn (example 5%, 10% etc.). or in certain designated hunts. (Written Comment 104-2)

**Evaluation:** The agency does not believe that varying group size based upon permit availability, number of applications, or hunt designations is necessary. Limiting or restricting the instances in which group membership can extend from 4 to 8 by placing complex conditions on certain deer hunts or hunt units is impractical and is not in the best interest of the agency or deer hunters. The costs associated with designing a draw system capable of handling these variables and upgrading or replacing existing software would far exceed the \$100,000 that would be required to re-program the current system to change the group numbers. In addition, the increased level of complexity to the draw system could negatively impact all hunters participating in drawings for deer hunt permit-tags by altering draw odds and reducing hunt opportunity in affected hunt units; and would necessitate a coordinated re-education effort for deer hunters and agency employees involved with the public.

**3. Argument:** The comment was made that R12-4-104, should require some sort of application surcharge for the option of putting 8 people on an application. (Written Comment 104-2)

**Evaluation:** The Arizona Game and Fish Commission does not have the legislative authority to charge a fee for group applications or to add a surcharge to the draw application for the option of including additional individuals on a group application.

**4. Argument:** The comment was made that R12-4-104 can be revised to increase group participation from 4 to 8 without changing the overall odds of being drawn, because you will have the same number of people putting in for the same number of permits each year. (Written Comment 104-2)

**Evaluation:** The agency disagrees. Increasing the group maximum to 8 may negatively impact other hunters by indirectly influencing current draw odds. The number of overall tags available to individuals or groups of less than 5 would be additionally reduced each time a group of more than 4 is drawn. The change could also reduce the odds of a group of more than 4 being drawn, if the number of tags available is less than the number of individuals in the group.

**5. Argument:** The comment was made that the agency should create “next-in-line applications” to provide the next in line an opportunity to hunt if the drawn hunter can not hunt for a Commission-approved reason, such as death, medical reasons, military reason. (Written Comment 104-3)

**Evaluation:** The agency designation of “next-in-line applications” would not be legal under A. R. S. § 17-332(D), which states “No license or permit is transferable, nor shall such license or permit be used by anyone except the person to whom such license or permit was issued.” This statute precludes the agency or individuals from transferring hunt permit-tags issued by drawing to persons not drawn. In addition, the agency believes that such a designation would negatively impact overall draw odds by increasing the permit count to accommodate a draw category that can not be issued permit-tags; could be viewed as setting a precedent for the private commercialization of permit-tags; could create an opportunity for fraud or misuse of the draw system; and would be costly to implement and enforce.

#### **R12-4-216. Crossbow Permit**

**Argument:** There was a comment opposing the revision to R12-4-216(C)(2) which changes “physician licensed pursuant to A.R.S. §§ 32-1421 et seq. or 32-1821 et seq.,” to “M.D., doctor of medicine, licensed under A.R.S. § 32-1421 et seq., or a D.O., doctor of osteopathic medicine, licensed under A.R.S. § 32-1821 et seq.” The argument states that this change will preclude chiropractors from providing medical verification for the crossbow permit, when historically the Department has accepted medical evidence to verify crossbow permit eligibility from chiropractors. (Written Comment 216-1)

**Evaluation:** This is not correct. A.A.C. R12-4-216 has always excluded chiropractors from providing medical verification for the crossbow permit. The existing rule language states that medical evidence will only be accepted from physicians licensed pursuant to A.R.S. §§ 32-1421 et seq. or 32-1821 et seq. A.R.S. § 32-1421 et seq. is the statutory authority for the Arizona State Board of Medical Examiners which is the licensing and regulatory board for doctors of allopathic medicine (M.D.s). A.R.S. § 32-1821 et seq. is the statutory authority for the Arizona State Board of Osteopathic Examiners in Medicine and Surgery, which is the licensing and regulatory board for doctors of osteopathic medicine (D.O.s). Neither board licenses nor regulates chiropractors, which are licensed by the Arizona State Board of Chiropractic Examiners under A.R.S. § 32-921 et seq. The proposed rule revision is designed to eliminate the possibility that Arizona Game and Fish personnel will inadvertently accept medical verifications not acceptable under rule, by citing the specific medical credential, M.D. or D.O., in the rule.

#### **R12-4-318. Seasons**

**1. Argument:** There were comments requesting clarification on why the Department selected age 17 as the maximum age allowed in the junior-only hunt. One person questioned why the age was not higher, up to 18 or 21 years of age, and 1 person questioned why the age was not lower, 16 years of age rather than 17 years of age. (Oral Comments 318-1 and 318-2/September 4, 1999)

**Evaluation:** The proposal to allow youth ages 16 and 17 to participate in the junior-only seasons was to include the years when most youth are still in high school. The 2 additional years will also allow some youth to participate in the hunts when they are licensed to drive and able to participate on their own. The differing opinions from the public about raising and lowering the age reflect the differences encountered in the public hunt recommendation meetings held in January and February of 1999. The current proposal is a middle ground that is designed to focus the opportunity to youth in junior high school and high school, but not to youth who may be graduated from high school. In addition, the data indicates that youth up to the age of 17 are most successfully recruited to the sport of hunting.

**2. Argument:** There was a comment requesting clarification on what the extension of the age limit will do to draw odds for the youth hunt by adding 2 more years. (Oral Comment 318-2/September 4, 1999)

**Evaluation:** The rule revision will increase the draw odds, because more youth will apply for youth hunts rather than general hunts. Some youth are currently unable to participate because they lack family or friends who will take them to the hunting area. Adding 2 more years will give older teenagers, who may have just completed hunter education and perhaps hunted very little or never, an opportunity to be a hunter in a less competitive setting than a General hunting season with adults.

**3. Argument:** There was a comment asking if the agency will compensate for an increase in the number of youth permits, caused by the increase in the youth age limit, by reducing the general number of hunting permits. (Oral Comment 318-3/September 4, 1999)

**Evaluation:** The Commission offers the junior-only hunting opportunities for big game based upon the overall availability and relative scarcity of permits. The 1999-2000 big game seasons for juniors-only do not exceed 5% of the total available permits for any species, even though application pressure is increasing. Any allocation of permits to youth-only hunts is a loss of permits for other hunters. A significant junior-only hunting opportunity is the afternoon September dove-hunting season, which does not impact the hunt opportunity of any other group.

#### **R12-4-319. Use of Aircraft to Take Wildlife**

**1. Argument:** There were comments in support of the rule. Comments stated that the rule is needed to maintain a level of fair chase for the game, protect the image of hunters, and ensure ethical hunting practices; that the rule is a step towards sound wildlife management and ethical hunting practices; that the use of aircraft to locate or take wild-

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

life does not help the public's perception of hunting or trophy hunters, is not fair chase, and is a public safety issue. (Written Comments 319-3; Written Comment 319-4; Written Comment 319-5)

**Evaluation:** The agency agrees. Both the agency and the public are concerned that ongoing legal and illegal aircraft activity will have a negative effects on animal health, quality of hunts, hunt opportunity, public perceptions of hunting, and public safety. Specific concerns related to animal health involve the relatively strict energy and water budgets under which wild animals often operate. Aircraft use related to hunting may cause animals to expend energy and water to the point of negatively effecting individual survival and reproductive potential. There have also been numerous public complaints that low-flying aircraft disturb both animals and hunters while stalking game. Since many of the complaints about aircraft are generated during hunts with some of the highest application rates, it's understandable how these disturbances could cause extreme anger among hunters. Public safety can also become a factor given the frustration level from hunters who have just had the hunt of a lifetime spoiled by inappropriate use of an aircraft. Many Game Rangers have reported threats from frustrated hunters that can be characterized as, "If that ever happens again, I may bag an airplane!" In addition, the above-ground elevation from which wildlife can effectively be observed leads to a relatively thin layer of useful airspace. This constriction, coupled with possible concentrations of wildlife and the distraction of pilots, may also create a safety problem. The agency believes that without this rule, the proliferation of aircraft assisted hunting along with the extreme advantage gained by their use will significantly increase hunt success rates, especially for older age class animals. The end result may be a decrease in both hunting opportunity and the older age class segment of wildlife populations.

Although many activities regarding aircraft are prohibited by the Federal Airborne Hunting Act, the U.S. Fish and Wildlife Service is severely limited in manpower, with only 5 Special Agents assigned to all of Arizona. Having a state statute that overlaps the Act would not create "double jeopardy" and therefore violators could potentially be prosecuted by both the state and federal jurisdictions. Department law enforcement cannot enforce federal law and currently can only refer complaints and lend assistance to federal investigations. Having a state rule would allow the Department to conduct its own investigations, determine prosecution avenues, and be more responsive to the concerns of Arizona hunters. Further, the proposed rule is more restrictive than the federal law in that it would prohibit use of aircraft for scouting purposes 48 hours before the hunt, as well as during the hunt. Federal law only prohibits this activity during the hunt.

**2. Argument:** There was an argument that subsections (D) and (E) be revised to extend the 48-hour prohibition to 72 hours. (Written Comment 319-5)

**Evaluation:** The agency believes that 48 hours is sufficient and does not need to be extended to 72 hours. This restriction already exceeds federal law, which only prohibits this activity during the hunt, and is consistent with New Mexico's laws on hunting with aircraft.

**3. Argument:** There was a comment raised about the ability of Arizona Game and Fish Department rangers to differentiate between recreational flyers and people trying to hunt or locate game. (Oral Comment 319-1/September 4, 1999)

**Evaluation:** The agency believes that it can adequately enforce the rule and differentiate between recreational flyers and those scouting game. The rule is not intended to prohibit recreational flying that does not negatively impact wildlife.

**4. Argument:** There was a comment that questioned whether a person in a paraglance could scout for game other than the game in season. (Oral Comment 319-2/September 4, 1999)

**Evaluation:** Such action would be unlawful pursuant to the proposed rule, because the person would be locating (scouting) in a unit designated for another hunt. The proposed rule would prohibit use of aircraft for locating any species of game in a management unit designated for a hunt, other than Commission-ordered special seasons and seasons for mountain lions. During Commission-ordered special seasons, which are extremely long and in open areas throughout the state, only persons possessing a special license tag for the special season are prohibited from using aircraft to locate their game 48 hours prior to and during the special season. Moreover, such an exception would make enforcement ineffective.

**5. Argument:** There was a comment requesting clarification on the relationship between use of aircraft for regular seasons and special seasons, if a special season encompasses a regular season. (Written Comment 319-5)

**Evaluation:** Subsection (E) specifically identifies that only special tag holders are prohibited from using aircraft to locate the special season game 48 hours prior to and during the special season. A tag holder for a regular season would not be prohibited from using aircraft to scout or locate game prior to 48 hours before the regular season hunt even if a special hunt is in progress.

**6. Argument:** There were arguments that the rule should be revised to allow a person to use aircraft to locate game for which they have a tag, 48 hours or more prior to the specific hunt, even if another hunt is going on in that unit or that the rule should prohibit only tagholders for the specific hunt from using aircraft, 48 hours prior to or during the specific hunt, to locate game in the hunt unit. The argument was that, in some units, hunts run almost back to back, with less than 48 hours separating the hunts. In such cases, prohibiting a hunter's use of aircraft to locate his game in an area where other hunting is going on virtually prevents him from use of aircraft entirely. Similarly, the argument

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

was made that the rule as written would limit a person to flying only during certain times of the year, since the entire state has tagged hunts all over. (Written Comment 319-6; Written Comment 319-7)

**Evaluation:** It is true that the rule will, in some cases, prohibit a tagholder from using aircraft to locate game, for which he has a tag, 48 hours or more prior to the start of his specific hunt if another hunt is going on in the area. However, the agency believes that the need for the rule far outweighs any inconveniences the rule may cause an individual hunter. Constituency input indicates that the rule is needed both as a wildlife management tool and a public safety measure. The Commission is responsible for preserving wildlife and for ensuring the safety and quality of the hunt for all hunters. In addition to the health benefits to wildlife, the restriction on scouting during a different hunt helps ensure that the hunters on the ground have a quality experience.

**R12-4-412. Tuberculosis Procedures for Cervidae Possessed by Special License**

**Argument:** The State Veterinarian, Arizona Department of Agriculture, requested that the agency revise subsection (B) to incorporate by reference the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" effective September 30, 1998, revised effective May 14, 1999. Dr. Willer notified the agency that the publication was revised effective May 14, 1999, and requested that the change, although minor, be included in the proposed amendment to R12-4-412. (Written Comment 412-1)

**Evaluation:** The agency agrees that the most current information regarding the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" should be included in the rule. The agency concurs with Dr. Willer that the May 14, 1999, revision is minor and involves only the revision of the definition of test-eligible animal in Part 1-Definitions. The revision changes the definition from "All Cervidae 6 months or older" to "All Cervidae 1 year of age or older". Therefore, because the change is not material, does not change the subject matter of the rule, does not change the effect of the rule, and does not change a person's understanding of the rule, the agency will include the revision in the text of the rule.

**R12-4-417. Wildlife Holding License**

**Argument:** There was a comment from Linda Peterson Warren, Director, Arizona Film Commission, in support of the proposed rulemaking stating that it will allow for the commercial use of captive wildlife in film, television, and still photography and will attract film and television commerce to our state. (Written Comment 417-1)

**Evaluation:** The agency agrees. The proposed rulemaking will benefit the citizens of the state by allowing the exhibit of wildlife for television, film, still photograph productions, and other activities that promote economic development or commerce.

**R12-4-422. Sport Falconry License**

**1. Argument:** There were comments in support of the proposed rulemaking stating that it will allow for the commercial use of captive wildlife in film, television, and still photography; will attract film and television commerce to our state; and will streamline state falconry regulations. (Oral Comment 422-1, June 19, 1999; Written Comment 422-2; Oral Comment 422-8, October 22, 1999)

**Evaluation:** The agency agrees. The proposed rulemaking will benefit the citizens of the state by clarifying that licensed falconers are allowed to exhibit exotic raptors for television, film, and still photograph productions, simplify licensing procedures, and ensuring consistency with federal rules governing falconry.

**2. Argument:** There was a comment that the fee for falconry license upgrades be prorated if there are 2 or 3 years remaining on the existing 3-year license. (Written Comment 422-5)

**Evaluation:** The sport falconry license is a \$75.00, 3-year license that validates an Arizona class G general hunting license for hunting or taking of quarry with a trained raptor. Although R12-4-422 prescribes the requirements for a falconer's license in accordance with federal standards regulating the taking, possession, and transportation of raptors for falconry, the sport falconry license fee is set under R12-4-102(E)(1). Any revisions or modifications regarding the fee or the prorating of the fee for license upgrades would be considered as part of rulemaking for R12-4-102 rather than R12-4-422. Therefore, the prorating of the license upgrade fees can not be evaluated as an argument for or against this proposed rulemaking.

**3. Argument:** There was an argument raised not to remove banding requirements for raptors other than Harris Hawks, Gyrfalcons, or Peregrine falcons in subsection (J)(6). The argument is that it is an effective law enforcement tool, an effective tool in gathering biological information on raptors, and a benefit to falconers by providing them with proof of capture. The argument was also made that the continuation of banding for all wild-caught raptors is not an administrative burden on the Department. (Written Comment 422-3; Written Comment 422-4a, 4b, 4c, 4d)

**Evaluation:** The proposed revision of R12-4-422 is designed to simplify licensing procedures and to make state regulations consistent with federal regulations. Therefore, the state banding requirements were changed to reflect federal law that requires the banding of only the Harris Hawks, Gyrfalcons, and Peregrine falcons.

**4. Argument:** There was an argument raised to remove banding requirements only for Red-tailed Hawks and Kestrels in subsection (J)(6). (Written Comment 422-4a, 4b, 4c, 4d)

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**Evaluation:** The proposed revision of R12-4-422 is designed to simplify licensing procedures and to make state regulations consistent with federal regulations. Therefore, the state banding requirements were changed to reflect federal law that requires the banding of only the Harris Hawks, Gyrfalcons, and Peregrine falcons. Since there is no biological reason to differentiate between Red-tailed Hawks and Kestrels and other raptors, there appears to be little justification for imposing less restrictive compliance standards on the Red-tailed Hawk and Kestrels.

**5. Argument:** There was an argument raised that the new subsection (B) be revised to clarify if exotic raptors will be included in the number of falconry birds a falconer may possess. (Written Comment 422-3)

**Evaluation:** The rule text is explicit, in that it describes the number of raptors that may be held by a particular class of falconer. If the exotic raptor is to be used for falconry purposes, it will be included in the number of falconry birds a falconer may possess.

**6. Argument:** There was an argument raised that the new subsection (Q) should be revised to clarify why a falconer must have a license to possess exotic raptors, when a temporary caregiver does not require any license. (Written Comment 422-3)

**Evaluation:** A falconry license is necessary for an exotic raptor because such license is needed to take wildlife. A caregiver does not engage in the take of wildlife. This is consistent with federal regulations, which require a permit for a caregiver to hold a migratory bird, but not to hold a nonmigratory bird, such as an exotic raptor.

**7. Argument:** There was an argument raised that the new subsection (C)(2)(c) should not be removed because it is not an unreasonable requirement. (Written Comment 422-3)

**Evaluation:** The agency does not believe that the requirement is necessary to demonstrate eligibility for the Class II General Sport Falconry License. The requirement for a Class II applicant to provide a letter of recommendation from a falconers' association is not a federal requirement, but it historically included in the rule at the wishes of an Arizona falconers' association. Removing it from the rule reduces red tape and some administrative costs for the Department; it will not increase or decrease the number of licenses issued or have any other impact.

**8. Argument:** There was an argument raised that "authorized by the U.S. Fish and Wildlife Service" should not be removed from the new subsection (H) because it may cause misinterpretation of the species allowed for falconry. (Written Comment 422-3)

**Evaluation:** The agency disagrees that the qualifier "authorized by the U.S. Fish and Wildlife Service" is necessary to clarify which species of raptor may be possessed by a Class III licensee. Subsection (H) states that a Class III licensee may possess up to 3 raptors of any species. Therefore, since subsection (A)(4) defines a raptor as a live bird of the Order Falconiformes or the Order Stringiformes, other than a bald eagle (*haliaeetus leucocephalus*), the Class III licensee may possess raptors of the Order Falconiformes or the Order Stringiformes, other than a bald eagle (*haliaeetus leucocephalus*).

**9. Argument:** The United States Department of the Interior, Fish and Wildlife Service provided the Arizona Game and Fish Department notice on August 27, 1999, that the proposed rule changes continue Arizona's compliance with Federal falconry regulations. (Written Comment 422-6)

**Evaluation:** The agency concurs that the proposed rule meets the compliance standards of the U.S. Fish and Wildlife Service.

**10. Argument:** The U.S. Fish and Wildlife Service requested that the agency update the Federal Office address listed in subsection (A). This is the address from which persons may obtain a copy of "Form 3-186A" which is incorporated by reference in the rule. (Written Comment 422-6; Written Comment 422-7)

**Evaluation:** The agency agrees that the most current information regarding "Form 3-186A" should be in the rule. Therefore, the rule text has been changed to include the new address.

**11. Argument:** The Law Enforcement Branch of the Southwest Region of the U.S. Fish and Wildlife Service requested that the agency revise subsection (A) to incorporate by reference the newly revised July 1999 Form 3-186A. (Written Comment 422-7)

**Evaluation:** The agency agrees that the most current information regarding "Form 3-186A" should be in the rule. Because the new "Form 3-186A" involves only a format change and not a content change, the updated version is included in the rule text.

**12. Argument:** The Law Enforcement Branch of the Southwest Region of the U.S. Fish and Wildlife Service requested on August 31, 1999, that the agency revise subsection (L) to reflect that a federal permit is now required to use lawfully held falconry birds for conservation education purposes. (Written Comment 422-7)

**Evaluation:** Since the agency has prior written notice from the Director of the U.S. Fish and Wildlife Service that the proposed rule meets the compliance standards of the U.S. Fish and Wildlife Service, the agency does not believe the change is required. However, to avoid confusion and to accommodate changing federal policies and practices, the agency will remove specific references to federal requirements from R12-4-422(B) and (L) and add subsection (X) that states "For federal requirements and permits, a sport falconry licensee shall consult applicable U.S. Fish and Wildlife Service regulations governing the possession and use of raptors." This change is not substantive, in that it

changes neither the state nor federal requirements for hunting, taking, possessing, or using raptors. The change is clerical, in that it consolidates information previously contained in two separate rule subsections.

**R12-4-426. Possession of Non-Human Primates**

**1. Argument:** There were arguments against the proposed rule because it prohibits the future ownership of infant non-human primates and arguments against the subsection of the rule that prohibits the future ownership of infant non-human primates. There were arguments that the rule will cause non-human-primate owners to buy older monkeys that have behavioral problems and will encourage new owners, because older monkeys cost less than infants do. There were arguments that the prohibition against infants will increase the number of aggressive, dangerous, non-human primates and will create more health and safety problems than currently exist. There were arguments that it is important that infants be allowed to bond with their human owner to reduce adult aggression. Arguments cited that currently, due to the high cost of infants (\$4,000 to \$6,500) and the high cost of care, only those people who are serious about primates buy them. If only juveniles and adult primates are sold, they will be less expensive and more people will buy them. They will probably be sick or emotionally unstable and aggressive. The result will be more monkeys in Arizona and more instances of bites, runaways, and disease. There is no benefit to the monkey or the people of Arizona to prohibit the sale of infant primates. (Oral Comment 426-1, June 19, 1999; Oral Comment 426-18/September 4, 1999; Written Comment 426-22; Written Comment 426-43)

**Evaluation:** The agency believes the proposed rule is necessary to protect the public from the threat of injury from non-human primates and the threat of infectious diseases transmitted by non-human primates, and that the prohibition against the import of infant non-human primates will reduce these threats to humans. In its document, *Are you sure you want a monkey*, the Simian Society indicates that "In fact, depriving a baby monkey of a normal relationship with its mother and family group can result in a lifetime of neurotic behavior." Also, the same document indicates that even hand rearing a primate does not stop a primate from becoming aggressive and they can attack at the slightest provocation when they reach adulthood. Further, a long-term curator for the Reed Park Zoo indicated that he believes that non-human primates are highly intelligent, social creatures that develop serious behavioral aberrations when kept as single pets, and that this is particularly true when these pets are socially isolated as infants. Based upon the discussions in the focus group, and in the publication of the Simian Society, the agency disagrees with all aspects of these arguments.

**2. Argument:** There was an argument opposing the prohibition against baby primates, citing that it will prevent the owner from vaccinating the non-human primates against infectious diseases. And the breeders with many non-human primates for sale will not want to incur the cost of vaccinating the baby primates that they must keep until 2 years of age. (Written Comment 426-22)

**Evaluation:** The agency believes the proposed rule is necessary to protect the public from the threat of injury from non-human primates and the threat of infectious diseases transmitted by non-human primates, and that the prohibition against the import of infant non-human primates will reduce these threats to humans. At this time, there is no legally licensed vaccine available to use on non-human primates for infectious diseases that pose significant human health risks (rabies, SIV, Herpes B). Even if vaccines are used extra-label, as permitted by the Animal Medicinal Drug Use Clarification Act (AMDUCA), there are no studies that provide data on the efficacy of these vaccines in providing immune protection.

**3. Argument:** There were arguments in support of the proposed rule that cited the serious health risk to the public posed by non-human primates held in captivity in Arizona. Non-human primates are zoonotic disease vectors with the most dangerous threat to humans being Herpes B virus, which, if contracted, is virtually 100% fatal to humans. The risk of disease is not something that pet owners should have the right to inflict on the general public. (Oral Comment 426-2/August 16, 1999; Oral Comment 426-3/August 30, 1999; Oral Comment 426-4/August 30, 1999; Oral Comment 426-5/September 4, 1999; Oral Comment 426-6/September 4, 1999; Oral Comment 426-9/September 4, 1999; Oral Comment 426-21/September 4, 1999; Written Comment 426-36; Written Comment 426-37; Written Comment 426-41; Written Comment 426-42; Document Submission 426-38; Document Submission 426-44; Document Submission 426-45; Document Submission 426-46)

**Evaluation:** The intent of the rule is to reduce the threat or health risk to the public in a public setting, where people expect some level of protection from non-human primates. This is done by prohibiting the sale of infant non-human primates, requiring all non-human primates imported into Arizona to be tested to ensure they are free of diseases, requiring non-human primates to be confined by the owner, requiring the testing of non-human primates who expose humans to a health risk, and confining those non-human primates who test positive for communicable diseases. The Department believes that there is sufficient scientific and medical data to show that non-human primates can transmit potentially fatal diseases to humans. An important consideration is that the majority of the exposures to fatal diseases have occurred in laboratory settings. While this is true, it is important to point out that, at this time, there has been very little information collected on the number of non-human primates that carry diseases that pose serious human health risks. Therefore, there is no way to determine the statistical risk that non-human primates pose to humans; however, given the severity of the zoonotic diseases that non-human primates can carry, the agency believes that there is a need to reduce the potential of human exposure to diseases carried by non-human primates. This is particularly true because humans are closely related to non-human primates genetically, and both groups share a wide array of diseases.

Exposures have occurred in research institutions working with non-human primates that tend to have strict protocols to minimize risk of disease exposure and to define appropriate responses for disease prevention and control. Despite these measures, occasional diseases or even casualties occur, for example, a primate researcher at Yerkes died of B virus (*herpesvirus simae*) last December after she was exposed in the eye to body fluids from a caged macaque. Even with strict protocols in place, exposures occur in research settings. This amplifies the need to provide public protection, where protective measures are lacking.

The Arizona Department of Health Services began collecting monkey bite report data and following up on potential Herpes B virus exposures with consults to physicians in 1994. Arizona Department of Health Services followed up on 35 non-occupational non-human primate bites to humans reported from 1994-1997. Follow-up showed that 69% of the exposures were caused by old-world monkeys, many of which can carry and transmit potentially serious zoonotic diseases caused by agents such as B virus and Simian immunodeficiency virus. The remainder of the exposures (31%) were caused by new-world monkeys, where the primary concern is infection and traumatic injury.

Although there are several diseases of concern, Herpes B virus is 1 of the greatest. This disease occurs naturally among macaques and usually causes minimal or undetectable morbidity in its natural host; however, B virus causes meningoencephalitis in humans which is often (70%) fatal. Other medical facts:

70% - 100% of adult macaques, both captive and wild, are latently infected.

Shedding of virus in body fluids is intermittent (2% - 6% shed at any given point,) but occurs primarily during periods of breeding, disease, and stress.

Transmission to humans can occur through bites, scratches, or exposure to mucous membrane.

As with other herpes infections, there are no vaccines, post-exposure prophylaxis, or treatment.

Pet monkeys, often offspring of infected monkeys, are routinely sold at 1-4 weeks of age. Department of Health Services is aware of at least 1, an infant macaque, which tested positive for B virus at 9 weeks, most likely due to maternal transmission, soon after being sold by a breeder/dealer in Glendale in 1998.

In conclusion, after reviewing the available information on this issue, the agency concludes that most monkeys bite. Along with zoonotic disease risks, severe injuries are common with monkey bites. They are intelligent, agile, and, like other wild animals, are very strong for their size or sizes.

**4. Argument:** There were arguments in support of the proposed rule that cited that non-human primates can inflict severe injuries to humans. Mature non-human primates are physically dangerous to humans. They can weigh up to 35 pounds, have up to 3-inch-long, canine-like teeth, can be very ferocious, and are very aggressive and often attack unfamiliar humans or their domestic companion animals. Importantly, even small-sized species can pose health risks to the public, especially to children. (Written Comment 426-37; Written Comment 426-42)

**Evaluation:** The agency agrees that many species of non-human primates can be a physical threat to humans, especially children, and to domesticated animals and, therefore, should be confined or contained by their owners. In addition to protecting the public from disease risks posed by free-ranging, non-human primates, the containment requirements will also protect the public from non-human primate attacks, which are also a health risk. Physical risk is not confined to the larger non-human primate species. In the March 1997 issue of the Simian Society newsletter, a story is related of a near-fatal attack from a "tame" 7-pound weeper Capuchin. In the article, the author relates of an attack by this non-human primate on its owner, during which the owner was bitten on the leg 5-6 times, had her thumb and index finger severed or nearly so, and struggled with the pet for several minutes. The pet owner eventually passed out from loss of blood. Although the pet owner did not die, she required extensive medical attention.

Infant non-human primates are quite manageable at first, but, as they mature, they develop the typical wild animal behavior that would help them establish dominance in a social hierarchy. Thus, it is not unusual to have non-human primates challenging and attacking their owners. There is particular risk to children, as they are weaker and more easily dominated by an aggressive wild animal.

**5. Argument:** There were arguments in support of the proposed rule that cited the need for non-human primate owners to keep non-human primates contained or confined and away from the general public because non-human primates are wild animals that are a nuisance, unruly, annoying, unsanitary, frightening, and cause property damage. (Oral Comment 426-6/September 4, 1999; Written Comment 426-40; Written Comment 426-45)

**Evaluation:** The Department agrees that non-human primates are wild animals that should be confined or contained by their owners. Although such containment will incidentally stop the non-human primate from harassing members of the public or otherwise being a nuisance, the primary purpose of the rule is to protect the public from health risks posed by the primates.

**6. Argument:** There were arguments that non-human primates do not pose a serious health threat to humans; that the disease threats from primates we are now hearing about are the result of AIDs testing done on primates; that the cases of human infections from primates have occurred only in laboratory workers conducting AIDs research on primates, not among the thousands of primate pet owners who routinely are exposed through scratches, bites, feces contact, etc. There is no true medical correlation to show that these disease threats are real. These disease threats are pure scare tactics intended to incite panic. SIV virus does not belong in the rule at all; there is no proof it is common in monkeys; that more people are killed by horses in Arizona than are exposed to infectious diseases from primates. There is not a substantial threat to humans from primates; that until the medical evidence shows that the infection is

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

likely to be transmitted to humans, the fear of infection is hysteria; that with hundreds of monkeys kept in Mesa and thousands in Arizona, there have only been 46 cases of infections in humans reported. (Oral Comment 426-11/September 4, 1999; Oral Comment 426-14/September 4, 1999; Written Comment 426-22; Written Comment 426-43)

**Evaluation:** The agency has found that current research substantiates that non-human primates can transmit potentially fatal diseases, such as Herpes B virus, to humans through bites, scratches, feces, etc. The agency believes that a potential health threat exists, albeit extremely rare and, therefore, has proposed R12-4-426 to provide a measure of reasonable protection to the public. The rule protects the public health and welfare, while at the same time allows for public possession of non-human primates. However, the health threat has not yet been proven to be “significant” enough to warrant adding the non-human primates to the restricted wildlife list. Current scientific evidence identifies that the B virus has rarely been documented in humans and is considered “an uncommon result of macaque-related human injuries despite the occurrence of as many as several thousand monkey-inflicted bites, scratches annually” (CID:1995) The matter requires additional research, especially regarding the ability to detect zoonotic diseases transmitted by non-human primates in humans and the ability to identify these zoonotic diseases as the causes of illness or death in humans. Should this research indicate that the health threat is “significant,” then the non-human primates could be put back on the restricted list. As stated in the evaluation of Argument 2, there is no data available on the rate of disease presence in non-human primates; so it is difficult to determine the actual risk to the public based on the number of non-human primates that carry disease. Again, although the potential for transmission of fatal diseases between non-human primates and humans exists, it is rare, and the agency has concluded that the most effective method to deal with protecting the public from these diseases, at this time, is to minimize the potential for exposure. Eliminating non-human primates from public places accomplishes this while allowing people to possess non-human primates as pets.

**7. Argument:** There were arguments that the non-human primates should never have been taken off the Arizona Game and Fish Commission’s live wildlife restricted list or should be put back on the Arizona Game and Fish Commission’s live wildlife restricted list. (Oral Comment 426-7/September 4, 1999; Oral Comment 426-8/September 4, 1999; Oral Comment 426-20/September 4, 1999; Written Comment 426-23; Written Comment 426-24; Written Comment 426-25; Written Comment 426-26; Written Comment 426-27; Written Comment 426-28; Written Comment 426-29; Written Comment 426-30; Written Comment 426-31; Written Comment 426-32; Written Comment 426-33; Written Comment 426-34; Written Comment 426-35; Written Comment 426-36; Written Comment 426-40)

**Evaluation:** Currently, only primates of the family *Pongidae* of the order Primates are listed in R12-4-406 (Restricted Live Wildlife.). This encompasses orangutans, chimpanzees, and gorillas. These animals were placed on the restricted live wildlife list because of their large size and obvious risk to humans. In reviewing the available information, there are human health risks posed by non-human primates via disease transmission; however, the likelihood is not deemed to be sufficient to warrant restricting possession of all non-human primates which would result if all non-human primates were placed on the restricted list.

The agency has found that current research substantiates that non-human primates can transmit potentially fatal diseases, such as Herpes B virus, to humans through bites, scratches, feces, etc. The agency believes that a potential health threat exists, albeit extremely rare and, therefore, has proposed R12-4-426 to provide a measure of reasonable protection to the public. The rule protects the public health and welfare, while at the same allows for public possession of non-human primates.

The agency believes that the proposed rule will address an existing health risk that requires timely action. The issue of placing additional non-human primate species on the live wildlife restricted list (R12-4-406) would involve new rulemaking that could take anywhere from 12 months to 2 years to finalize. The agency does not believe that terminating this rulemaking and initiating new rulemaking to restrict the private ownership of non-human primates is in the best interest of the public. Similarly, if the existing proposed rule were rewritten to restrict private ownership of non-human primates, this would be a substantive rule change that would require additional public input and analysis. This would also significantly delay the implementation of any final rule. The agency opposes any action that would delay the effective date of this rule, which is necessary to protect the public from a potential health risk.

**8. Argument:** There was an argument that a working group consisting of representatives from CDC/DQ, NCI’s Senses Working Group, USDA, NIH, and USFWS be formed with goals to:

- Assess the current level of federal regulations concerning non-human primates,
- Develop and implement methods to restrict the pet trade in non-human primates,
- Enforce institutional responsibility in maintaining lifelong care of non-human primates in their jurisdiction,
- Monitor and assure legitimacy and safety of interstate movements and redistribution of non-human primates,
- Develop a federal requirement for permanent identification (tattoo/microchip) of non-human primates in USDA licensed facilities in the US with a centralized comprehensive database,
- Collect more data about incidents and numbers of non-human primates outside CDC registered institutions.

This argument also proposed that federal and state laws should be passed to prohibit private ownership of non-human primates, future commerce in non-human primates for the pet trade, and existing non-human primates from breeding or being in public. (Written Comment 426-37)

**Evaluation:** The proposals put forth in this public comment are beyond the scope of the proposed rule. Neither of the proposals can be enacted by the agency, as both suggestions would require federal or state law changes. Legislative solutions should be sought from appropriate state and federal legislative contacts.

**9. Argument:** There was an argument questioning the intent of the rule and suggesting that the real purpose of the rule is to pave the way to prohibit non-human primates as pets in Arizona or put non-human primates on the Arizona Game and Fish Commission's live wildlife restricted list. The related comment was made that putting non-human primates on the Arizona Game and Fish Commission's live wildlife restricted list would create a horrible economic burden on the Department, for inspections and investigations. Other states have tried this and it doesn't do any good; it is a waste of economic resources. (Oral Comment 426-14/September 4, 1999; Oral Comment 426-15/September 4, 1999)

**Evaluation:** The language of the rule clearly does not establish any mechanism that eliminates the ability of the public to possess non-human primates, excepting those on the live wildlife restricted list (R12-4-406), which currently lists only the members of the family Pongidae. Neither does the rule put any additional non-human primates on the Commission's live wildlife restricted list under R12-4-406. The intent of the rule is to reduce threat or health risk to humans in public settings, where people expect some level of protection. It does restrict public activities with these primates but is much less intrusive than putting all primates on the restricted list and thus removing them from the pet trade. Given the importance of the public health issues, this appears to be the least intrusive and least costly method of achieving the objective.

**10. Argument:** There were arguments related to agency's enforcement of the rule. There was a comment that the rule will be difficult to enforce. (Oral Comment 426-5/September 4, 1999)

**Evaluation:** The agency agrees that the proposed rule would increase law enforcement responsibilities associated with rule compliance and that enforcement may be difficult in some instances. However, the agency does believe that the rule would be legally enforceable. In addition, the agency does not believe that either the degree of difficulty associated with the rule enforcement or the possibility that a rule can be violated are sufficient grounds to reject a rule. An important consideration is that this rule does not establish an administrative inspection or permit requirement; hence, enforcement would be focused on an act observed or reported as a violation which would minimize the time associated with enforcement of this proposed rule. Any increase in enforcement effort is anticipated to be minimal, although this is unmeasured as we currently receive few calls on the issue. Whether this changes post-adoption is uncertain at this time. There is no permitting requirement at any level (that is, federal or state); so there is no way to estimate the number of non-human primates in Arizona. That makes it difficult to address the amount of enforcement required, but there is nothing to indicate that this will be more than a very infrequent issue.

**11. Argument:** There were arguments that the rule should also protect the non-human primates from deplorable living conditions as pets. The argument expressed opposition to the keeping of exotic and non-domestic animals as pets because the result is often the inhumane exploitation of the animal, danger to human health and safety, and a tragic end for the animal. (Oral Comment 426-6/September 4, 1999; Written Comment 426-39)

**Evaluation:** The agency does not believe that the rule should be expanded to prescribe humane captivity standards for non-human primates. Inclusion of such standards would require that the agency establish an administrative inspection or permit requirement. This would be very costly and intrusive and is not necessary since existing Arizona law already requires that animals be maintained under humane conditions. Failure to maintain non-human primates in a humane manner would be a violation of law, and violators could be cited by a variety of law enforcement personnel and prosecuted as necessary.

**12. Argument:** There were comments related to the rulemaking process or the persons involved in the process. Comments were made that the proposed rule language is being falsely represented as language developed and agreed upon by a 1996 focus group and that the proposed rule does not represent the agreed-upon language of the focus group. Related comments criticized representatives from the Arizona Department of Health Services who were in the focus group and opposed the agency designating these individuals as contact persons at the Arizona Department of Health Services. (Oral Comment 426-10/September 4, 1999; Oral Comment 426-12/September 4, 1999; Oral Comment 426-17/September 4, 1999; Written Comment 426-47)

**Evaluation:** The Department disagrees with these arguments. There was considerable debate on most points addressed by the focus group and very few of the points were resolved in consensus. Rather, most were finalized by majority opinion. Therefore, the points raised by people who commented on the proposed rule focused on points of some disagreement. The Department believes that the language developed by the focus group is representative rule language based upon comments of the focus group where the intent, if not the specific language, was preserved.

**13. Argument:** There were arguments that non-human primates should not have to be tested for diseases that are unlikely to be transmitted to humans. And that primate owners should not have to pay for testing of Simian Herpes B virus or SIV because they are so rare. The Herpes B virus is treatable and not highly transmittable and is uncommon. Most reported cases of infection are research workers or technicians working on monkeys. (Oral Comment 426-11/September 4, 1999; Written Comment 426-43)

**Evaluation:** The agency believes that all non-human primates should be tested for appropriate diseases as prescribed in the proposed rule. The rule does not require all non-human primates be tested for all diseases. The agency dis-

agrees with the argument that, because the likelihood of transmission is rare, the test should not be required. It is important to recognize that the diseases specifically identified in the rule pose significant human health risks and steps must be taken to minimize the potential for disease transmission to humans. The agency also disagrees that disease associated with Herpes B virus is treatable. Rather, humans affected with this virus have a morbidity rate exceeding 70%, and, for those that survive, treatments will be life-long.

**14. Argument:** There was the argument that, because only primates of the genus *Macaca* are known to be infected by the Herpes B virus, and only the macaque is known to transmit the disease to humans, the rule should not require the testing of all non-human primates. (Oral Comment 426-11/September 4, 1999)

**Evaluation:** The agency agrees that non-human primates of the Genus *Macaca* are the primary carrier of the Herpes B virus. However, this is an ongoing area of research, and it is anticipated that additional information on this disease may change the prevailing paradigm. Further, it is important to note that the rule does not state that all non-human primates need to be tested for all diseases, but rather testing as deemed appropriate by the Department will be required. This decision will be made after consultation with knowledgeable veterinarians.

**15. Argument:** There was an argument that subsection (3) should also include a provision to allow for the transport of non-human primates for the purpose of being boarded or temporarily held for an owner. (Oral Comment 426-13/September 4, 1999)

**Evaluation:** The agency does not agree that an additional provision in subsection (3) should be added. The intent of the rule is to keep non-human primates permanently confined on the private property of the legal owner and away from the public. The agency has allowed 2 exceptions to this provision. The 1st is for transport to a licensed veterinarian; the 2nd is for transport out of the state or within the state to complete a legal sale. Under the rule, a primate may receive temporary care on the private property of the legal owner, may be transported out of the state for boarding or temporary care, and may be transported to a licensed veterinarian for boarding or temporary care. Allowing additional exceptions for transport to other temporary care facilities or to other private persons would undermine the purpose of the rule.

**16. Argument:** There was an argument that subsection (3) should clarify that non-human primates cannot be loose or leashed but always in cages, carrier, or crates. (Oral Comment 426-16/September 4, 1999)

**Evaluation:** The agency agrees with this argument. The intent of the rule was to require that non-human primates be adequately contained at all times. Since the language as written does not adequately convey this intent, the agency has included additional language in subsection (D)(1) and (D)(2) to require that non-human primates be transported in a "cage, crate, or carrier."

**17. Argument:** There was an argument that subsection (5) be revised to allow the owner of the primate to be consulted regarding the conditions of captivity and disposition; or allow the owner to euthanize a non-human primate if it is in the best interest of the animal. (Oral Comment 426-17/September 4, 1999)

**Evaluation:** The intention of the agency is to allow primate owners to have input into the disposition of a primate who tests positive for infectious diseases. The agency does not believe that the rule as written will prohibit this input. The agency has revised the language in subsection (F), however, to allow for the a non-human primate to be disposed of with the agreement of the legal owner of the primate.

**18. Argument:** There was an argument that other states or cities had banned or restricted the private ownership of non-human primates. (Oral Comment 426-19/September 4, 1999)

**Evaluation:** The agency has documented that this is true; however, we believe the rule, as written, provides a carefully developed position that provides public protection from physical trauma or infectious diseases, while allowing for private ownership of non-human primates.

**19. Argument:** There was an argument that using weight as the standard for determining when a primate is an "infant" does not always correlate with the age of the primate. Also, some primates are unusual in their size. (Oral Comment 426-49/October 22, 1999; Oral Comment 426-52/October 22, 1999; Oral Comment 426-53/October 22, 1999)

**Evaluation.** The agency evaluated other ways to identify an infant; weight is the most reasonable. Using age as the standard would require marking or documenting each animal. Many methods of marking (tattooing, etc.) are unacceptable to many primate owners. Suggestions to use weight instead came from primate owners in the focus group that created this rule. In addition, the agency is attempting to be as unburdensome as possible in this regulation. Other standards would have to result in intense regulatory intrusion for licensing and marking.

**20. Argument:** There was an argument that, in subsection (B), the term "barter" should be added to close a loophole. (Oral Comment 426-50/October 22, 1999)

**Evaluation.** The agency agrees and added both "barter" and "gift" to the language in (B). These terms are used in similar rules so they would be reasonable in this rule, and adding them is not a significant deviation from the intent of the rule as proposed.

**21. Argument:** There was an argument that there are no documented diseases in the pet trade. It only happens in laboratory animals. (Oral Comment 426-56/October 22, 1999)

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**Evaluation.** Macaques in the pet trade do test positive for a variety of diseases, including Herpes B. It is not a disease readily detected but poses serious human health risk. It is impossible to know when primates will expose humans by scratching, biting, spitting, or throwing waste. They are not always contagious and it is not possible to determine when they are or are not.

**22. Argument:** There was an argument that people get diseases from other pets; they can be killed by lightning, etc. Compared to other dangers, the danger from primates is a small one. (Oral Comment 426-62/October 22, 1999)

**Evaluation.** This agency has a mechanism to control exposure to danger, disease, and death from primates. The agency has no control over the other situations addressed.

**23. Argument:** There was an argument that dogs pose an equal or greater health risk than primates. (Oral Comment 426-62/October 22, 1999; Oral Comment 426-63/October 22, 1999)

**Evaluation.** Dogs are regulated and restricted by other jurisdictions.

**24. Argument:** There was an argument that as citizens, people have the right to be protected from this public safety hazard. (Oral Comment 426-54/October 22, 1999)

**Evaluation.** The purpose of the regulation is to protect the public but not to ensure any individual rights.

**25. Argument:** There was an argument that the Arizona Game and Fish Commission should not accept the testimony of Dr. Mira J. Leslie of the Department of Health Services because it is tainted with personal bias. (Oral Comment 426-59/October 22, 1999; Oral Comment 426-62/October 22, 1999)

**Evaluation.** The agency is in a position to independently evaluate the accuracy of all statements in this record.

**26. Argument:** There was an argument that the list of diseases in the rule should be eliminated. (Oral Comment 426-62/October 22, 1999)

**Evaluation.** Legal counsel advised the agency to list within the text of the rule those diseases which the agency considers examples of most significant concern. By doing so, the agency is not requiring testing for all; the language in subsection (C)(1) creates an option for testing and states "as appropriate for the species."

**27. Argument:** There was an argument that primates do not transmit airborne diseases. (Oral Comment 426-57/October 22, 1999)

**Evaluation.** Some diseases are known to be transmitted aurally; an example is tuberculosis.

**28. Argument:** There was an argument that although the rule does not preclude sale of adult primates, subsection (C)(3) prohibits transport of adult primates that have changed ownership. This creates a situation where you cannot legally transfer possession to the new owner. (Oral Comment from Arizona Game and Fish Department)

**Evaluation.** The agency agrees. The subsection was rewritten to add at the end "...or within Arizona to complete a lawful sale." This meets the original intent of the rule, which was to allow transfer of ownership of adult primates.

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

Not applicable.

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

R12-4-412. Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License

The United States Department of Agriculture publication "*Brucellosis in Cervidae: Uniform Methods and Rules*," U.S.D.A., A.P.H.I.S. 91-45-12, effective September 30, 1998, revised effective May 14, 1999, is incorporated by reference in R12-4-412 (B). It does not include any later amendments or editions of incorporated matter, and is on file with the Secretary of State. In addition, a copy may be ordered from the U.S.D.A., A.P.H.I.S. Veterinary Services, Cattle Diseases and Surveillance Staff, P. O. Box 96464, Washington, D.C. 20090-6464.

R12-4-422. Sport Falconry License:

The U. S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report, Form 3-186A, dated July 1999, not including any later revisions, is incorporated by reference in R12-4-422(A)(2). A copy of the incorporated form is on file with the Secretary of State and available from the U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 709, Albuquerque, New Mexico, 87103-0709, and all Arizona Game and Fish Department Regional offices.

R12-4-426. Possession of Primates:

"The Pictorial Guide to Living Primates", Pagonias Press 1996, and not including any later edition. A copy of the incorporated material is on file with the Secretary of State and available from all Arizona Game and Fish Department regional offices.

**14. Was this rule previously adopted as an emergency rule?**

No.

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

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

Section

- R12-4-101. Definitions
- R12-4-102. Fees for Licenses, Tags, Stamps, and Permits
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing
- R12-4-109. ~~Wildlife areas~~ Repealed

**ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS**

- R12-4-202. Disabled Veteran's License ~~veteran's license~~
- ~~R12-4-208. Guide License~~
- R12-4-208. Guide License
- R12-4-216. Crossbow Permit
- R12-4-217. Challenged Hunter Access/Mobility Permit

**ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

- R12-4-318. Seasons
- R12-4-319. Use of Aircraft to Take Wildlife

**ARTICLE 4. LIVE WILDLIFE**

- R12-4-412. Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License
- ~~R12-4-417. Wildlife holding permit~~
- R12-4-417. Wildlife Holding License
- R12-4-422. Sport Falconry License ~~Falconers: Licensing and Requirements~~
- R12-4-426. Possession of Primates

**ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION**

- R12-4-608. Appeal from Department Action on Controlled-Use Markers

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

**R12-4-101. Definitions**

- A.** In addition to the definitions provided in A.R.S. § 17-101, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless the context otherwise requires:
1. "Artificial lures and flies" means man-made devices intended as visual attractants for fish and shall not include living or dead organisms or edible parts thereof, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.
  2. "Commission order" means a document adopted by the Commission which may do any or all of the following: Open, close, or alter seasons, and open areas for taking wildlife; specify wildlife which may or may not be taken; set bag or possession limits for wildlife; or set the number of permits available for limited hunts.
  3. "Crayfish net" means a net not to exceed 24 inches on a side or in diameter that is retrieved by means of a hand-held line.
  4. ~~"Falconry" means the sport of taking quarry by means of a trained raptor.~~
  - ~~45.~~ "Hunt area" means a game management unit, portion of unit, or group of units opened to hunting by a particular hunt number.
  - ~~56.~~ "Hunt number" means the number assigned by Commission order to any hunt area where a limited number of hunt permits is available.
  - ~~67.~~ "Hunt permits" means the number of hunt permit-tags made available to the public as a result of a Commission order.
  - ~~78.~~ "Hunt permit-tag" means a tag for a hunt for which the Commission has assigned a hunt number.
  - ~~89.~~ "Identification number" means a number assigned to each applicant or licensee by the Department, as described in R12-4-111.
  - ~~949.~~ "License dealer" means a business authorized to sell hunting, fishing and other licenses pursuant to R12-4-105.
  - ~~1044.~~ "Live baitfish" means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife pursuant to R12-4-313.
  - ~~1142.~~ "Management unit" means an area established by the Commission for management purposes.

- ~~1213.~~ "Minnow trap" means a trap with dimensions not to exceed 12 inches in depth, 12 inches in width, and 24 inches in length.
- ~~1314.~~ "Muzzle-loading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
- ~~1415.~~ "Muzzle-loading rifle" means a weapon intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
- ~~1516.~~ "Nonpermit-tag" means a tag for a hunt for which the Commission has not assigned a hunt number.
- ~~1617.~~ "Simultaneous fishing" means the taking of fish by 2 lines and not to exceed 2 hooks or 2 artificial lures or flies per line.
- ~~1718.~~ "Sink box" means a low-floating device, having a depression affording the hunter a means of concealment beneath the surface of the water.
- ~~1819.~~ "Tag" means the authorization that an individual is required to obtain from Department under A.R.S. Title 17 and these rules before taking certain wildlife.
- ~~1920.~~ "Waterdog" means the larval or metamorphosing stage of salamanders.
- ~~2021.~~ "Wildlife area" means an area established pursuant to R12-4-109.

**B.** No change.

- 1. No change
- 2. No change.
- 3. No change.
- 4. No change.
- 5. No change.

**C.** This rule is effective January 1, ~~2000~~ 1996.

**R12-4-102. Fees for Licenses, Tags, Stamps, and Permits**

**A.** No change.

**B.** No change.

- 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

**C.** No change.

- 1. No change.
- 2. No change.
- 3. No change.
- 4. No change.
  - a. No change.
  - b. No change.
  - c. No change.
  - d. Yearling or cow

<u>Resident</u>	<u>\$ 450.00</u>
<u>Nonresident</u>	<u>\$2,250.00</u>

- 5. No change.
- 6. No change.
- 7. No change.
- 8. No change.
- 9. No change.

**D.** No change.

- 1. No change.
- 2. No change
- 3. No change.
- 4. No change.
- 5. No change.
- 6. No change.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- 7. No change.
- 8. No change.
- E. No change.
  - 1. ~~Sport falconry~~ ~~Falconer~~ license      \$75.00
  - 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.
- F. No change.
  - 1. No change.
  - 2. No change.
  - 3. No change.
- G. This rule is effective January 1, ~~2000~~ 1997.

**R12-4-104.      Application Procedures for Issuance of Hunt Permit-tags by Drawing**

- A. For the purposes of this Section, “group” means all applications contained in a single envelope that is provided as part of the Hunt Permit-tag Application Form 624. No more than 4 individuals may apply as a group except that no more than 2 individuals may apply as a group for bighorn sheep. Nonresidents, see R12-4-114(D).
- B. ~~Each applicant, including each member of a group, applying Applications for a hunt permit-tag permit-tags shall apply using a be made on Form 624, Hunt Permit-tag Application Form, available at Department offices, the Department’s Internet web site, and license dealers, and received at times and locations established by the hunt permit-tag application schedule that which is published annually by the Department and available at Department offices, the Department’s Internet web site, and license dealers.~~
- C. Each applicant, including each member of a group, shall sign the Hunt Permit-tag Application application Form or provide permission to another person to sign for them, 624 and provide the following information: name, address, residency status, and date of birth. In addition:
  - 1. Each applicant, including each member of a group, shall include the applicant’s social security number, as required under A.R.S. §§ 25-320(K) and 25-502(E), and the applicant’s identification number, if different from the social security number on the Hunt Permit-tag Application Form.
  - 2. Each applicant, including each member of a group, licensed to take wildlife in this state shall include the number of the applicant’s class his or her Class F or G hunting license for the year in which the hunt will take place, the number of the applicant’s his or her complimentary pioneer license, or the number of the applicant’s disabled veteran’s license on the Hunt Permit-tag Application Form, or:
    - a. Each applicant, including each member of a group, Applicants not licensed for the year in which the hunt will take place shall complete the License Application portion of the Hunt Permit-tag Application Form, obtain a Form 390, License Application, from a Department office or license dealer and shall submit the completed Form 390, providing the applicant’s name, identification number, address, class of license for which application is made, residency status, length of Arizona residency (if applicable), date of birth, sex, weight, height, and color of hair and eyes, to the Department in the same envelope with the Form 624.
    - b. Each An unlicensed juvenile applying for a hunt other than big game and not required to have a license shall indicate “juvenile” in the space provided for the license number on the Hunt Permit-tag Application Form.
  - 3. Each applicant, including each member of a group, shall enclose, as part of the hunt permit-tag application, fees as set in R12-4-102 for the following:
    - a. The fee for the appropriate hunt permit-tag;
    - b. A permit application fee;
    - c. If a license is requested, fee for the license.
  - 4. Each payment enclosed as part of the with a hunt permit-tag application shall be made payable to the Arizona Game and Fish Department by certified check, cashier’s check, money order, or personal check or draft. Cash shall not be accepted.
  - 5. ~~Each applicant shall check the appropriate resident or nonresident box and sign his or her own application.~~

56. Each applicant, including each member of a group, shall apply for a specific hunt by the current hunt number. If all hunts selected by the applicant are filled at the time the application is processed in the Drawing received, the Department shall deem the application unsuccessful.
67. ~~Each An~~ applicant, including each member of a group, shall make all hunt choices within 1 application for the same genus.
78. Applications for different genera of wildlife shall not be included in the same envelope.
89. All members of a group shall apply for the same hunt numbers and in the same order of preference. The Department shall not issue a hunt permit-tag to any group member unless sufficient hunt permit-tags are available for all group members. If the Department rejects any member of a group for any reason, the Department shall reject all other members of the group.
940. ~~Each An~~ applicant, including each member of a group, shall submit only 1 valid application per genus of wildlife for any calendar year, except:
- When the bag limit is 1 per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit-tags in unfilled hunt areas, as specified in the hunt permit-tag application schedule published annually by the Department.
  - Turkey and buffalo hunters with a hunt permit-tag for the spring ~~turkey~~ season who are unsuccessful in the spring ~~turkey~~ season may apply for a hunt permit-tag for the fall ~~turkey~~ season.
  - When the bag limit is more than 1 per calendar year, any person may apply as specified in the hunt permit-tag application schedule published annually by the Department for remaining hunt permit-tags in unfilled hunt areas.
1041. It is unlawful for any person to apply for a bighorn sheep or buffalo hunt permit tag when that person has taken the bag limit for that species.
1142. To participate in the bonus point system, applicants shall comply with R12-4-107.
- D. Any Hunt Permit-tag Application Form application not prepared or submitted in accordance with this rule, or not prepared in a legible manner, is not valid and shall be rejected and all fees refunded. If the Department rejects any application from any member of a group, the Department shall reject all applications from the group.
- E. Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this rule is invalid.
- F. Hunt permit-tags shall be mailed to successful applicants. Overpayments and hunt permit-tag and license fees received with unsuccessful applications shall be returned to applicant "A", as shown on the Hunt Permit-tag Application Form 624. Permit application Applicant fees received with valid applications shall not be refunded.
- G. If the Director determines that Department error resulted in the rejection of an application for a hunt permit-tag, the Director may authorize additional hunt permit-tags in order to correct the error, provided the issuance of additional permits will have no significant impact on the wildlife population to be hunted. Any applicant who is denied a hunt permit-tag under this procedure may appeal to the Commission as provided A.R.S. Title 41, Chapter 6, Article 10 in R12-4-608.
- H. This rule is effective January 1, 2000 ~~1996~~.

**R12-4-109. Wildlife areas Repealed**

- ~~A. Wildlife areas shall be established to:~~
- ~~1. Provide protective measures for wildlife, habitat, or both; and~~
  - ~~2. Allow for special management or research practices; and~~
  - ~~3. Enhance wildlife and habitat conservation.~~
- ~~B. Wildlife areas shall be:~~
- ~~1. Lands owned or leased by the Commission and managed by the Department, or~~
  - ~~2. Federally owned lands of unique wildlife habitat where cooperative agreements provide wildlife management and research implementation.~~
- ~~C. Wildlife area designation shall not be given to any private lands, or lands in which private parcels are located, solely for the purpose of protecting private property. Wildlife area designation on private property, or where private property is involved, shall be considered by the Commission only when the Commission and the owners arrive at a mutual agreement that shall not confine or restrict the Department in fulfilling management or research objectives, nor close the area to hunting, trapping, or fishing.~~
- ~~D. Land qualified for wildlife areas shall be:~~
- ~~1. Lands with unique topographic or vegetative characteristics that contribute to wildlife,~~
  - ~~2. Lands where certain wildlife species are confined because of habitat demands,~~
  - ~~3. Lands that can be physically managed and modified to attract wildlife, or~~
  - ~~4. Lands that are identified as critical habitat for certain wildlife species during critical periods of their life cycles.~~
- ~~E. The Department may restrict public access to and public use of wildlife areas and the resources of wildlife areas for up to 90 days when necessary to protect property, ensure public safety, or to ensure maximum benefits to wildlife. Closures or restrictions exceeding 90 days shall require Commission approval.~~
- ~~F. Closures of all or any part of a wildlife area to public entry, and any restriction to public use of a wildlife area, shall be clearly posted at each entrance to the wildlife area. No person shall conduct an activity restricted by such posting.~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**G.** ~~When a wildlife area is posted against travel except on existing roads, no person shall drive a motor-operated vehicle over the countryside except by road.~~

**H.** ~~Wildlife areas are described as follows:~~

1. ~~Alamo Wildlife Area. The Alamo Wildlife Area shall be:~~

~~T10N, R12W, Section 6, Lots 4, 5, 12, 13, and 14.~~

~~T10N, R13W,~~

~~Section 1, Lots 1, 2, 3, and 4, S 1/2 N 1/2, SW 1/4, and N 1/2 SE 1/4;~~

~~Sections 2 and 3;~~

~~Section 4, E 1/2 SW 1/4, and SE 1/4;~~

~~Section 9, NE 1/4, and E 1/2 NW 1/4;~~

~~Section 10, N 1/2;~~

~~Section 11, N 1/2;~~

~~Section 12, NW 1/4.~~

~~T11N, R12W~~

~~Section 4, Lots 2, 3, and 4, SW 1/4 NE 1/4, S 1/2 NW 1/4, SW 1/4, and W 1/2 SE 1/4;~~

~~Section 5, Lot 1, SE 1/4 NE 1/4, and E 1/2 SE 1/4;~~

~~Section 7, Lots 3 and 4, SE 1/4 NE 1/4, E 1/2 SW 1/4, and SE 1/4;~~

~~Section 8, NE 1/4, S 1/2 NW 1/4, and S 1/2;~~

~~Section 9;~~

~~Section 10, S 1/2 NW 1/4, and S 1/2;~~

~~Section 11, S 1/2 S 1/2;~~

~~Section 12, S 1/2 S 1/2;~~

~~Section 13, N 1/2, and N 1/2 S 1/2;~~

~~Section 14, N 1/2, N 1/2 S 1/2, and SE 1/4 SE 1/4;~~

~~Section 15, N 1/2, SW 1/4, N 1/2 SE 1/4, and SW 1/4 SE 1/4;~~

~~Sections 16, 17, 18, and 19;~~

~~Section 20, N 1/2, and SW 1/4;~~

~~Section 21, W 1/2 NE 1/4, and NW 1/4;~~

~~Section 23, E 1/2 NE 1/4;~~

~~Section 29, NW 1/4, and S 1/2;~~

~~Sections 30 and 31;~~

~~Section 32, W 1/2, and W 1/2 E 1/2.~~

~~T11N, R13W~~

~~Section 12, SE 1/4 SW 1/4, SW 1/4 SE 1/4, and E 1/2 SE 1/4;~~

~~Section 13;~~

~~Section 14, S 1/2 NE 1/4, SE 1/4 SW 1/4, and SE 1/4;~~

~~Section 22, S 1/2;~~

~~Section 23, E 1/2, E 1/2 NW 1/4, SW 1/4 NW 1/4, and SW 1/4;~~

~~Sections 24, 25, and 26;~~

~~Section 27, E 1/2, and E 1/2 W 1/2;~~

~~Section 34, E 1/2, E 1/2 NW 1/4, and SW 1/4;~~

~~Section 35;~~

~~Section 36.~~

~~T12N, R12W~~

~~Section 17, W 1/2 SW 1/4;~~

~~Section 18, Lots 2, 3, and 4, SW 1/4 NE 1/4; SE 1/4 NW 1/4, E 1/2 SW 1/4, and SE 1/4;~~

~~Section 19, Lot 1, NE 1/4 NW 1/4, E 1/2, and SE 1/4 SW 1/4;~~

~~Section 20, NW 1/4 NW 1/4, and SW 1/4 SW 1/4;~~

~~Section 28, SW 1/4 SW 1/4;~~

~~Section 29, W 1/2 NW 1/4, and S 1/2;~~

~~Section 30, E 1/2, E 1/2 NW 1/4, and NE 1/4 SW 1/4;~~

~~Section 31, NE 1/4 NE 1/4;~~

~~Section 32, N 1/2, N 1/2 SE 1/4, and SE 1/4 SE 1/4;~~

~~Section 33, W 1/2 E 1/2, and W 1/2.~~

~~T12N, R13W~~

~~Section 12, S 1/2 SW 1/4;~~

~~Section 13, NE 1/4, N 1/2 NW 1/4, SE 1/4 NW 1/4, and N 1/2 SE 1/4, all in G&SRB&M, Mohave and La Paz Counties, Arizona.~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

2. ~~Allen-Severson Memorial Wildlife Area: The Allen-Severson Memorial Wildlife Area shall be that area including Pintail Lake and South Marsh lying within the fenced and posted portions of the SE 1/4 Section 32; and the S 1/2 SW 1/4 Section 33; T11N, R22E and the N 1/2 NW 1/4 Section 4, T10N, R22E and the posted portion of the SW 1/4 NW 1/4, and the NW 1/4 SW 1/4 Section 4, T10N, R22E, all in G&SRB&M, Navajo County, Arizona, consisting of approximately 300 acres.~~
3. ~~Aravaipa Canyon Wildlife Area: The Aravaipa Canyon Wildlife Area shall be that area within the boundaries of the Aravaipa Canyon Primitive Area administered by the Bureau of Land Management, Graham and Pinal Counties, Arizona, consisting of approximately 4,044 acres.~~
4. ~~Arlington Wildlife Area: The Arlington Wildlife Area shall be those portions of Section 9, 16 and 21 lying west on a line 100 feet west of the main channel of the Gila River (Ca. 1960), except the NW 1/4, Section 9 and the W 1/2 SW 1/4, Section 21, all in T2S, R5W, G&SRB&M, Maricopa, Arizona, consisting of approximately 1,320 acres.~~
5. ~~Base and Meridian Wildlife Area: The Base and Meridian Wildlife Area shall be the area within the following described legal subdivisions; Township 1 North, Range 1 East, Section 31, Lots 3, 5, 6, 7, & 8, NE 1/4 SW 1/4; T1N, R1W, Section 36, S 1/2 N 1/2 SE 1/4; all in G&SRB&M, Maricopa County, Arizona, consisting of approximately 773 acres.~~
6. ~~Becker Lake Wildlife Area: The Becker Lake Wildlife Area shall be that area including Becker Lake lying within the fenced and posted portions of the SE 1/4 SW 1/4 Section 19, SW 1/4 SW 1/4 Section 20, W 1/2 NW 1/4, and NW 1/4 SW 1/4 Section 29, the E 1/2 NE 1/4 and NE 1/4 SE 1/4 Section 30, T9N, R29E, G&SRB&M, Apache County, Arizona, consisting of approximately 325 acres.~~
7. ~~Bog Hole Wildlife Area: Bog Hole Wildlife Area lying in Sections 29, 32 and 33, T22S, R17E shall be the fenced and posted area described as follows: Beginning at the southeast corner of Section 32, Township 22 South, Range 17 East, G&SRB&M, Santa Cruz County, Arizona; thence N21°42'20"W, 1394.86 feet to the true point of beginning; thence N9°15'26"W, 1014.82 feet; thence N14°30'58"W, 1088.82 feet; thence N36°12'57"W, 20.93 feet; thence N50°16'38"W, 1341.30 feet; thence N57°51'08"W, 1320.68 feet; thence N39°03'53"E, 1044.90 feet; thence N39°07'43"E, 1232.32 feet; thence S36°38'48"E, 1322.93 feet; thence S43°03'17"E, 1312.11 feet; thence S38°19'38"E, 1315.69 feet; thence S13°11'59"W, 2083.31 feet; thence S69°42'45"E, 920.49 feet to the true point of beginning.~~
8. ~~Chevelon Creek Wildlife Area: The Chevelon Creek Wildlife Area shall be that area lying in the NE 1/4 Section 26, and E 1/2 of Section 23, all in T18N, R17E, G&SRB&M, Navajo County, Arizona, consisting of approximately 668 acres.~~
9. ~~Clarence May and C.M.H. May Memorial Wildlife Area: Clarence May and C.M.H. May Memorial Wildlife Area shall be the SE 1/4 of Section 8 and N 1/2 of the NE 1/4 of Section 17, Township 17 South, Range 31 East, and the W 1/2 SE 1/4, S 1/2 NW 1/4, SW 1/4 of Section 9, T17S, R31E, G&SRB&M, Cochise County, Arizona, consisting of approximately 560 acres.~~
10. ~~Cluff Ranch Wildlife Area: The Cluff Ranch Wildlife Area is that area within the fenced and posted portions of Sections 13, 14, 23, 24, and 26, T7S, R24E, G&SRB&M, Graham County, Arizona; consisting of approximately 788 acres.~~
11. ~~Lamar Haines Memorial Wildlife Area: The Lamar Haines Memorial Wildlife Area is that area lying within the NW 1/4 Section 12, T22N, R6E, G&SRB&M, Coconino County, Arizona; consisting of approximately 160 acres.~~
12. ~~House Rock Wildlife Area: House Rock Wildlife Area is described as follows: Beginning at the common one-quarter corner of Sections 17 and 20, T36N, R4E; thence east along the south section lines of Sections 17, 16, 15, 14, 13 T36N, R4E, and Section 18, T36N, R5E, to the intersection with the top of the southerly escarpment of Bedrock Canyon; thence meandering southeasterly along the top of said escarpment to the top of the northerly escarpment of Fence Canyon; thence meandering along the top of said north escarpment to its intersection with the top of the southerly escarpment of Fence Canyon; thence meandering northeasterly along the top of said southerly escarpment to its intersection with the top of the escarpment of the Colorado River; thence meandering southerly along top of said Colorado River escarpment to its intersection with Boundary Ridge in Section 29, T34N, R5E; thence meandering westerly along Boundary Ridge to its intersection with the top of the escarpment at the head of Saddle Canyon; thence northerly along the top of the westerly escarpment to its intersection with a line beginning approximately at the intersection of the Cockseomb and the east fork of South Canyon extending southeast to a point approximately midway between Buck Farm Canyon and Saddle Canyon; thence northwest to the bottom of the east fork of South Canyon in the SW 1/4 SW 1/4 of Section 16, T34N, R4E; thence meandering northerly along the west side of the Cockseomb to the bottom of North Canyon in the SE 1/4 of Section 12, T35N, R3E; thence meandering northeasterly along the bottom of North Canyon to a point where the slope of the land becomes nearly flat; thence northerly along the westerly edge of House Rock Valley to the point of beginning; all in G&SRB&M, Coconino County, Arizona.~~
13. ~~Jacques Marsh: Jacques Marsh Wildlife Area is that area within the fenced and posted portions of the SE 1/4 SW 1/4, NE 1/4 SW 1/4, NE 1/4 SW 1/4 SW 1/4, NW 1/4 SW 1/4, N 1/2 NW 1/4 SE 1/4, SE 1/4 SW 1/4 NE 1/4, S 1/2 SE 1/4 NW 1/4, SE 1/4 SE 1/4 NW 1/4, Section 11; and N 1/2 NE 1/4 NW 1/4 Section 14; T9N, R22E, G&SRB&M, Navajo County, Arizona.~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

14. ~~Luna Lake Wildlife Area: The Luna Lake Wildlife Area shall be the fenced, buoyed, and posted area lying north of U.S. Highway 180 in the N 1/2 Section 17, T5N, R31E, G&SRB&M, Apache County, Arizona.~~
15. ~~Mittry Lake Wildlife Area: The Mittry Lake Wildlife Area shall be that area lying within the following described legal subdivisions:~~
- ~~T6S, R21W  
Section 31: All of Lots 1, 2, 3, 4, E 1/2 W 1/2, and that portion of E 1/2 lying westerly of Gila Gravity Main Canal Right of Way.~~
- ~~T7S, R21W  
Section 5: that portion of SW 1/4 SW 1/4 lying westerly of Gila Gravity Main Canal Right of Way;  
Section 6: all of Lots 2, 3, 4, 5, 6, 7 and that portion of Lot 1, S 1/2 NE 1/4, SE 1/4 lying westerly of Gila Gravity Main Canal R/W;  
Section 7: all of Lots 1, 2, 3, 4, E 1/2 W 1/2, S 1/2 E 1/2, and that portion of E 1/2 E 1/2 lying westerly of Gila Gravity Main Canal R/W;  
Section 8: that portion of W 1/2 W 1/2 lying westerly of Gila Gravity Main Canal R/W;  
Section 18: all of Lots 1, 2, 3, E 1/2 NW 1/4, and that portion of Lot 4, NE 1/4, E 1/2 SW 1/4, NW 1/4 SE 1/4 lying westerly of Gila Gravity Main Canal R/W.~~
- ~~T6S, R22W  
Section 36: all of Lots 1, 2.~~
- ~~T7S, R22W  
Section 1: all of Lot 1;  
Section 12: all of Lots 1, 2, SE 1/4 SE 1/4;  
Section 13: all of Lots 1, 2, 3, 4, 5, 6, 7, 8, NE 1/4, N 1/2 SE 1/4, and that portion of S 1/2 SE 1/4 lying north-erly of Gila Gravity Main Canal R/W, all in G&SRB&M, Yuma County, Arizona.~~
16. ~~Painted Rock Wildlife Area: The Painted Rock Wildlife Area shall be that area within the following described legal subdivisions:~~
- ~~S 1/2, SW 1/4 Section 26; S 1/2 S 1/2 NW 1/4, NW 1/4 NW 1/4 Section 27; all of Sections 28 and 29; E 1/2, S 1/2 NW 1/4, E 1/2 SW 1/4, NW 1/4, SW 1/4 Section 30; S 1/2 SE 1/4, NE 1/4 SE 1/4, N 1/2 SW 1/4, SE 1/4 SW 1/4, SW 1/4 NW 1/4 Section 31; NE 1/4 NW 1/4 Section 35; all T4S R6W and NE 1/4, NE 1/4 SE 1/4, NE 1/4 NW 1/4 Section 33; all of Section 34; S 1/2, S 1/2 NE 1/4, S 1/2 NW 1/4 Section 35; all of Section 36; all T4S, R7W and N 1/2 N 1/2 Section 1, T5S, R7W, and N 1/2 N 1/2, SE 1/4 NE 1/4 Section 6, T5S, R6W; all in G&SRB&M, Maricopa County, Arizona.~~
17. ~~Powers Butte (Mumme Farm) Wildlife Area: The Powers Butte Wildlife Area (otherwise known as Mumme Farm) is that area described in the following parcels. Parcel No. 1: S 1/2 NE 1/4, SE 1/4, E 1/2 SW 1/4 Section 34; T1S, R5W. Parcel No. 2: Lots 1 and 2 of Section 3; T2S, R5W. Parcel No. 3: NW 1/4 NE 1/4, E 1/2 NW 1/4, NW 1/4 NW 1/4 Section 10; T2S, R5W. Parcel No. 4: SE 1/4 SW 1/4 Section 15; T2S, R5W. Parcel No. 5: E 1/2 NW 1/4, NW 1/4 NW 1/4 Section 22; T2S, R5W. Parcel No. 6: SE 1/4 SE 1/4 Section 27; NE 1/4 NE 1/4 Section 34; T1S, R5W. Parcel No. 7: S 1/2 NE 1/4, W 1/2 SE 1/4 Section 3; T2S, R5W. Parcel No. 8: Lot 3, SE 1/4 NW 1/4, E 1/2 SW 1/4 Section 3; T2S, R5W, all in G&SRB&M, Maricopa County, Arizona.~~
18. ~~Raymond Ranch Wildlife Area: Raymond Ranch Wildlife Area is described as follows: All of Sections 24, 25, 26, 34, 36, and the portions of Sections 27, 28, and 33 lying east of the following described line: Beginning at the west one-quarter corner of Section 33; thence northeasterly through the one-quarter corner common to Sections 28 and 33, one-quarter corner common to Sections 27 and 28 to the north one-quarter corner of Section 27 all in T19N, R11E. All of Sections 16, 17, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34 all in T19N, R12E, all in G&SRB&M, Coconino County, Arizona.~~
19. ~~Robbins Butte Wildlife Area: The Robbins Butte Wildlife Area shall be that area lying within the fenced portion of the S 1/2 SE 1/4 Section 21 and that portion of the SW 1/4 Section 21 lying 100 feet south of the main channel of the Gila River (Ca. 1960), the S 1/2 S 1/2, NE 1/4 SE 1/4 Section 22; the S 1/2, S 1/2 NE 1/4 Section 23; those portions of the SW 1/4, NW 1/4 W 1/2 SW 1/4 Section 24 and the NW 1/4 NW 1/4 Section 25 lying west of U.S. Hwy 85; the N 1/2 NE 1/4, SW 1/4 NE 1/4, NW 1/4 Section 26; the N 1/2 Section 27; the NE 1/4 Section 28, and that area in the NW 1/4 Section 28 lying north and east of a road extending in a northwest direction from the center of Section 28 to the west boundary of Section 28, all in T1S, R4W, G&SRB&M, Maricopa County, Arizona; consisting of approximately 1,681 acres.~~
20. ~~Roosevelt Lake Wildlife Area: The Roosevelt Lake Wildlife Area shall be that area lying within the following described boundary: Beginning at the junction of A Cross Road and AZ Hwy 188; south on AZ Hwy 188 to junction of AZ Hwy 88; east on AZ Hwy 88 to Carson's Landing; northeast across Roosevelt Lake to the south tip of Bass Point; directly north to the Long Gulch Road; northeast on this road to the A Cross Road; northwest on the A Cross Road to the point of beginning; all in Gila County, Arizona.~~
21. ~~Santa Rita Wildlife Area: The Santa Rita Wildlife Area is coincidental to the Santa Rita Experimental Range and includes the posted portion of the following sections: Sections 33 through 36, T17S, R14E, Section 25, Section 35~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- and Section 36, T18S, R13E, Sections 1 through 4, Sections 9 through 16, and Sections 21 through 36, T18S, R14E, Sections 3 through 9, Sections 16 through 21, Sections 26 through 34, T18S, R15E, Sections 1 through 6, Sections 9 through 16 Section 23, T19S, R14E, Sections 3 through 10, Sections 16 through 18, T19S, R15E; all in G&SRB&M, Pima County, Arizona, and all being coincidental with the Santa Rita Experimental Range Area.
22. Springerville Marsh Wildlife Area: The Springerville Marsh Wildlife Area shall be: S 1/2 SE 1/4 Section 27 and N 1/2 NE 1/4 Section 34, T9N, R29E, G&SRB&M, Apache County, Arizona.
23. Three Bar Wildlife Area: The Three Bar Wildlife Area shall be that area lying within the following described boundary: Beginning at Roosevelt Dam, northwesterly on AZ Hwy 188 to milepost 252 (Bumble Bee Wash); westerly along the boundary fence for approximately 7 1/2 miles to the boundary of Gila and Maricopa counties; southerly along this boundary through Four Peaks to a fence line south of Buckhorn Mountain; southerly along the barbed wire drift fence at Ash Creek to Apache Lake; northeasterly along Apache Lake to Roosevelt Dam.
24. Tucson Mountain Wildlife Area. The Tucson Mountain Wildlife Area shall be that area lying within the following described boundary: Beginning at the northwest corner of Section 33; T13S, R11E on the Saguaro National Monument boundary; due south approximately one mile to the El Paso Natural Gas Pipeline; southeast along this pipeline to Sandario Road; south on Sandario Road approximately two miles to the southwest corner of Section 15; T14S, R11E, east along the section line to the El Paso Natural Gas Pipeline; southeast along this pipeline to its junction with State Road 86, also known as the Ajo Highway; easterly along this highway to the Tucson city limits; north along the city limits to Silverbell Road; northwest along this road to Twin Peaks Road; west along this road to Sandario Road; south along this road to the Saguaro National Monument boundary; west and south along the monument boundary to the point of beginning, all in G&SRB&M, Pima County, Arizona.
25. Willecox Playa Wildlife Area: The Willecox Playa Wildlife Area shall be that area within the posted Arizona Game and Fish Department fences enclosing the following described area: Beginning at the section corner common to Sections 2, 3, 10 and 11, T15S, R25E, G&SRB&M, Cochise County, Arizona; thence S0°15'57"W, 2645.53 feet to the east one quarter corner of Section 10; thence S89°47'15"W, 2578.59 feet to the center one quarter corner of Section 10; thence N1°45'24"E, 2647.85 feet to the center one quarter corner of Section 3; thence N1°02'42"W, 2647.58 feet to the center one quarter corner of said Section 3; thence N89°41'37"E to the common one quarter corner of Section 2 and 3; thence S0°00'03"W, 1323.68 feet to the south one sixteenth corner of said Sections 2 and 3; thence S44°46'30"E, 1867.80 feet to a point on the common section line of Section 2 and Section 11; thence S44°41'13"E, 1862.94 feet to a point; thence S44°42'35"E, 1863.13 feet to a point; thence N0°13'23"E, 1322.06 feet to a point; thence S89°54'40"E, 1276.24 feet to a point on the west right-of-way fence line of Kansas Settlement Road; thence S0°12'32"W, 2643.71 feet along said fence line to a point; thence N89°55'43"W, 2591.30 feet to a point; thence N0°14'14"E, 661.13 feet to a point; thence N89°55'27"W, 658.20 feet to a point; thence N0°14'39"E, 1322.36 feet to a point; thence N44°41'19"W, 931.44 feet to a point; thence N44°40'31"W, 1862.85 feet to the point of beginning. Said wildlife area contains 543.10 acres approximately.

**ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS**

**R12-4-202. Disabled Veteran's License ~~veteran's license~~**

- A. A disabled veteran's license shall grant all of the hunting and fishing ~~fish~~ privileges of a Class F combination hunting and fishing license and an urban fishing license.
- B. Persons meeting the criteria set in A.R.S. §17-336(2) may apply for a disabled veteran's license as follows. Eligibility for the license is based on 100% disability and not on the percentage of compensation.
1. ~~The application shall be accompanied by current certification from the Veteran's Administration that disabilities are rated as 100% disabling. In addition, the certification shall attest that the disabilities are permanent, are service connected, and that compensation is being received.~~
12. An applicant for a disabled veteran's license shall apply on an application form available from any Department office. The applicant shall provide the following on the application form available from any Department office:
- a. Full name and date of birth, and physical description;
  - b. Current residence address, or physical location of residence;
  - c. Current mailing address;
  - d. If applicant has resided at the current location for less than 1 year, the residence address or physical location of each residence within the year immediately preceding application;
  - e. Applicant's signature, ~~signature shall be~~ either witnessed by a Department employee or notarized.
2. The applicant shall submit, as part of the application, an original certification, issued within 90 days of application, from the Department of Veterans Affairs. The Department shall issue the license only if the Department of Veterans Affairs certification includes the following information:
- a. Full name and date of birth of the applicant;
  - b. Certification that the applicant is receiving compensation for permanent service-connected disabilities rated as 100% disabling;

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- c. Certification that the 100% rating is permanent and will not require reevaluation, or that the 100% rating is permanent but will be reevaluated in 3 years;
    - d. Signature and title of an agent of the Department of Veterans Affairs issuing or approving the certification.
  - C. The Department shall deny a disabled veteran's license if the applicant fails to comply with the requirements of this Section or if the applicant provides false information upon or with the application for a disabled veteran's license. Failure to comply with subsection (B) of this rule, or providing false information upon or with the application for a disabled veteran's license, shall result in denial of the license.
  - ~~D.~~ ~~The Department shall issue the license or deny the application within 30 calendar days of receipt of the application prescribed in subsection (B).~~
  - ~~DE.~~ ~~The Department shall issue a duplicate disabled veteran's license without charge upon written request from the licensee stating that the original license has been lost or destroyed, when Department records prove that the original disabled veteran's license was issued to the licensee.~~
  - ~~EF.~~ ~~A disabled veteran's license is valid for 3 years from the date of issuance. If the Department of Veterans Affairs certifies that the applicant's disability rate of 100% is permanent and will not be reevaluated, a new certification is not required for renewal.~~

**~~R12-4-208.~~ Guide License**

- ~~A.~~ ~~A hunting guide license authorizes the licensee to act as a guide for taking wildlife, other than aquatic wildlife. A fishing guide license authorizes the licensee to act as a guide for taking aquatic wildlife only. A hunting and fishing guide license authorizes the licensee to act as a guide for taking all wildlife. No person shall act as a guide as defined in A.R.S. § 17-101 unless at the time he or she has a valid license therefor on his or her person and exhibits it upon request to any peace officer. A copy of the valid guide license shall be acceptable for this purpose.~~
- ~~B.~~ ~~In addition to the requirements at A.R.S. § 17-362, the following criteria are requisite to approval of application for a guide license:~~
  - ~~1.~~ ~~A guide license shall not be issued for five years from the date of conviction to any person who has been convicted of a felony violation of any of the federal laws cited hereafter, not including any later amendments of these laws, all of which are incorporated by reference herein; a copy of each is on file with the Secretary of State and is available for inspection at any Department office:~~
    - ~~a.~~ ~~Lacey Act, amended November 14, 1988, 16 U.S.C. 3371-3378.~~
    - ~~b.~~ ~~Endangered Species Act, amended October 7, 1988, 16 U.S.C. 1531-1543.~~
    - ~~c.~~ ~~Bald Eagle Protection Act, amended November 8, 1988, 16 U.S.C. 668-668e.~~
    - ~~d.~~ ~~Airborne Hunting Act, amended October 18, 1972, 16 U.S.C. 742j-1.~~
    - ~~e.~~ ~~Migratory Bird Treaty Act, amended November 8, 1978, 16 U.S.C. 703-711.~~
  - ~~2.~~ ~~A guide license shall not be issued for five years from the date of conviction to any person convicted of violating the provisions of A.R.S. § 17-309(D).~~
  - ~~3.~~ ~~The applicant's privilege to take wildlife shall not be under current suspension or revocation by the government of any state or of the United States.~~
  - ~~4.~~ ~~An applicant for a hunting guide license shall have a current Arizona hunting license. An applicant for a current fishing guide license shall have a current Arizona fishing license. An applicant for a hunting and fishing guide license shall have a current Arizona hunting and fishing license.~~
  - ~~5.~~ ~~An applicant for a hunting guide license shall answer correctly at least 80% of the questions in a written examination supervised and administered by the Department, related to:~~
    - ~~a.~~ ~~A.R.S. Title 17, Arizona Game and Fish Laws, and the rules on taking and handling of terrestrial wildlife promulgated thereunder.~~
    - ~~b.~~ ~~Requirements for guiding on federal lands.~~
    - ~~c.~~ ~~Identification of wildlife, special state and federal laws which may be relevant to certain species, and general knowledge of species habitat and wildlife which may occur in the same habitat.~~
    - ~~d.~~ ~~General knowledge of the types of habitat within the state, and knowledge of special jurisdictions.~~
  - ~~6.~~ ~~An applicant for a fishing guide license shall answer correctly at least 80% of the questions in a written examination supervised and administered by the Department, related to:~~
    - ~~a.~~ ~~A.R.S. Title 17, Arizona Game and Fish Laws, and the rules on taking and handling of aquatic wildlife promulgated thereunder.~~
    - ~~b.~~ ~~A.R.S. Title 5, Chapter 3, Arizona Boating and Watersport Laws, and the rules on boating promulgated thereunder.~~
    - ~~c.~~ ~~Identification of aquatic wildlife species.~~
    - ~~d.~~ ~~General knowledge of special or concurrent jurisdictions upon bodies of water within the state.~~
  - ~~7.~~ ~~An applicant for a hunting and fishing guide license shall comply with both subsections (B)(5) and (B)(6).~~
  - ~~8.~~ ~~Any licensed guide who has once met the preceding examination requirements shall not be required to take the written examination when applying for renewal of a guide license issued pursuant to this rule except:~~

*Arizona Administrative Register*

**Notices of Final Rulemaking**

- a. ~~If, within the past year, the applicant for authorization as a hunting guide has been convicted of a violation of A.R.S. Title 17, Arizona Game and Fish Laws, or the rules promulgated thereunder, related to taking and handling of terrestrial wildlife;~~
  - b. ~~If, within the past year, the applicant for authorization as a fishing guide has been convicted of a violation of A.R.S. Title 17, or the rules promulgated thereunder, related to taking and handling of aquatic wildlife; or of A.R.S. Title 5, Chapter 3, Arizona Boating Laws, and the rules promulgated thereunder;~~
  - e. ~~Application to add any guiding category to that currently authorized on a guide license shall require that the applicant answer correctly at least 80% of the questions in the examination relevant to the addition;~~
  - d. ~~The examination shall be required when application for renewal of a guide license is made after the expiration date of the license or when an annual report is not submitted as required by A.R.S. § 17-362.~~
- C.** ~~The examination required in subsection (B) shall be administered quarterly by the Department at a Department office. The exact dates for testing shall be available from the Department by the first working day of each year. The written examination score shall be mailed to the applicant within seven working days of the examination date.~~
- D.** ~~Application shall be made on a form provided by the Department. The application shall be accompanied by the written examination score, dated within the past 12 months, when an examination or required by subsection (B) of this rule. The Department shall issue the license or deny the application within 30 calendar days of receiving a completed application, except for those applications made pursuant to subsection (F). The following shall be provided by the applicant on the form:~~
- 1. ~~Full name, date of birth, identification number, and physical description.~~
  - 2. ~~Whether resident or nonresident.~~
  - 3. ~~Current mailing address.~~
  - 4. ~~Arizona hunting or fishing license number or numbers.~~
  - 5. ~~Designation of guiding authority sought:~~
    - a. ~~Hunting guide.~~
    - b. ~~Fishing guide.~~
    - e. ~~Hunting and fishing guide.~~
  - 6. ~~Responses to questions directly related to the criteria set in subsection (B) of this rule.~~
  - 7. ~~Applicant's signature.~~
- E.** ~~Applicants not previously licensed as a guide by the Department shall also provide one of the following with the application. Original or certified copies shall be returned to the applicant after the Department has verified receipt on the application form.~~
- 1. ~~Passport; or~~
  - 2. ~~Original or certified copy of birth certificate; or~~
  - 3. ~~Original or photocopy of valid driver's license; or~~
  - 4. ~~Original or photocopy of valid Motor Vehicle Division identification card.~~
- F.** ~~The Department shall accept applications for renewals of a guide license issued pursuant to this rule after December 1 of the year preceding the new license year. The current guide license will remain valid while application for renewal is pending with the Department, provided application is made prior to the expiration date and provided the annual report required by A.R.S. § 17-362 is received by January 10 of the new license year. If renewal application is not made prior to the expiration date or a report is received after January 10, the applicant shall be required to pass the examination prescribed in subsection (B). When the requirements of this subsection are met, renewals will be issued or denied by the Department by January 31 of the new license year.~~
- G.** ~~Failure to comply with subsections (B), (D) or (E) of this rule, or providing false information upon or with application for a guide license, shall result in denial of that license, and any guide license so obtained is void and of no effect from the date of issuance thereof.~~
- H.** ~~A licensed guide shall not pursue or hold at bay any wildlife for any client who was not present during any part of the pursuit on the same day. A person may hold wildlife at bay only during daylight hours except when Commission order authorizes take of the species at night.~~
- I.** ~~A guide license may be revoked by the Commission pursuant to A.R.S. § 17-362(A) for any conviction of violation of Title 17 wildlife laws or the rules promulgated thereunder while acting as a guide; or when any license held by the guide is revoked or suspended pursuant to A.R.S. § 17-340; or for conviction of a felony violation of the laws listed in subsection (B) of this rule or for revocation of the privilege to take wildlife by any government jurisdiction.~~
- J.** ~~This rule is effective January 1, 1995.~~

**R12-4-208. Guide License**

- A.** A person shall not act as a guide as defined in A.R.S. § 17-101 without a valid guide license. The Department shall issue the following guide licenses to eligible applicants:
- 1. A hunting guide license, authorizing the licensee to act as a guide for taking wildlife, other than aquatic wildlife.
  - 2. A fishing guide license, authorizing the licensee to act as a guide for taking aquatic wildlife only.
  - 3. A hunting and fishing guide license, authorizing the licensee to act as a guide for taking all wildlife.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- B.** The Department shall not issue a guide license to an applicant if any of the following apply:
1. The applicant has been convicted, within 5 years preceding application, of a felony violation of any of the following federal laws:
    - a. Lacey Act, 16 U.S.C. 3371-3378.
    - b. Endangered Species Act, 16 U.S.C. 1531-1543.
    - c. Bald Eagle Protection Act, 16 U.S.C. 668-668c.
    - d. Airborne Hunting Act, 16 U.S.C. 742j-1.
    - e. Migratory Bird Treaty Act, 16 U.S.C. 703-711.
  2. The applicant has been convicted, within 5 years preceding application, of a violation of the provisions of A.R.S. § 17-309(D).
  3. The applicant's privilege to take or possess wildlife is under current suspension or revocation by the government of any state or of the United States.
- C.** The Department shall issue a guide license to an applicant who satisfies the requirements of A.R.S. § 17-362 and meets the following criteria:
1. An applicant for a hunting guide license shall:
    - a. Have a current Arizona hunting license.
    - b. Answer correctly at least 80% of the questions in a written examination, supervised and administered by the Department, which covers:
      - i. A.R.S. Title 17, Arizona Game and Fish Laws, and the rules on taking and handling of terrestrial wild life;
      - ii. Requirements for guiding on federal lands;
      - iii. Identification of wildlife, special state and federal laws that cover certain species, and general knowledge of species habitat and wildlife that may occur in the same habitat;
      - iv. General knowledge of the types of habitat within the state, and knowledge of special jurisdictions.
  2. An applicant for a fishing guide license shall:
    - a. Have a current Arizona fishing license.
    - b. Answer correctly at least 80% of the questions in a written examination, supervised and administered by the Department, which covers:
      - i. A.R.S. Title 17, Arizona Game and Fish Laws, and the rules on taking and handling of aquatic wildlife;
      - ii. A.R.S. Title 5, Chapter 3, Arizona Boating and Watersport Laws, and the rules on boating;
      - iii. Identification of aquatic wildlife species.
      - iv. General knowledge of special or concurrent jurisdictions upon bodies of water within the state.
  3. An applicant for a hunting and fishing guide license shall:
    - a. Have a current Arizona hunting and fishing license;
    - b. Answer correctly at least 80% of the questions in the written examination required in subsection (C)(1) and the written examination required in subsection (C)(2).
  4. An applicant shall apply for a guide license according to subsections (E) and (F).
- D.** The Department shall give the examinations required in subsection (C) quarterly at a Department Office. The Department shall provide exact dates for examinations by the 1st working day of each year. The written examination score shall be mailed to the applicant within 7 working days of the examination date.
- E.** An applicant for a guide license shall obtain from and submit to the Department an application form providing the following information:
1. Applicant's full name, address, telephone number, residency status, date of birth, identification number, and physical description.
  2. Designation of guide license sought:
    - a. Hunting guide.
    - b. Fishing guide.
    - c. Hunting and fishing guide.
  3. Applicant's current Arizona hunting and fishing license numbers, as applicable.
  4. Responses to questions regarding applicant's eligibility for licensure under subsection (B).
  5. Applicant's signature.
- F.** An applicant for a guide license shall also submit the following with the application form:
1. Applicant's original written examination score, dated within the past 12 months, for each examination required in subsection (C).
  2. One of the following as proof of the applicant's identification. The Department shall return an original or certified copy to the applicant after the Department has verified receipt on the application form:
    - a. Passport;
    - b. Original or certified copy of birth certificate;
    - c. Original or photocopy of valid driver's license; or
    - d. Original or photocopy of valid Motor Vehicle Division identification card.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- G.** The Department shall deny a guide license if the applicant fails to comply with the requirements of this Section or if the applicant provides false information upon or with the application for a guide license. Any guide license so obtained is void and of no effect from the date of issuance.
- H.** A person acting as a guide, who may or may not be hunting with the aid of dogs, shall not pursue any wildlife or hold at bay any wildlife for a hunter unless the hunter is present. The hunter shall be continuously present during the entire pursuit of that specific animal. When dogs are being used, the hunter shall be present when the dogs are released on a specific target animal and shall be continuously present for the remainder of the pursuit. Any wildlife taken in violation of this subsection is unlawfully taken. A person shall hold wildlife at bay only during daylight hours except when Commission order authorizes take of the species at night.
- I.** A licensed guide, when acting as a guide, shall carry an original or legible copy of the valid guide license and shall exhibit it upon request to any peace officer.
- J.** A guide license expires on December 31 of the year of issuance and may be renewed for the new license year:
1. The Department shall accept an application for renewal of a guide license after December 1 of the year preceding the new license year but shall not start the application administrative review process, required by A.R.S. § 41-1072 et seq., prior to January 10 of the new license year unless the applicant's annual report required by A.R.S. § 17-362 is received by the Department.
  2. The current guide license shall remain valid pending Department action on the application for renewal, only if the application is made prior to the guide license expiration date and the annual report required by A.R.S. § 17-362 is received by January 10 of the new license year.
- K.** The Department shall renew a guide license only if the applicant continues to satisfy the requirements of A.R.S. § 17-362 and meets the following criteria:
1. The applicant is not ineligible under subsection (B).
  2. The applicant has a current Arizona hunting or fishing license as required for the guide license sought.
  3. The applicant applies for a guide license as required in subsection (E).
  4. The applicant has submitted the annual report for the preceding license year required by A.R.S. § 17-362.
  5. The applicant takes or re-takes and passes each applicable written examination required in subsection (C), only if required to do so because:
    - a. The applicant is seeking to add a guiding authority to a current guide license.
    - b. The applicant for hunting guide authority has been convicted, within 1 year preceding application, of a violation of A.R.S. Title 17, Arizona Game and Fish Laws, or the rules governing the taking and handling of terrestrial wildlife.
    - c. The applicant for fishing guide authority has been convicted, within 1 year preceding application, of a violation of A.R.S. Title 17, Arizona Game and Fish Laws, the rules governing the taking and handling of aquatic wildlife, A.R.S. Title 5, Chapter 3, Arizona Boating Laws, or the rules governing boating and water sports.
    - d. The applicant failed to submit the renewal application prior to the expiration date of the guide license.
    - e. The applicant failed to submit by January 10 of the new license year the annual report for the preceding license year required by A.R.S. § 17-362.
- L.** The Commission may revoke a guide license issued to any person for conviction regarding a violation of statute or rule as provided in A.R.S. § 17-362(A), for revocation or suspension of any license held by the guide as provided in A.R.S. § 17-340, for conviction of a felony violation of the laws listed in subsection (B), or for revocation of the privilege to take wildlife by any government jurisdiction.
- M.** This rule is effective January 1, 2000.

**R12-4-216. Crossbow Permit**

- A.** "Crossbow permit" means a document issued by the Department that authorizes the named hunter to use a crossbow during an archery-only season established ~~under~~ pursuant to R12-4-318.
- B.** A crossbow permit is valid only when the legal animal for the archery-only season may otherwise be taken by crossbow ~~under~~ pursuant to R12-4-304. Possession of a crossbow permit does not waive any other requirement regarding method of take or licensing.
- C.** An applicant for a crossbow permit shall apply on an application form available from any Department office. The applicant shall provide the following on the application form: Applicants for a crossbow permit shall obtain from and submit to the Department a form that sets forth the following information:
1. Applicant's name, identification number, mailing address, and telephone number.
  2. A statement from a M.D., doctor of medicine, licensed under A.R.S. § 32-1421 et seq., or a D.O., doctor of osteopathic medicine, licensed under A.R.S. § 32-1821 et seq., physician licensed pursuant to A.R.S. §§ 32-1421 et seq. or 32-1821 et seq., attesting that the applicant has a permanent disability of at least 90% impairment of function of 1 arm and providing the physician's typed or printed name, business address, and signature.
- D.** All information and documentation provided by an applicant for a crossbow permit is subject to verification by the Department.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- ~~E.~~ The Department shall issue the crossbow permit or deny the application within 30 calendar days of receipt of the complete application.
- ~~EF.~~ The Department shall return, without denial or approval, an incomplete application for a crossbow permit unless the Department is able to obtain the information needed to complete the application. The Department shall attach a letter to a returned application that explains why the application is returned.
- ~~FG.~~ When an applicant is able to provide verbally the information that caused an application for a crossbow permit to be incomplete, the Department shall add the information to the application, note where each change is made, date each change, and indicate the source of the added information.
- ~~GH.~~ In accordance with R12-4-608, the The Department shall provide written notice to an applicant whose application for a crossbow permit is denied. The denied and the applicant may appeal the denial to the Commission as prescribed in A.R.S. §§ 41-1092.02 through 41-1092.12.
- ~~HI.~~ A crossbow permit is valid as long as the criteria for obtaining the permit are met, unless the Commission revokes the permit.
- ~~IJ.~~ When acting under the authority of a crossbow permit, the crossbow permittee shall be in possession of and exhibit the crossbow permit upon request of a peace officer.
- ~~JK.~~ A crossbow permittee shall not transfer the permit to another individual or allow another individual to use the permit issued to the crossbow permittee.
- ~~KL.~~ After a hearing and upon sufficient cause showing, the Commission shall revoke the crossbow permit of a crossbow permittee who transfers the permit to another individual or allows another individual to use the permit. An individual whose crossbow permit is revoked by the Commission may petition the Commission for rehearing in accordance with R12-4-607.
- ~~LM.~~ This rule is effective January 1, 2000. ~~1996.~~

**R12-4-217. Challenged Hunter Access/Mobility Permit**

- A. The Department shall issue to qualified individuals a Challenged Hunter Access/Mobility Permit, also known as a CHAMP, that allows the following activities by the licensed hunter to whom the CHAMP is issued:
1. Discharge of a firearm or other legal hunting device from a motor vehicle when, under existing conditions, the discharge is otherwise lawful and the motor vehicle is motionless, is not on any road as defined by A.R.S. § 17-101, and has its engine turned off;
  2. Discharge of a firearm or other legal hunting device from a watercraft (except a sinkbox), including those propelled by a motor, sail and wind, or both; when the motor has been shut off, the sail furled, or both; and progress has ceased. The watercraft may be drifting as a result of current or wind action, beached, moored, resting at anchor, or propelled by paddle, oars, or pole. A watercraft under power may be used to retrieve dead or wounded wildlife but no discharge of a firearm is permitted while the watercraft is underway;
  3. Access to off-road locations in a motor vehicle when the access is not in conflict with other law and the motor vehicle is used as a place to wait for game. A motor vehicle shall not be used to chase or pursue game;
  4. Designation of an assistant to track and dispatch a wounded animal, and to retrieve the animal, in accordance with the requirements of this rule.
- B. A qualified individual who possesses a CHAMP shall comply with all legal requirements governing method of take and licensing.
- C. An applicant for a CHAMP shall apply on an application form available from any Department office. The applicant shall provide the following on the application form: Applicants for a CHAMP shall obtain from and submit to the Department a form that provides the following information:
1. Applicant's name, identification number, mailing address, and telephone number.
  2. A statement from an M.D., doctor of medicine, licensed under A.R.S. § 32-1421 et seq., or a D.O., doctor of osteopathic medicine, licensed under A.R.S. § 32-1821 et seq., physician licensed pursuant to A.R.S. §§ 32-1421 et seq. of 32-1821 et seq., that which includes the physician's printed or typed name, business address, and signature, attesting that the applicant is permanently disabled as follows:
    - a. Has a disability or combination of disabilities creating a minimum impairment of function of or equivalent to no less than 90% loss of function in 1 leg or no more than 10% maximal functional use in 1 leg of no less than 90% or a maximal functional use of 1 leg of no more than 10% regardless of the functional level of the other leg; or
    - b. Has a visual field of no more than 20% in the better eye; or
    - c. Has vision in the better eye of 20/200 or less after best correction.
- D. All information and documentation provided by the applicant for the CHAMP is subject to verification by the Department.
- ~~E.~~ The Department shall issue the CHAMP or deny the application within 30 calendar days of receipt of the completed application.
- ~~E.F.~~ The Department shall return, without denial or approval, an incomplete application for a CHAMP unless the Department is able to obtain the information needed to complete the application. The Department shall attach a letter to a returned application that explains why the application is returned.

- E.G.** When an applicant is able to provide verbally the information that caused an application for a CHAMP to be incomplete, the Department shall add the information to the application, note where each change is made, date each change, and indicate the source of the added information.
- G.H.** ~~In accordance with R12-4-608, the~~ The Department shall provide written notice to an applicant whose application for a CHAMP is denied. ~~The denied and the~~ applicant may appeal the denial to the Commission as prescribed in A.R.S. §§ 41-1092.02 through 41-1092.12.
- H.I.** While a motor vehicle or watercraft is in use under R12-4-217(A), ~~pursuant to subsection (A)~~, the CHAMP permittee shall display on the motor vehicle or watercraft the CHAMP vehicle placard issued by the Department with the CHAMP.
- I.J.** The Department shall provide CHAMP permittees with a dispatch permit that the CHAMP permittee may use to designate a licensed hunter as an assistant to dispatch and retrieve or to retrieve an animal wounded or killed by the CHAMP permittee. The CHAMP permittee shall designate the assistant only after the animal is wounded or killed. The CHAMP permittee shall ensure that designation on the permit is in ink and includes a description of the animal, the assistant's name and hunting license number, and the date and time the animal was wounded or killed. The CHAMP permittee shall also ensure compliance with the following requirements:
1. The site where the animal is wounded and from which tracking begins is marked so it can be identified later.
  2. The assistant possesses the dispatch permit while tracking and dispatching the wounded animal.
  3. The CHAMP permittee is in the field while the assistant is tracking and dispatching the wounded animal.
  4. The assistant does not transfer the dispatch permit to anyone except the CHAMP permittee.
  5. Dispatch is made by a method that is lawful for the take of the particular animal in the particular season.
  6. The assistant attaches the dispatch permit to the carcass of the animal and returns the carcass to the CHAMP permittee, and the tag of the CHAMP permittee is affixed to the carcass.
  7. If the assistant is unsuccessful in locating and dispatching the wounded animal, the assistant returns the dispatch permit to the CHAMP permittee who strikes the name and authorization of the assistant from the dispatch permit.
- J.K.** A dispatch permit is void when all spaces for designation of an assistant are filled or the dispatch permit is attached to a carcass.
- K.L.** A CHAMP is valid as long as the criteria for obtaining the permit are met, unless the Commission revokes the permit.
- L.M.** When acting under the authority of the CHAMP, the permittee shall be in possession of and exhibit the CHAMP upon request to a peace officer.
- M.N.** A CHAMP permittee shall not transfer the permit to another individual or allow another individual to use the permit issued to the CHAMP permittee.
- N.O.** After a hearing and upon sufficient cause showing, the Commission shall revoke the CHAMP of a permittee who transfers the permit to another individual or allows another individual to use the permit, or upon conviction of violating A.R.S. § 17-312 or any law governing the take of wildlife, or for violation of this rule. An individual whose CHAMP permit is revoked by the Commission may petition the Commission for rehearing in accordance with R12-4-607.
- O.P.** This rule is effective January 1, 2000. ~~1996~~.

### ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

#### **R12-4-318. Seasons**

- A.** No change
- B.** No change
- C.** No change
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. An individual may participate in a "juniors-only hunt" up to and throughout the calendar year of the individual's 17th ~~15th~~ birthday, provided the individual meets the requirements of A.R.S. § 17-335.
  13. No change
- D.** This rule is effective January 1, 2000 ~~1998~~.

#### **R12-4-319. Use of Aircraft to Take Wildlife**

- A.** For the purposes of this Section, the following definitions apply:
1. "Aircraft" means any contrivance used for flight in the air or any lighter-than-air contrivance.

2. "Harass" means to disturb, molest, chase, rally, concentrate, harry, drive, herd, or torment.
  3. "Locate" means any act or activity directed at locating or finding wildlife in a hunt area that does not take or harass wildlife.
- B.** A person shall not take or assist in taking wildlife from or with the aid of aircraft.
- C.** A person shall not harass wildlife or assist in harassing wildlife from or with the aid of an aircraft.
- D.** A person shall not locate or assist in locating wildlife from or with the aid of an aircraft beginning 48 hours before and during all open big game seasons, except Commission-ordered special seasons and seasons for mountain lion.
- E.** A person possessing a special big game license tag for a special season or a person assisting such licensee shall not use an aircraft to locate wildlife beginning 48 hours before and during a Commission-ordered special season.
- F.** This Section does not apply to any person acting within the scope of official duties as an employee or authorized agent of the state or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

#### ARTICLE 4. LIVE WILDLIFE

##### **R12-4-412. Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License**

- A.** Procedures for tuberculosis control and eradication for Cervidae listed as restricted live wildlife in R12-4-406 shall be as prescribed in the USDA publication "*Tuberculosis Eradication in Cervidae -- Uniform Methods and Rules*," U.S.D.A., A.P.H.I.S. 91-45-005, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of incorporated matter, and is on file with the Secretary of State. In addition, a copy may be ordered from the U.S.D.A. A.P.H.I.S. Veterinary Services, Cattle Diseases and Surveillance Staff, P.O. Box 96464, Washington, D.C. 20090-6464.
- B.** Procedures for the prevention, control, and eradication of Brucellosis in Cervidae listed as restricted live wildlife in R12-4-406 shall be as prescribed in the United States Department of Agriculture publication "*Brucellosis in Cervidae: Uniform Methods and Rules*," U.S.D.A., A.P.H.I.S. 91-45-12, effective September 30, 1998, revised effective May 14, 1999. This material is incorporated by reference, does not include any later amendments or editions of incorporated matter, and is on file with the Secretary of State. In addition, a copy may be ordered from the U.S.D.A., A.P.H.I.S. Veterinary Services, Cattle Diseases and Surveillance Staff, P. O. Box 96464, Washington, D.C. 20090-6464.

##### **R12-4-417. Wildlife holding permit**

- A.** A wildlife holding permit allows the possession and transport of the live wildlife specified on the permit. It may also allow the import, educational display, purchase, propagation and disposal of the specified live wildlife, dependent upon Department evaluation of and stipulations made pursuant to the proposal submitted in compliance with subsection (B).
- B.** The following criteria are requisite to approval:
1. The applicant's privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.
  2. Issuance of a wildlife holding permit shall be for a purpose which is in the best interest of the wildlife or species to be held, wildlife management, education, the advancement of science, or promotion of the public health or welfare, when such purpose may be served without posing a threat to wildlife or public safety and shall not adversely impact upon any other affected wildlife in Arizona. Determination of purpose shall be based upon a written proposal which shall be submitted with the application form required at subsection (C). The written proposal shall stipulate, demonstrate, or include all of the following:
    - a. If wildlife is in possession, evidence of lawful possession as defined in R12-4-401; if wildlife is not in possession, proof of application for evidence of lawful possession;
    - b. The street address or legal description of the location where wildlife is to be held, and a detailed diagram of the facilities where the wildlife is to be held along with a detailed description of the procedures to be employed by the applicant in meeting the requirements of R12-4-428;
    - c. Dates that the holding of wildlife is proposed to begin and end;
    - d. A detailed description of the scientific or educational activity proposed;
    - e. A statement of the planned disposition and method of disposition of the wildlife at the conclusion of the proposed activities;
    - f. A statement of the applicant's experience in handling and providing care for the wildlife proposed for possession or of other experience that may be relevant to handling or providing care for wildlife.
  3. Wildlife holding permits may also be issued for specific animals when humane treatment by a person is necessary to safeguard and protect the interests of that animal, including animals which are unable to meet their own needs in the wild, have been abandoned, are permanently disabled, or are no longer useful for any previously existing captive or licensed purpose. Application for possession of animals for this purpose shall be accompanied by a written statement specifying what the animal is, where it is currently possessed, who is currently in possession, and why the animal meets the requirements of this Section. The statement shall also include the street address or legal description of the location where wildlife is to be held, and a detailed diagram of the facilities where the animal is to be held, along with a detailed description of the procedures to be employed by the applicant in meeting the requirements of R12-4-428.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- ~~C.~~ Applications for wildlife holding permits are available from any Department office and shall be submitted to the Department's Phoenix office. The Department shall issue the permit or deny the application within 30 calendar days of receiving the application. The following shall be provided by the applicant on the form:
  - 1. Name, mailing address, and telephone number.
  - 2. If applicable, the name, address and telephone number of the educational, scientific or other institutional affiliation of the applicant.
  - 3. The species, or higher taxa, if appropriate, of wildlife proposed for possession.
  - 4. Signature of applicant.
- ~~D.~~ A copy of the permit shall accompany any shipment of wildlife made under the authority of the permit.
- ~~E.~~ Any person holding wildlife pursuant to this rule shall file an annual report, on a form supplied by the Department to the Department's Phoenix office, within 30 days after expiration of the permit. The following information shall be provided by the permittee on the form:
  - 1. Name, address and phone number of permittee;
  - 2. Federal permit number or numbers, if applicable;
  - 3. A listing of each animal held during the year, by species, including the source and date of acquisition and the place and date of disposition for each animal.
- ~~F.~~ Wildlife holding permits are subject to the provisions of R12-4-409 and R12-4-428.
- ~~G.~~ Wildlife holding permits expire on December 31 of the year of issuance, or, if the permittee is a representative of an institution, organization or agency, upon termination of affiliation with that entity, whichever comes first.

**R12-4-417. Wildlife Holding License**

- A. The Department shall issue wildlife holding licenses to qualified individuals for the purposes provided in this Section. The wildlife holding license authorizes the person holding the license to engage in specific activities with the specific live wildlife listed on the license. The activities shall be listed on the license to be authorized and may include but not be limited to any of the following: possession, transportation, importation, educational display, exhibit, purchase, propagation, export, give away, or kill. The Department's evaluation of the applicant's proposal and qualifications and the purpose of the license will determine if the Department will issue or deny the permit and the activities the license authorizes.
- B. The Department shall not issue a license to any applicant whose privilege to take or possess wildlife is under current suspension or revocation by the government of any state or the United States.
- C. The Department shall issue a wildlife holding license only for the primary purposes following, when the purpose is in the best interest of the wildlife or the species, will not adversely impact other affected wildlife in Arizona, and may be served without posing a threat to wildlife or public safety:
  - 1. Wildlife management: gathering information valuable to maintenance of wild populations;
  - 2. Education;
  - 3. The advancement of science, or promotion of the public health or welfare;
  - 4. When humane treatment by a person is necessary to safeguard and protect the interests of an animal unable to meet its own needs in the wild, when it has been abandoned, or permanently disabled, or is no longer useful for any previously-existing licensed purpose.
- D. The Department shall issue a wildlife holding license for the sole purpose of exhibiting live wildlife already possessed under the authority of R12-4-404 or already possessed under R12-4-417, when the wildlife may be exhibited without posing a threat to wildlife or the public and will not adversely impact other affected wildlife in Arizona.
- E. Applicants for a wildlife holding license shall obtain from and submit to the Department a form providing the following information:
  - 1. The applicant's name, mailing address, and telephone number.
  - 2. If applicable, the name, address, and telephone number of the educational, scientific, or other institutional affiliation of the applicant.
  - 3. The species, or higher taxa, if appropriate, of wildlife proposed for an allowable activity.
  - 4. The applicant's signature.
- F. Applicants for a wildlife holding license shall also submit the following with their application form:
  - 1. If the wildlife is currently in possession, submit evidence of lawful possession as defined in R12-4-401. If the wildlife is not yet in possession, submit proof of application for evidence of lawful possession. If the application is for exhibit of wildlife possessed under the authority of R12-4-404, provide an affidavit that the wildlife was lawfully taken under authority of a hunting or fishing license in accordance with Commission order or is the progeny of wildlife lawfully taken.
  - 2. The street address or legal description of the location where the wildlife is to be held and a detailed diagram of the facilities where the wildlife is to be held.
  - 3. A detailed description of the procedures that will be used to meet the requirements of R12-4-428.
  - 4. A statement of the applicant's experience in handling and providing care for the wildlife to be held or of other experience that may be relevant to handling or providing care for wildlife.
  - 5. The dates proposed to begin and end holding the wildlife.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

6. A statement of the planned disposition and method of disposition of the wildlife at the conclusion of the proposed activities.
7. If the purpose of the license is for wildlife management, education, the advancement of science, or the promotion of the public health or welfare, submit a detailed description of the proposed management, educational, or scientific activity.
8. If the purpose of the license is for humane treatment, submit a written statement explaining why the wildlife is unable to meet its own needs in the wild, whether it has been abandoned, or permanently disabled, or is no longer useful for any previously existing licensed purpose. The statement shall also specify where the wildlife is currently possessed and who possesses it.
9. If the purpose of the license is to exhibit live wildlife already possessed under the authority of R12-4-404 or already possessed under R12-4-417, submit a detailed description of the proposed exhibit activity.
- G.** The Department may require that wildlife used for lawful activities under the authority of the wildlife holding license be permanently marked for identification purposes, when the Department determines this is necessary for the best interest of the public and the wildlife. If this is a requirement, it will be specified on the license.
- H.** The licensee shall ensure that a copy of the license accompanies any shipment of wildlife made under the authority of the license.
- I.** The licensee shall annually obtain from and submit to the Department a report form providing the following information within 30 days after the license expires:
  1. The licensee's name, address and phone number;
  2. A listing of each animal held during the year, by species, including the source and date of acquisition and the place and date of disposition for each animal.
- J.** The licensee shall comply with R12-4-409 and R12-4-428.
- K.** Wildlife holding licenses expire on December 31 of the year of issuance, or, if the licensee is a representative of an institution, organization, or agency, upon termination of affiliation with that entity, whichever comes 1st.
- L.** This rule is effective January 1, 2000.

**R12-4-422. Sport Falconry License Falconers: Licensing and Requirements**

- A.** For the purposes of this Section, the following definitions apply:
  1. "Eyas" means a flightless raptor that is found in the nest and is dependent upon a parent bird for food.;
  2. "Form 3-186A" means U.S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report, Form 3-186A, dated July 1999, not including any later revisions. This form is incorporated by reference. A copy of the incorporated form is on file with the Secretary of State and available from the U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 709, Albuquerque, New Mexico, 87103-0709, and all Arizona Game and Fish Department Regional offices.
  2. ~~"Falconry" means the sport of taking quarry by means of a trained raptor;~~
  3. "Passage" means a raptor in immature plumage, capable of flight and able to hunt and obtain its own food, and which is less than 1 year of age.;
  4. "Raptor" means a live ~~migratory~~ bird of the Order Falconiformes or the Order Stringiformes, other than a bald eagle (*Haliaeetus leucocephalus*) species ~~great horned owl, *Bubo virginianus*, of the family Strigidae; any of the family Falconidae; and any of the family Accipitridae, other than the bald eagle, *Haliaeetus leucocephalus*;~~ which under the provisions of this rule may be used in the practice of falconry.;
  5. "Sponsor" means a licensed Class II or Class III falconer who agrees to supervise and instruct no more than 3 Class I falconers in the practice of falconry at any 1 time.
- B.** An Arizona resident possessing any raptor for the purpose of sport falconry shall possess an Arizona Sport Falconry License. An Arizona resident possessing a raptor not listed in 50 CFR 10.13 for a purpose other than sport falconry is not required to possess an Arizona Sport Falconry License. Visiting nonresident falconers licensed in their state of residency are exempted under R12-4-407.
- C.** ~~**B.**~~ The Department shall inspect the raptor housing facilities and equipment of any applicant not previously licensed in Arizona, and determine that the facilities and equipment meet the requirements of this rule, before issuing a license to the applicant. A license is valid from the date it is issued by the Department until the 3rd December from the date of issue. The Department shall issue a Sport Falconry License ~~falconer license~~ to an applicant who complies with application procedures in this rule and meets the following criteria:
  1. For a Class I Apprentice Sport Falconry License ~~Falconer License~~:
    - a. Is 14 years of age or older;
    - b. Has a sponsor at the time of application and shall provide to the Department a written commitment from the sponsor to continue sponsoring the applicant for the 1st 2 years as a licensed falconer;
    - c. Answers correctly at least 80% of the questions on an examination supervised and administered by the Department and approved by the U.S. Fish and Wildlife Service, relating to basic biology, care, and handling of raptors, and other subject matter related to falconry.
  2. For a Class II General Sport Falconry License ~~Falconer License~~:

- a. Is 18 years of age or older;
  - b. Has at least 2 years of falconry experience at the Class I level, computed from the date that the applicant obtained the 1st Class I Apprentice Sport Falconry License ~~Falconer License~~;
  - e. ~~Provides to the Department a letter of recommendation from a falconers' association affiliated with the North American Falconers Association, stating that the applicant is qualified and eligible to become a Class II falconer.~~
3. For a Class III Master Sport Falconry License ~~Falconer License~~:
- a. Is 23 years of age or older;
  - b. Has at least 5 years of falconry experience at the Class II level, computed from the date that the applicant obtained the 1st Class II General Sport Falconry License ~~Falconer License~~.

~~**D-C.**~~ Any new resident shall make application for an Arizona Sport Falconry License ~~falconer license~~ within 30 days of importing any raptor possessed by the authority of a license authorizing falconry ~~falconer license~~ issued by another lawful jurisdiction. Any applicant for an Arizona Sport Falconry License ~~falconer's license~~ shall present any raptor in possession for inspection at the time their facilities are inspected ~~of application~~.

~~**E-D.**~~ Applicants shall provide the following information on a form available from the Department and shall sign the completed form:

1. Name, address, and telephone number;
2. Physical description and date of birth;
3. Valid Arizona hunting license number and identification number;
4. The Sport Falconry License ~~falconer license~~ classification desired. Class I applicants shall supply their sponsor's name and address on the form;
5. The number of raptors the applicant possesses at the time of application and the species; age, if known; sex, if known; band numbers (if banded); date of acquisition; and source of each.

~~**F-E.**~~ A Class I licensee may possess only 1 raptor at a time; the raptor may be lawfully obtained in another state. The Class I licensee shall obtain all birds from the wild and shall not obtain more than 1 raptor for replacement purposes during any 12-month period ~~calendar year~~. A Class I licensee shall not take an eyas bird.

~~**G-F.**~~ A Class II licensee shall not possess more than 2 raptors at a time. The raptors may be any species except a golden eagle or a species listed as endangered or threatened. A Class II licensee shall not obtain more than 2 raptors during any 12-month period ~~calendar year~~.

~~**H-G.**~~ A Class III licensee shall not possess more than 3 raptors at a time. The raptors may be of any species ~~authorized by the U.S. Fish and Wildlife Service~~. A Class III licensee shall not obtain more than 2 raptors taken from the wild during any 12-month period ~~calendar year~~ but may obtain raptors from other lawful sources within the 3-raptor possession limit.

~~**I-H.**~~ All Sport Falconry License ~~falconer~~ applicants and licensees shall provide either an indoor or outdoor housing facility with the following attributes, designed to protect the raptor from the environment, predators, and undue disturbances:

1. Indoor facilities.
  - a. An area large enough to allow easy access for caring for the raptors housed in the facility;
  - b. An area for each bird large enough to allow each raptor to fully extend its wings, with perches textured to prevent foot problems;
  - c. At least 1 window, protected on the inside by vertical bars, spaced narrower than the width of the raptor's body, and a door that can be easily closed and secured;
  - d. A well-drained floor designed to permit easy cleaning;
  - e. Tethers or partitions separating each raptor, if the licensee is keeping more than 1 raptor in the same facility.
2. Outdoor facilities.
  - a. A fenced and covered enclosure with netting or wire, or roofed to protect the raptors from disturbance and attack by predators, except that perches more than 6-1/2 feet high need not be covered or roofed;
  - b. An enclosed area large enough to insure the raptors cannot strike the fence when flying from the perch;
  - c. Protection from the sun, wind, and inclement weather for each raptor and perches which are textured to prevent foot problems.

~~**J-I.**~~ All Sport Falconry License ~~falconer~~ applicants and licensees shall possess and use the following equipment:

1. At least 1 pair of jesses constructed of pliable, high-quality leather or synthetic material, containing bracelets to affix to each leg of a raptor, with a grommet through which a strap passes freely so that an escaped raptor can pull the strap out of the bracelet. The licensee shall use this equipment when any raptor is flown free. Licensees may use traditional 1-piece jesses on raptors only when not being flown;
2. At least 1 flexible, weather-resistant leash and 1 strong swivel designed for falconry;
3. At least 1 container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;
4. At least 1 raptor perch for each raptor;
5. A reliable scale or balance suitable for weighing the raptor or raptors, held and graduated to increments of not more than 1/2 ounce, or 15 grams.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**K-J.** A Sport Falconry License Class I, II, or III falconer licensed in Arizona or a state recognized by the U.S. Fish and Wildlife Service as meeting federal falconry standards may capture raptors for the purpose of falconry only, in accordance with the Commission order establishing raptor capture seasons for licensed falconers. When there is reason to believe that a species of raptors may be over-harvested by nonresidents if the number of permits is not limited, the Commission shall specify the number of permits available to nonresidents in the Commission order.

1. During capture, the licensee shall have in possession the Sport Falconry License or falconer license issued by another lawful jurisdiction, Arizona hunting license, and any required hunt permit-tag issued to that licensee.
2. The licensee shall immediately release any nontarget raptor inadvertently captured. If the raptor is wearing a band or other marker, the licensee shall report the capture and release of the marked bird to the Department, along with any identifying number and related information.
3. The licensee shall not remove any eyas raptor from any nest unless 1 or more live eyas raptors remain in the nest after the removal.
4. The licensee may capture raptors only with traps or bird nets which are unlikely to cause injury to the raptor and shall not use mist nets, steel-jawed traps, or stupefying substances.
5. The licensee shall ensure that all traps or nets in use are in constant attendance, and that any raptor trap or net being used is plainly identified with the licensee's name and address.
6. The licensee shall present each captured Harris hawk, Gyrfalcon, or Peregrine falcon to the Department within 5 calendar days after capture. ~~The licensee shall present each captured raptor of any other species to the Department within 14 calendar days after capture.~~ A Department representative shall attach a numbered band to 1 leg of the lawfully obtained raptor. This band shall not be removed except by an authorized official of the Department, or except as provided in this rule. Licensees shall not alter, counterfeit, or deface a band but may remove the rear tab on the band and may smooth any imperfect surface provided the integrity of the band and numbering are not affected. Raptors other than Harris Hawks, Gyrfalcons, or Peregrine falcons shall not be banded.

**LK.** A licensee ~~Licensees~~ may exhibit or use raptors for educational display a lawfully held raptor.

**ML.** Licensees may retain and exchange feathers that are molted or those feathers from raptors held in captivity that die only for purposes of repairing or replacing a broken feather with a feather.

**NM.** If any raptor used in falconry incidentally kills any species of wildlife for which there is no open season or for which the season is closed, the licensee shall not take the dead wildlife into possession. The licensee shall leave the wildlife where it lies but may allow the raptor making the kill to feed on the dead wildlife before leaving the site.

**ON.** Licensees may transfer raptors taken from the wild in Arizona to an Arizona resident's federal raptor propagation license, with the concurrence of the U.S. Fish and Wildlife Service.

**PO.** A licensee shall not transfer a raptor taken from the wild in Arizona to another falconer or raptor breeder licensed outside of Arizona, or export the raptor from the state, without written authorization from the Department. The Department shall not authorize exportation transactions involving more than 2 raptors taken from the wild in Arizona, singly or in combination, per licensee in any calendar year. The Department shall deny any request for authorization of exportation when the number or species which have been or are being exported is not in the best interest of raptor management.

**QP.** A licensee may place a raptor or raptors listed in 50 CFR 10.13 in temporary facilities, under the care of another licensee, for a period not to exceed 30 days, providing that the licensee completes a Form 3-186A naming the temporary caregiver as the recipient and provides the raptor to the temporary caregiver to retain at the location where the raptor is being held. A licensee possessing a non-listed raptor may place it under the care of another person without restriction, gives written authorization to the other licensee for temporary care.

**RQ.** A licensee may do ~~1 one~~ of the following when in possession of a raptor no longer used in the practice of falconry:

1. Release the raptor to the wild into suitable habitat, provided that the raptor was taken from the wild in Arizona, and that all jesses, markers or other equipment are removed, and that any federal marker is removed and returned to the Department within 10 days of release;
2. Give the raptor to another licensed falconer, except as provided in subsection (P); ~~(O)~~;
3. Transfer the raptor to the Department;
4. Sell or trade the raptor, if it is a lawfully possessed, captive-bred raptor marked with a seamless leg band.

**SR.** Licensees changing residence to another jurisdiction may export their lawfully possessed raptors.

**TS.** A licensee shall transfer the carcass of a raptor listed in 50 CFR 10.13 ~~which has died~~ to a Department office, or destroy the carcass after receiving authorization for destruction of the carcass from the Department. The licensee shall remove any federal markers prior to destroying the carcass and return the markers to the Department.

**UF.** A licensee shall report the escape of a raptor to the Department within 5 days. Any licensed falconer may recapture an escaped ~~banded~~ raptor at any time and shall notify the Department within 5 calendar days of the capture.

**VU.** Within 5 calendar days of acquiring a raptor for falconry purposes, or disposing of a raptor possessed under the authority of this Section, a sport falconry licensee shall submit a copy of Form 3-186A to the Department, completed and signed in accordance with the instructions on the form. ~~acquisition of any raptor, by any method, or disposition of any raptor by any method, a falconer licensee shall submit to the Department a copy of a U.S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report, Form 3-186A, dated June 30, 1991, not including any later revisions, which is incor-~~

porated by reference herein. The form shall be completed and signed by the licensee in accordance with the instructions on the form. A copy of the incorporated form is on file with the Secretary of State and available from the U.S. Fish and Wildlife Service Regional Law Enforcement Office, Albuquerque, New Mexico, 87103

~~W.~~ A sport falconry licensee shall comply with ~~Falconer~~ licensees are subject to the provisions of R12-4-409.

X. For federal requirements and permits, a sport falconry licensee shall consult applicable U.S. Fish and Wildlife Service regulations governing the possession and use of raptors.

**R12-4-426. Possession of Primates**

A. For the purposes of this Section, the following definitions apply:

1. "Primate" means a non-human primate not listed in R12-4-406(A)(4).
2. "Infant" means an animal weighing less than 50% of the weight of an adult as identified in "The Pictorial Guide to Living Primates", Pagonias Press 1996, and not including any later edition. This material is incorporated by reference. A copy of the incorporated material is on file with the Secretary of State and available from all Arizona Game and Fish Department regional offices.
3. "Zoonotic" means a disease that can be transmitted to humans by vertebrate animals.

B. A person shall not buy, sell, barter, gift, or import an infant primate in Arizona.

C. A person may import a non-infant primate into Arizona only if:

1. The primate has been tested for and reported to be disease free from any zoonotic disease that poses a serious health risk, including tuberculosis, Simian Herpes B virus, and Simian Immunodeficiency Virus, as determined by the Arizona Game and Fish Department to be appropriate to the species being imported; and
2. Test dates and test result dates are within 30 days prior to the date of importation; and
3. Tests were done by and test results were determined by qualified persons, as determined by the Arizona Game and Fish Department.

D. A primate shall be contained within the confines of the legal owner's private property, except as follows:

1. When transported in a cage, crate, or carrier to or from a licensed veterinarian; or
2. When transported in a cage, crate, or carrier into or out of Arizona for lawful purposes, or within Arizona to complete a lawful sale.

E. A primate that bites, scratches, or otherwise exposes a human to pathogenic organisms as determined by the Arizona Game and Fish Department shall be examined and laboratory tested for the presence of pathogens as follows:

1. The Arizona Game and Fish Department Director or the Director's designee shall prescribe examinations and laboratory testing for the presence of pathogens.
2. An Arizona licensed veterinarian shall perform examinations and laboratory test specimen collection and submission.
3. An Arizona licensed veterinarian examining or laboratory testing a primate shall immediately report the results of an examination or laboratory test, by phone and in writing, to the Arizona Game and Fish Department Director or the Director's designee.
4. The legal owner of the primate shall pay all costs associated with the examination, laboratory testing, and maintenance of the primate.

F. A primate that tests positive for a zoonotic disease that poses a serious health risk to humans, as determined by the Arizona Game and Fish Department, shall be maintained in captivity as directed by the Arizona Game and Fish Department Director or the Director's designee, or disposed of as agreed to by the primate owner and the Department Director or the Director's designee.

**ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION**

**R12-4-608. Appeal from Department Action on Controlled-Use Markers**

~~A.~~ An applicant for a license or permit which has been denied by the Department may appeal to the Commission. The applicant shall file the written appeal in the office of the Director within 30 calendar days after the denial is mailed or delivered to the applicant.

1. The appellant shall prepare and sign the appeal form provided by the Department, describing the type of license or permit applied for and the reason the license or permit should be issued.
2. The Director shall schedule a hearing before the Commission on the appeal within 90 days of receipt of the appeal. The appellant may present testimony at the hearing.

~~B.~~ Any person, including any organization or agency, requesting that the Commission overturn the Department's denial of a request for the establishment, change, a Department decision on the establishment or removal of controlled-use markers under R12-4-522 shall:

1. File a petition with the Arizona Game and Fish Department, Director's Office, 2221 West Greenway, Phoenix, Arizona, 85023, 30 calendar days prior to a scheduled Commission meeting. Petitions received after that time shall ~~will~~ be submitted by the Director to the Commission at the following regularly scheduled Commission meeting.
2. Submit the petition in typewritten or computer-printed form, double-spaced, on 8½" x 11" paper. The petitioner shall place the title "Petition for Watercraft Restriction Amendment to the Arizona Game and Fish Commission" at the top of the 1st page and provide the following information:

Notices of Final Rulemaking

- a. Name, mailing address, and phone number of the petitioner, including the name, address, and phone number of the person acting as official representative for any group, organization, or agency involved in the petition;
- b. A statement of facts concerning the exact action requested, including specific location of controlled-use markers or watercraft or boat engine restrictions to be changed or removed;
- c. A statement of reasons to support the requested action;
- d. The signature of the petitioner or official representative for the petitioner, and the date the petition was signed.

**NOTICE OF FINAL RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**PREAMBLE**

**1. Sections Affected**

R20-6-309  
R20-6-309.01  
R20-6-309.02  
R20-6-309.03  
R20-6-309.04  
Appendix A

**Rulemaking Action**

New Section  
New Section  
New Section  
New Section  
New Section  
New Section

**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. § 20-143.

Implementing statutes: A.R.S. §§ 20-143, 20-510, 20-696 through 20-696.07.

**3. The effective date of the rules:**

January 1, 2000. The delayed effective date is consistent with effective dates in other states and will permit consistent financial reporting among multi-state insurers.

**4. List of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Docket Opening: 5 A.A.R. 1617 (May 28, 1999).

Notice of Proposed Rulemaking: 5 A.A.R. 2351 (July 23, 1999).

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

Name: Vista Thompson Brown

Address: Arizona Department of Insurance  
2910 N. 44th Street, Suite 210  
Phoenix, Arizona 85018

Telephone Number: (602) 912-8451

Fax Number: (602) 912-8452

**6. An explanation of the rules, including the agency's reasons for initiating the rules:**

This rule arises out of a docket opening notice at 5 A.A.R. 1617 (May 28, 1999). The rules, commonly referred to by the insurance industry as "Triple X," (because the rules are Roman numeral 30 in a series of model actuarial rules) address: (1) the valuation of life insurance plans with nonlevel premiums or benefits, and (2) the valuation of universal life products with secondary guarantees. The rules also include new tables of select mortality factors and provisions for their use. The purpose of these rules is: (1) to provide a greater degree of specificity regarding the calculation of reserves for plans with nonlevel premiums or benefits and universal life products with secondary guarantees; and (2) to incorporate a new set of select mortality factors to enable the establishment of appropriate reserves for different products at different durations.

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

Report of the Society of Actuaries Committee on Review of the National Association of Insurance Commissioners (NAIC) Mortality Proposals (November 24, 1998). The report can be viewed at the address listed in question #5.

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

Not applicable.

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

The primary concern with level-term life insurance is that life insurance companies are underpricing level-term products, leaving them with insufficient reserves for significant periods during the policy period. To guarantee the premiums of 10-, 15-, and 20-year level-term policies under Triple X, companies that have not implemented practices substantially in compliance with this rule will likely have to increase the reserves for these products. If this occurs, some of the smaller, less stable companies may choose to exit the market for this product, leaving the bulk of the market share to the control of a smaller number of large companies. If the larger companies raise premiums significantly to meet the reserve requirements, guaranteed life term products will be more expensive and may become less popular and scarcer.

The economic impact to insurers and insureds is significantly outweighed by the increased security to consumers and insureds by requiring higher reserves. As previously stated, the rules are designed to cure a problem with inadequate reserves and to establish valuation mortality standards more in line with current experience. The benefits to consumers and insureds in approving these rules are threefold: they encourage national uniformity, assure consistency for insurers and consumers, and promote solvency of insurance companies.

First, by promoting rules consistent with other states, the Department will ensure that no state has a competitive advantage or disadvantage. Second, by requiring realistic reserve requirements, the Department is protecting consumers and their economic interests in these products. Finally, these rules will protect consumers by ensuring that insurance companies to do not become insolvent because of unrealistic reserve requirements.

**9. A description of the changes between the proposed rule, including supplemental notices, and the final rules:**

The Department made non-substantive grammatical and stylistic changes to the final rules in response to suggestions from GRRC staff.

**10. A summary of the principal comments and the agency response to them:**

Prior to the rulemaking, the Department received letters from several insurance industry representatives urging promulgation of the rules – which are based on a national model. While the national model was under development, and before commencing the rulemaking proceeding, one individual, Mr. Robert Barney of CompuLife Software, Inc. repeatedly expressed concern about the Triple X rules. Mr. Barney waged a one-person campaign throughout the nation, writing to elected officials and insurance commissioners, opposing the Triple X rules. Mr. Barney contends that if the Triple X rules are approved, insurers will stop offering guarantees on level-term policies, or will deceptively market those policies – i.e., promise level premiums for extended terms, but then raise premiums within the first few years of the policy.

The Department chose to proceed with the Triple X rules because the rules cure the problem of inadequate reserves and because inconsistent reserve requirements (that vary from state to state) cause significant regulatory burdens and administrative difficulties for multi-state insurers. These problems intensify the pressure for federal regulation of insurance. It remains to be seen whether approval of the Triple X rules will cause some insurers to stop offering guaranteed premium term products, resulting in diminished availability, and whether the increased reserve requirements will increase the price of the product. However, an underpriced insurance product supported by inadequate reserves is not safe for insurance consumers.

In response to the second concern, existing statutory authority gives the Department sufficient regulatory powers to address any problems regarding deceptive marketing practices.

In response to the proposed rules, the American Council of Life Insurers (ACLI) and First Colony Life Insurance Company wrote to support the rules. The ACLI did inquire as to why the Department deviated from certain language in the model. In certain sections referencing mortality factors, the Department omitted the following model text:

“Any other table or select mortality factors adopted by the NAIC after the effective date of this regulation and promulgated by regulation by the Commissioner for the purpose of calculating basic reserves.”

The Department did not include this language because it is an attempt to incorporate by reference mortality factors that do not yet exist. This type of incorporation is not permitted under A.R.S. § 41-1028 or A.A.C. R1-1-414.

Should the NAIC approve new mortality factors at some future point, the Department would evaluate the need to amend these rules to include those factors, as contemplated by the omitted language.

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

None.

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

None.

**Was this rule previously adopted as an emergency rule?**

No.

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

**TITLE 20. COMMERCE, PROFESSIONS, AND OCCUPATIONS**

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 3. FINANCIAL PROVISIONS AND PROCEDURES**

Section

R20-6-309    New Section

R20-6-309.01 New Section

R20-6-309.02 New Section

R20-6-309.03 New Section

R20-6-309.04 New Section

Appendix A   New Section

**ARTICLE 3. FINANCIAL PROVISIONS AND PROCEDURES**

**R20-6-309. Definitions**

The definitions in this Section apply in R20-6-309 through R20-6-309.04.

1. "Basic reserves" mean reserves calculated in accordance with A.R.S. § 20-510(H).
2. "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment defined as the period from the end of the prior segment (from policy inception, for the 1st segment) to the end of the latest policy year as determined in this subsection and calculated using the 1980 CSO valuation tables, as defined in subsection (6), and, if elected, the optional minimum mortality standard for deficiency reserves in R20-6-309.02 (B).

An insurer shall set the length of a particular contract segment equal to the minimum of the value  $t$  for which  $G_t$  is greater than  $R_t$ , as defined below. If  $G_t$  never exceeds  $R_t$  the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy.

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

when:

$x$  = original issue age;

$k$  = the number of years from the date of issue to the beginning of the segment;

$t = 1, 2, \dots$ ;  $t$  is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$  = Guaranteed gross premium per thousand of face amount for year  $t$  of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{qx_{k+t}}{qx_{k+t-1}}$$

However, an insurer may elect to increase or decrease  $R_t$  by 1% in any policy year, but  $R_t$  shall not be less than 1, when:

- $x$ ,  $k$ , and  $t$  are as defined above, and the insurer elects the mortality in R20-6-309.02(B)(3) for deficiency reserves
- $qx_{k+t-1}$  = valuation mortality rate for deficiency reserves in policy year  $k+t$  but using the mortality of R20-6-309.02 (B)(2) if R20-6-309.02(B)(3) is elected for deficiency reserves.
- However, if  $GP_{x+k+t}$  is greater than 0 and  $GP_{x+k+t-1}$  is equal to 0,  $G_t$  is deemed to be 1000. If  $GP_{x+k+t}$  and  $GP_{x+k+t-1}$  are both equal to 0,  $G_t$  is deemed to be 0.
3. "Deficiency reserves" means the excess, if greater than 0, of:
  - a. Minimum reserves calculated in accordance with A.R.S. § 20-510(L), over
  - b. Basic reserves.
4. "Guaranteed gross premiums" means the premiums under a policy of life insurance that are guaranteed and determined at date of issue.
5. "Maximum valuation interest rates" mean the interest rates defined in A.R.S. § 20-510(G) that an insurer shall use to determine the minimum standard for the valuation of life insurance policies.
6. "NAIC" means the National Association of Insurance Commissioners.
7. "1980 CSO valuation tables" means the NAIC 1980 Standard Ordinary Mortality Table (1980 CSO Table) without 10-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

8. “Scheduled gross premium” means:
  - a. For other than universal life insurance policies, the smallest illustrated gross premium at date of issue; and
  - b. For universal life insurance policies, the smallest specified premium in R20-6-309.04(A)(3), if any, or the minimum premium in R20-6-309.04(A)(4).
9. “Segmented reserves” means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, when the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:
  - a. The present value of the death benefits within the segment, plus
  - b. The present value of any unusual guaranteed cash value, as defined in R20-6-309.03(D), occurring at the end of the segment, less
  - c. Any unusual guaranteed cash value occurring at the start of the segment, plus
  - d. For the 1st segment only, the excess of item (i) over item (ii), as follows:
    - i. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the 1st segment after the 1st policy year, divided by the present value, at the date of issue, of an annuity of 1 per year payable on the 1st and each subsequent anniversary within the 1st segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on a 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age 1 year higher than the age at issue of the policy.
    - ii. A net 1-year term premium for the benefits provided for in the 1st policy year.
  - e. The length of each segment is determined by the contract segmentation method.
  - f. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.
  - g. For both basic reserves and deficiency reserves computed by the contract segmentation method, present values shall include future benefits and net premiums in the current segment and in all later segments.
10. “Tabular cost of insurance” means the net single premium at the beginning of a policy year for 1-year term insurance in the amount of the guaranteed death benefit in that policy year.
11. “Ten-year select factors” mean the select factors adopted by the NAIC with the 1980 amendments to the NAIC Standard Valuation Law set forth at A.R.S. § 20-510.
12. “Unitary reserves” means the present value of all future guaranteed benefits less the present value of all future modified net premiums, when:
  - a. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and
  - b. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, when the uniform percentage is such that, at the date of issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of (i) over (ii), as follows:
    - i. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the 1st policy year, divided by the present value, at the date of issue, of an annuity of 1 per year payable on the 1st and each subsequent anniversary of the policy on which a premium is due. However, the net level annual premium shall not exceed the net level annual premium on a 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age 1-year higher than the age at issue of the policy.
    - ii. A net 1-year term premium for the benefits provided in the 1st policy year.
  - c. The interest rates used in the present value calculations for any policy shall not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from the date of issue to the mandatory expiration of the policy.
12. “Universal life insurance policy” means an individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

**R20-6-309.01. Applicability**

- A.** General Scope. R20-6-309 through R20-6-309.04 apply to all life insurance policies with or without nonforfeiture values, issued on or after the effective date of this rule, subject to the exceptions and conditions in this Section.
- B.** Exceptions. R20-6-309 through R20-6-309.04 do not apply to policies listed in this subsection.
  1. An individual life insurance policy that is issued in accordance with and as a result of the exercise of a reentry provision in an original life insurance policy that:
    - a. Has the same or a greater face amount.
    - b. Was issued before the effective date of this rule, and
    - c. Guarantees the premium rates of the new policy.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

2. An individual life insurance policy subsequently issued under a derivation of a reentry provision, as described in subsection (B)(1).
3. A universal life policy that meets all the following requirements:
  - a. Any secondary guarantee period in the policy is 5 years or less;
  - b. The specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the 1980 CSO valuation tables in R20-6-309.01(7) and the applicable valuation interest rate; and
  - c. The initial surrender charge is not less than 100% of the 1st year annualized specified premium for the secondary guarantee period.
4. A variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts established in accordance with A.R.S. § 20-651.
5. A variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts established in accordance with A.R.S. § 20-651.
6. A group life insurance certificate unless the certificate has a stated or implied schedule of maximum gross premiums required to continue coverage in force for a period in excess of 1 year.

**C. Conditions.**

1. An insurer shall calculate the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, as specified in R20-6-309.03.
2. An insurer shall calculate the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that allow a policyholder to keep a policy in force during a secondary guarantee period as provided in R20-6-309.04.

**R20-6-309.02. General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves**

**A.** For any 1 or more specified plans of life insurance, an insurer may elect to calculate the minimum mortality standard for basic reserves using the 1980 CSO valuation tables with select mortality factors. If the insurer elects to use select mortality factors, the insurer may use:

1. The 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; or
2. The select mortality factors in Appendix A;

**B.** An insurer shall calculate deficiency reserves, if any, for each policy as the excess, if greater than 0, of the quantity A over the basic reserve. Quantity A is obtained by recalculating the basic reserve for a policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. For any 1 or more specified plans of insurance, an insurer may elect to base the quantity A and the corresponding net premiums used in the determination of quantity A on the 1980 CSO valuation tables with select mortality factors. If the insurer elects to use select mortality factors, the insurer may use:

1. The 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
2. The select mortality factors in Appendix A; or
3. For durations in the 1st segment, X% of the select mortality factors in Appendix A, subject to all the following conditions:
  - a. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;
  - b. X shall not be less than 20%;
  - c. X shall not decrease in any successive policy years;
  - d. X is such that, when using the valuation interest rate for basic reserves, (i) is greater than or equal to (ii):
    - i. The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;
    - ii. The actuarial present value of future death benefits, calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date.
  - e. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the 1st 5 years after the valuation date.
  - f. The insurer's appointed actuary shall increase X at any valuation date when it is necessary to continue to meet all the requirements of subsection (B)(3).
  - g. The insurer's appointed actuary may decrease X at any valuation date if X does not decrease in any successive policy years and continues to meet all the requirements of subsection (B)(3).
  - h. The insurer's appointed actuary shall take into account the adverse effect on expected mortality and lapsing of any anticipated or actual increase in gross premiums.
  - i. If X is less than 100% at any duration for any policy, the insurer shall meet the requirements in this subsection.
    - i. The insurer's appointed actuary shall annually prepare an actuarial opinion and memorandum as required by A.R.S. §§ 20-696.04 and 20-510 et seq.

- ii. The insurer's appointed actuary shall annually opine for all policies subject to R20-6-309 through R20-6-309.04 as to whether the mortality rates resulting from the application of X meet the requirements of subsection (B)(3).
  - iii. The actuary shall support the opinions described in subsections (B)(3)(i)(i) and (B)(3)(i)(ii) by an actuarial report, subject to Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries.
  - iv. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.
- C.** This Section applies to both basic reserves and deficiency reserves. An insurer may use any set of select mortality factors for only the 1st segment, except that if the 1st segment of the policy is less than 10 years, the insurer shall use the appropriate 10-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law through the 10th policy year from the date of issue.
- D.** To determine basic reserves or deficiency reserves, an insurer may use guaranteed gross premiums without policy fees if the calculation involves the guaranteed gross premium, but only if the policy fee is a level dollar amount after the 1st policy year. In determining deficiency reserves, the insurer may include policy fees in guaranteed gross premiums, even if those fees are not included in the actual calculation of basic reserves.
- E.** An insurer shall calculate reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits, that are unilaterally made by the insurer after issue and that are effective for more than 1 year after the date of the change as the greatest of the following:
- 1. Reserves calculated without regard to the guarantee,
  - 2. Reserves assuming the guarantee was made at date of issue, and
  - 3. Reserves assuming that the policy was issued on the date of the guarantee.
- F.** The Director may require the insurer to document the extent of the adequacy of reserves for specified blocks of business, including policies issued before the effective date of this rule. This documentation may include a demonstration of the extent to which the insurer has relied upon aggregation with other non-specified blocks of business to form the appointed actuary's opinion under A.R.S. §§ 20-510 and 20-696.07.

**R20-6-309.03. Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies)**

**A. Basic Reserves.**

An insurer shall calculate basic reserves as the greater of the segmented reserves and the unitary reserves. The insurer shall use the same valuation mortality table and selection factors for both the segmented reserves and the unitary reserves for any policy. To calculate segmented reserves and net premiums, the insurer may elect one of the following adjustments:

- 1. Treat the unitary reserve, if greater than 0, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than 0, applicable at the beginning of each segment, from the present value of guaranteed life insurance and endowment benefits for each segment; or
- 2. Treat the guaranteed cash surrender value, if greater than 0, applicable at the end of each segment as a pure endowment, and subtract the guaranteed cash surrender value, if greater than 0, applicable at the beginning of each segment, from the present value of guaranteed life insurance and endowment benefits for each segment.

**B. Deficiency Reserves.**

- 1. An insurer shall calculate the deficiency reserve at any duration on the following basis:
  - a. A unitary basis if the corresponding basic reserve determined by subsection (A) is unitary;
  - b. A segmented basis if the corresponding basic reserve determined by subsection (A) is segmented; or
  - c. The segmented basis if the corresponding basic reserve determined by subsection (A) is equal to both the segmented reserve and the unitary reserve.
- 2. Subsection (B) applies to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality specified in R20-6-309.02 (B) and the valuation rate of interest.
- 3. An insurer shall calculate deficiency reserves, if any, for each policy as the excess if greater than 0, for the current and all remaining periods, of the quantity A over the basic reserve, when A is obtained as indicated in R20-6-309.02(B).
- 4. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

**C. Minimum Value.**

Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if an insurer uses mean reserves. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves if the insurer uses select mortality factors, the insurer shall use the 10-year select factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law. Total reserves (including basic reserves, deficiency reserves and

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

any reserves held for supplemental benefits that would expire upon contract termination) shall not be less than the amount that the policy owner would receive upon termination of the policy.

**D. Unusual Pattern of Guaranteed Cash Surrender Values.**

1. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held before the 1st unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the 1st unusual guaranteed cash surrender value as a pure endowment and treating the policy as an  $n$  year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, when  $n$  is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.
2. The reserves actually held after any unusual guaranteed cash surrender value accrues shall not be less than the reserves calculated by treating the policy as an  $n$  year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, when:
  - a. At the valuation date,  $n$  is the number of years from the date of the last unusual guaranteed cash surrender value, to the earlier of:
    - i. The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or
    - ii. The mandatory expiration date of the policy; and
  - b. The net premium for a given year during the  $n$  year period is equal to the product of the net-to-gross ratio and the respective gross premium; and
  - c. The net-to-gross ratio is equal to (i) divided by (ii) as follows:
    - i. The present value, at the beginning of the  $n$  year period, of death benefits payable during the  $n$  year period plus the present value, at the beginning of the  $n$  year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the  $n$  year period.
    - ii. At the beginning of the  $n$  year period, the present value of the scheduled gross premiums payable during the  $n$  year period.
3. In this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:
  - a. 110% of the scheduled gross premium for that year;
  - b. 110% of 1 year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and
  - c. 5% of the 1st policy year surrender charge, if any.

**E. Optional Exemption for Yearly Renewable Term Reinsurance ("YRT"). An insurer may elect the approach with the criteria listed in this subsection for reserves on YRT reinsurance:**

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.
2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (C).
3. Deficiency reserves.
  - a. For each policy year, calculate the excess, if greater than 0, of the valuation net premium over the respective maximum guaranteed gross premium.
  - b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subsection (E)(3)(a).
4. For calculations under subsection (E), the insurer shall use the maximum valuation interest rate and the 1980 CSO mortality tables with or without 10-year select mortality factors.
5. In subsection (E) a reinsurance agreement is deemed YRT reinsurance if only the mortality risk is reinsured.
6. If the reinsurer chooses the optional exemption under subsection (E), the ceding insurer's reinsurance reserve credit is limited to the amount of reserve the reinsurer holds for the affected policies.

**F. Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. An insurer may elect the approach with the criteria listed in this subsection for reserves for attained-age-based YRT life insurance policies:**

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.
2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (C).
3. Deficiency reserves.
  - a. For each policy year, calculate the excess, if greater than 0, of the valuation net premium over the respective maximum guaranteed gross premium.
  - b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subsection (F)(3)(a).

Notices of Final Rulemaking

4. For calculations under subsection (F), the insurer shall use the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10-year select mortality factors.
5. In subsection (F), a policy is deemed an attained-age-based YRT life insurance policy if, on both the initial current premium scale and the guaranteed maximum premium scale:
  - a. The premium rates are based on the attained age of the insured such that the rate for any given policy at a given attained age of the insured, is independent of the year the policy was issued; and
  - b. The premium rates are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance, and attained age.
6. For policies that become attained-age-based YRT policies after an initial period of coverage, an insurer may use the approach in subsection (F) after the initial period if:
  - a. The initial period is constant for all insureds of the same sex, risk class, and plan of insurance; or
  - b. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and
  - c. After the initial period of coverage, the policy meets the condition subsection(F)(5).
7. If the insurer elects the approach under subsection (F), the insurer shall use this approach in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this rule.
- G.** Exemption from Unitary Reserves for Certain *n*-Year Renewable Term Life Insurance Policies. An insurer that meets the following conditions is not required to calculate unitary basic reserves and unitary deficiency reserves for a policy:
  1. The policy consists of a series of *n*-year periods, including the 1st period and all renewal periods, when *n* is the same for each period, except that for the final renewal period, *n* may be truncated or extended to reach the expiration age, if:
    - a. The final renewal period is fewer than 10 years and fewer than twice the number of the earlier *n*-year periods; and
    - b. For each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;
  2. The guaranteed gross premiums in all *n*-year periods are not less than the corresponding net premiums based on the 1980 CSO Table with or without the 10-year select mortality factors; and
  3. There are no cash surrender values in any policy year.
- H.** Exemption from Unitary Reserves for Certain Juvenile Policies.

An insurer that meets the following conditions is not required to calculate unitary basic reserves and unitary deficiency reserves for a policy based upon the initial current premium scale if at date of issue:

  1. The insured is age 24 or younger;
  2. Until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values; and
  3. After the end of the juvenile period, gross premiums are level for the remainder of the premium-paying period, and death benefits are level for the remainder of the life of the policy.

**R20-6-309.04. Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period**

**A. General.**

1. A policy is deemed to have a secondary guarantee if it meets 1 or more of the following criteria:
  - a. The policy is guaranteed to remain in force at the original schedule of benefits, subject only to the payment of specified premiums; or
  - b. For any duration, the minimum premium is less than the corresponding 1-year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10-year select mortality factors.
2. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. If a policy contains more than 1 secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at the valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after the date of issue are deemed to have been made at issue. An insurer shall recalculate reserves described in subsections (B) and (C) from date of issue to reflect the insurer's changes.
3. Specified premiums mean the premiums specified in the policy, that, if paid guarantee that the policy will remain in force at the original schedule of benefits, but which are otherwise insufficient to keep the policy in force if the insurer imposes maximum mortality and expense charges and minimum interest credits, and assesses any applicable surrender charges.
4. In subsection (A), the minimum premium for any policy year is the premium that, when paid into a policy with a 0 account value at the beginning of the policy year, produces a 0 account value at the end of the policy year. To calcu-

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

late the minimum premium the insurer shall use the policy cost factors (including mortality charges, loads, and expense charges) and the interest-crediting rate, which are all guaranteed at date of issue.

5. The 1-year valuation premium means the net 1-year premium based on the original schedule of benefits for a given policy year. The 1-year valuation premiums for all policy years are calculated at issue. An insurer shall not use the select mortality factors defined in R20-6-309.02 (B) (2) and (3) to calculate the 1-year valuation premiums.
6. The 1-year valuation premium shall reflect the frequency of fund processing, as well as the distribution of deaths assumption used to calculate the monthly mortality charges to the fund.

**B. Basic Reserves for the Secondary Guarantees.**

An insurer shall use the segmented reserves for the secondary guarantee period as the basic reserves for the secondary guarantees. In calculating the segments and the segmented reserves, the insurer shall set gross premiums equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and determine the segments under the contract segmentation method in R20-6-309(2).

**C. Deficiency Reserves for the Secondary Guarantees.**

An insurer shall calculate deficiency reserves, if any, for the secondary guarantees for the secondary guarantee period, as described in R20-6-309.03(B) with gross premiums set equal to the specified premiums, if any, or to the minimum premiums that keep the policy in force.

**D. Minimum Reserves.**

The minimum reserves during the secondary guarantee period are the greater of:

1. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or
2. The minimum reserves required under Arizona law governing universal life plans.

**Appendix A. SELECT MORTALITY FACTORS**

This appendix contains tables of select mortality factors that are the bases to which the respective percentages of R20-6-309.02(A)(2), (B)(2), and (B)(3) are applied.

The 6 tables of select mortality factors include: (1) male aggregate, (2) male non-smoker, (3) male smoker, (4) female aggregate, (5) female non-smoker, and (6) female smoker.

These tables apply to both age last birthday and age nearest birthday mortality tables.

For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are 80% of the appropriate male table in this Appendix, plus 20% of the appropriate female table in this Appendix.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

**Table 1. Male Aggregate**

<u>Age</u>	<u>Duration</u>																			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20+</u>
<u>0-15</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>16</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>17</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>18</u>	96	98	98	99	99	100	100	90	92	92	92	92	93	93	96	97	98	98	99	100
<u>19</u>	83	84	84	87	87	87	79	79	79	81	81	82	82	82	85	88	91	94	97	100
<u>20</u>	69	71	71	74	74	69	69	67	69	70	71	71	71	71	74	79	84	90	95	100
<u>21</u>	66	68	69	71	66	66	67	66	67	70	70	70	70	71	71	77	83	88	94	100
<u>22</u>	65	66	66	63	63	64	64	64	65	68	68	68	68	69	71	77	83	88	94	100
<u>23</u>	62	63	59	60	62	62	63	63	64	65	65	67	67	69	70	76	82	88	94	100
<u>24</u>	60	56	56	59	59	60	61	61	61	64	64	64	66	67	70	76	82	88	94	100
<u>25</u>	52	53	55	56	58	58	60	60	60	63	62	63	64	67	69	75	81	88	94	100
<u>26</u>	51	52	55	56	58	58	57	61	61	62	63	64	66	69	66	73	80	86	93	100
<u>27</u>	51	52	55	57	58	60	61	61	60	63	63	64	67	66	67	74	80	87	93	100
<u>28</u>	49	51	56	58	60	60	61	62	62	63	64	66	65	66	68	74	81	87	94	100
<u>29</u>	49	51	56	58	60	61	62	62	62	64	64	62	66	67	70	76	82	88	94	100
<u>30</u>	49	50	56	58	60	60	62	63	63	64	62	63	67	68	71	77	83	88	94	100
<u>31</u>	47	50	56	58	60	62	63	64	64	62	63	66	68	70	72	78	83	89	94	100
<u>32</u>	46	49	56	59	60	62	63	66	62	63	66	67	70	72	73	78	84	89	95	100
<u>33</u>	43	49	56	59	62	63	64	62	65	66	67	70	72	73	75	80	85	90	95	100
<u>34</u>	42	47	56	60	62	63	61	63	66	67	70	71	73	75	76	81	86	90	95	100
<u>35</u>	40	47	56	60	63	61	62	65	67	68	71	73	74	76	76	81	86	90	95	100
<u>36</u>	38	42	56	60	59	61	63	65	67	68	70	72	74	76	77	82	86	91	95	100
<u>37</u>	38	45	56	57	61	62	63	65	67	68	70	72	74	76	76	81	86	90	95	100
<u>38</u>	37	44	53	58	61	62	65	66	67	69	69	73	75	76	77	82	86	91	95	100
<u>39</u>	37	41	53	58	62	63	65	65	66	68	69	72	74	76	76	81	86	90	95	100
<u>40</u>	34	40	53	58	62	63	65	65	66	68	68	71	75	76	77	82	86	91	95	100

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

Issue	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
<b>41</b>	<u>34</u>	<u>41</u>	<u>53</u>	<u>58</u>	<u>62</u>	<u>63</u>	<u>65</u>	<u>64</u>	<u>64</u>	<u>66</u>	<u>68</u>	<u>70</u>	<u>74</u>	<u>76</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<b>42</b>	<u>34</u>	<u>43</u>	<u>53</u>	<u>58</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>63</u>	<u>63</u>	<u>64</u>	<u>66</u>	<u>69</u>	<u>72</u>	<u>75</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<b>43</b>	<u>34</u>	<u>43</u>	<u>54</u>	<u>59</u>	<u>60</u>	<u>61</u>	<u>63</u>	<u>62</u>	<u>62</u>	<u>64</u>	<u>66</u>	<u>67</u>	<u>72</u>	<u>74</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<b>44</b>	<u>34</u>	<u>44</u>	<u>54</u>	<u>58</u>	<u>59</u>	<u>60</u>	<u>61</u>	<u>60</u>	<u>61</u>	<u>62</u>	<u>64</u>	<u>67</u>	<u>71</u>	<u>74</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<b>45</b>	<u>34</u>	<u>45</u>	<u>53</u>	<u>58</u>	<u>59</u>	<u>60</u>	<u>60</u>	<u>60</u>	<u>59</u>	<u>60</u>	<u>63</u>	<u>66</u>	<u>71</u>	<u>74</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<b>46</b>	<u>31</u>	<u>43</u>	<u>52</u>	<u>56</u>	<u>57</u>	<u>58</u>	<u>59</u>	<u>59</u>	<u>59</u>	<u>60</u>	<u>63</u>	<u>67</u>	<u>71</u>	<u>74</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>90</u>	<u>95</u>	<u>100</u>
<b>47</b>	<u>32</u>	<u>42</u>	<u>50</u>	<u>53</u>	<u>55</u>	<u>56</u>	<u>57</u>	<u>58</u>	<u>59</u>	<u>60</u>	<u>65</u>	<u>68</u>	<u>71</u>	<u>74</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>90</u>	<u>95</u>	<u>100</u>
<b>48</b>	<u>32</u>	<u>41</u>	<u>47</u>	<u>52</u>	<u>54</u>	<u>56</u>	<u>57</u>	<u>57</u>	<u>57</u>	<u>61</u>	<u>65</u>	<u>68</u>	<u>72</u>	<u>73</u>	<u>74</u>	<u>79</u>	<u>84</u>	<u>90</u>	<u>95</u>	<u>100</u>
<b>49</b>	<u>30</u>	<u>40</u>	<u>46</u>	<u>49</u>	<u>52</u>	<u>54</u>	<u>55</u>	<u>56</u>	<u>57</u>	<u>61</u>	<u>66</u>	<u>69</u>	<u>72</u>	<u>73</u>	<u>74</u>	<u>79</u>	<u>84</u>	<u>90</u>	<u>95</u>	<u>100</u>
<b>50</b>	<u>30</u>	<u>38</u>	<u>44</u>	<u>47</u>	<u>51</u>	<u>53</u>	<u>54</u>	<u>56</u>	<u>57</u>	<u>61</u>	<u>66</u>	<u>71</u>	<u>72</u>	<u>73</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>90</u>	<u>95</u>	<u>100</u>
<b>51</b>	<u>28</u>	<u>37</u>	<u>42</u>	<u>46</u>	<u>49</u>	<u>53</u>	<u>54</u>	<u>56</u>	<u>57</u>	<u>61</u>	<u>66</u>	<u>71</u>	<u>72</u>	<u>73</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>90</u>	<u>95</u>	<u>100</u>
<b>52</b>	<u>28</u>	<u>35</u>	<u>41</u>	<u>45</u>	<u>49</u>	<u>51</u>	<u>54</u>	<u>56</u>	<u>57</u>	<u>61</u>	<u>66</u>	<u>71</u>	<u>72</u>	<u>74</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>90</u>	<u>100</u>	<u>100</u>
<b>53</b>	<u>27</u>	<u>35</u>	<u>39</u>	<u>44</u>	<u>48</u>	<u>51</u>	<u>53</u>	<u>55</u>	<u>57</u>	<u>61</u>	<u>67</u>	<u>71</u>	<u>74</u>	<u>75</u>	<u>76</u>	<u>81</u>	<u>86</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>54</b>	<u>27</u>	<u>33</u>	<u>38</u>	<u>44</u>	<u>48</u>	<u>50</u>	<u>53</u>	<u>55</u>	<u>57</u>	<u>61</u>	<u>67</u>	<u>72</u>	<u>74</u>	<u>75</u>	<u>76</u>	<u>81</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>55</b>	<u>25</u>	<u>32</u>	<u>37</u>	<u>43</u>	<u>47</u>	<u>50</u>	<u>53</u>	<u>55</u>	<u>57</u>	<u>61</u>	<u>68</u>	<u>72</u>	<u>74</u>	<u>75</u>	<u>78</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>56</b>	<u>25</u>	<u>32</u>	<u>37</u>	<u>43</u>	<u>47</u>	<u>49</u>	<u>51</u>	<u>54</u>	<u>56</u>	<u>61</u>	<u>67</u>	<u>70</u>	<u>73</u>	<u>74</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>57</b>	<u>24</u>	<u>31</u>	<u>38</u>	<u>43</u>	<u>47</u>	<u>49</u>	<u>51</u>	<u>54</u>	<u>56</u>	<u>59</u>	<u>66</u>	<u>69</u>	<u>72</u>	<u>100</u>						
<b>58</b>	<u>24</u>	<u>31</u>	<u>38</u>	<u>43</u>	<u>48</u>	<u>48</u>	<u>50</u>	<u>53</u>	<u>56</u>	<u>59</u>	<u>64</u>	<u>67</u>	<u>100</u>							
<b>59</b>	<u>23</u>	<u>30</u>	<u>39</u>	<u>43</u>	<u>48</u>	<u>48</u>	<u>51</u>	<u>53</u>	<u>55</u>	<u>58</u>	<u>63</u>	<u>100</u>								
<b>60</b>	<u>23</u>	<u>30</u>	<u>39</u>	<u>43</u>	<u>48</u>	<u>47</u>	<u>50</u>	<u>52</u>	<u>53</u>	<u>57</u>	<u>100</u>									
<b>61</b>	<u>23</u>	<u>30</u>	<u>39</u>	<u>43</u>	<u>49</u>	<u>49</u>	<u>50</u>	<u>52</u>	<u>53</u>	<u>75</u>	<u>100</u>									
<b>62</b>	<u>23</u>	<u>30</u>	<u>39</u>	<u>44</u>	<u>49</u>	<u>49</u>	<u>51</u>	<u>52</u>	<u>75</u>	<u>75</u>	<u>100</u>									
<b>63</b>	<u>22</u>	<u>30</u>	<u>39</u>	<u>45</u>	<u>50</u>	<u>50</u>	<u>52</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>100</u>									
<b>64</b>	<u>22</u>	<u>30</u>	<u>39</u>	<u>45</u>	<u>50</u>	<u>51</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>75</u>	<u>100</u>									
<b>65</b>	<u>22</u>	<u>30</u>	<u>39</u>	<u>45</u>	<u>50</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>66</b>	<u>22</u>	<u>30</u>	<u>39</u>	<u>45</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>67</b>	<u>22</u>	<u>30</u>	<u>39</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>68</b>	<u>23</u>	<u>32</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>69</b>	<u>23</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>70</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																				
	<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20+</b>
<b>71</b>	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	100
<b>72</b>	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	100
<b>73</b>	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	100
<b>74</b>	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	100
<b>75</b>	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100	100
<b>76</b>	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100	100
<b>77</b>	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>78</b>	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>79</b>	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>80</b>	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>81</b>	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>82</b>	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>83</b>	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>84</b>	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>85+</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

**Table 2. Male, Non-smoker**

<u>Age</u>	<u>Duration</u>																				
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20+</u>	
<b>0-15</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>16</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>17</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>18</b>	93	95	96	98	99	100	100	90	92	92	92	92	95	95	96	97	98	98	99	100	100
<b>19</b>	80	81	83	86	87	87	79	79	79	81	81	82	83	83	86	89	92	94	97	100	100
<b>20</b>	65	68	69	72	74	69	69	67	69	70	71	71	72	72	75	80	85	90	95	100	100
<b>21</b>	63	66	68	71	66	66	67	66	67	70	70	70	71	71	73	78	84	89	95	100	100
<b>22</b>	62	65	66	62	63	64	64	64	67	68	68	68	70	70	73	78	84	89	95	100	100
<b>23</b>	60	62	58	60	62	62	63	63	64	67	68	68	67	69	71	77	83	88	94	100	100
<b>24</b>	59	55	56	58	59	60	61	61	63	65	67	66	66	69	71	77	83	88	94	100	100
<b>25</b>	52	53	55	56	58	58	60	60	61	64	64	64	64	67	70	76	82	88	94	100	100
<b>26</b>	51	53	55	56	58	60	61	61	61	63	64	64	66	69	67	74	80	87	93	100	100
<b>27</b>	51	52	55	58	60	60	61	61	62	63	64	66	67	66	67	74	80	87	93	100	100
<b>28</b>	49	52	57	58	60	61	63	62	62	64	66	66	63	66	68	74	81	87	94	100	100
<b>29</b>	49	51	57	60	61	61	62	62	63	64	66	63	65	67	68	74	81	87	94	100	100
<b>30</b>	49	51	57	60	61	62	63	63	63	64	62	63	66	68	70	76	82	88	94	100	100
<b>31</b>	47	50	57	60	60	62	63	64	64	62	63	65	67	70	71	77	83	88	94	100	100
<b>32</b>	46	50	57	60	62	63	64	64	62	63	65	66	68	71	72	78	83	89	94	100	100
<b>33</b>	45	49	56	60	62	63	64	62	63	65	66	68	71	73	74	79	84	90	95	100	100
<b>34</b>	43	48	56	62	63	64	62	62	65	66	67	70	72	74	74	79	84	90	95	100	100
<b>35</b>	41	47	56	62	63	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100	100
<b>36</b>	40	47	56	62	59	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100	100
<b>37</b>	38	45	56	58	59	61	62	63	66	67	67	69	71	73	74	79	84	90	95	100	100
<b>38</b>	38	45	53	58	61	62	63	65	65	67	68	70	72	74	73	78	84	89	95	100	100
<b>39</b>	37	41	53	58	61	62	63	64	65	67	68	70	71	73	73	78	84	89	95	100	100
<b>40</b>	34	41	53	58	61	62	63	64	64	66	67	69	71	73	72	78	83	89	94	100	100

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																			
	<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<b>41</b>	34	41	53	58	61	61	62	62	63	65	65	67	69	71	71	77	83	88	94	100
<b>42</b>	34	43	53	58	60	61	62	61	61	63	64	66	67	69	71	77	83	88	94	100
<b>43</b>	32	43	53	58	60	61	60	60	60	60	62	64	66	68	69	75	81	88	94	100
<b>44</b>	32	44	52	57	59	60	60	59	59	58	60	62	65	67	69	75	81	88	94	100
<b>45</b>	32	44	52	57	59	60	59	57	57	57	59	61	63	66	68	74	81	87	94	100
<b>46</b>	32	42	50	54	56	57	57	56	55	56	59	61	63	65	67	74	80	87	93	100
<b>47</b>	30	40	48	52	54	55	55	54	54	55	59	61	62	63	66	73	80	86	93	100
<b>48</b>	30	40	46	49	51	52	53	53	54	55	57	61	62	63	63	70	78	85	93	100
<b>49</b>	29	39	43	48	50	51	50	51	53	54	57	61	61	62	62	70	77	85	92	100
<b>50</b>	29	37	42	45	47	48	49	50	51	54	57	61	61	61	61	69	77	84	92	100
<b>51</b>	27	35	40	43	45	47	48	50	51	53	57	60	61	61	62	70	77	85	92	100
<b>52</b>	27	34	39	42	44	45	48	49	50	53	56	60	60	62	62	70	77	85	100	100
<b>53</b>	25	31	37	41	44	45	47	49	50	51	56	59	61	61	62	70	77	100	100	100
<b>54</b>	25	30	36	39	43	44	47	48	49	51	55	59	59	61	62	70	100	100	100	100
<b>55</b>	24	29	35	38	42	43	45	48	49	50	56	58	59	61	62	100	100	100	100	100
<b>56</b>	23	29	35	38	42	42	44	47	48	50	55	57	58	59	100	100	100	100	100	100
<b>57</b>	23	28	35	38	42	42	43	45	47	49	53	55	56	100	100	100	100	100	100	100
<b>58</b>	22	28	33	37	41	41	43	45	45	47	51	53	100	100	100	100	100	100	100	100
<b>59</b>	22	26	33	37	41	41	42	44	44	46	50	100	100	100	100	100	100	100	100	100
<b>60</b>	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
<b>61</b>	20	26	33	37	41	40	41	42	42	75	100	100	100	100	100	100	100	100	100	100
<b>62</b>	19	25	32	38	40	40	41	42	75	75	100	100	100	100	100	100	100	100	100	100
<b>63</b>	19	25	33	36	40	40	41	75	75	75	100	100	100	100	100	100	100	100	100	100
<b>64</b>	18	24	32	36	39	40	75	75	75	75	100	100	100	100	100	100	100	100	100	100
<b>65</b>	18	24	32	36	39	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>66</b>	18	24	32	36	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>67</b>	18	24	32	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>68</b>	18	24	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>69</b>	18	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>70</b>	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																				
	<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20+</b>
<b>71</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>										
<b>72</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>										
<b>73</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>										
<b>74</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>										
<b>75</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>										
<b>76</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>											
<b>77</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>100</u>												
<b>78</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>100</u>													
<b>79</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>100</u>														
<b>80</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>100</u>															
<b>81</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>100</u>																
<b>82</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>100</u>																	
<b>83</b>	<u>48</u>	<u>52</u>	<u>100</u>																		
<b>84</b>	<u>48</u>	<u>100</u>																			
<b>85+</b>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

**Table 3. Male, Smoker**

<u>Age</u>	<u>Duration</u>																			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20+</u>
<u>0-15</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>16</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>17</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>18</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>19</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>20</u>	98	100	100	100	100	100	100	99	99	99	100	99	99	99	100	100	100	100	100	100
<u>21</u>	95	98	99	100	95	96	96	95	96	97	97	96	96	96	96	97	98	98	99	100
<u>22</u>	92	95	96	90	90	93	93	92	93	95	95	93	93	92	93	94	96	97	99	100
<u>23</u>	90	92	85	88	88	89	89	89	90	90	90	90	89	90	92	94	95	97	98	100
<u>24</u>	87	81	82	85	84	86	88	86	86	88	88	86	86	88	89	91	93	96	98	100
<u>25</u>	77	78	79	82	81	83	83	82	83	85	84	84	84	85	86	89	92	94	97	100
<u>26</u>	75	77	79	82	82	83	83	82	83	84	84	84	84	85	81	85	89	92	96	100
<u>27</u>	73	75	78	82	82	83	83	82	82	82	82	84	84	80	81	85	89	92	96	100
<u>28</u>	71	73	79	82	81	82	83	81	81	82	82	82	80	80	81	85	89	92	96	100
<u>29</u>	69	72	78	81	81	82	82	81	81	81	81	77	80	80	81	85	89	92	96	100
<u>30</u>	68	71	78	81	81	81	82	81	81	81	76	77	80	80	81	85	89	92	96	100
<u>31</u>	65	70	77	81	79	81	82	81	81	76	77	79	81	81	83	86	90	93	97	100
<u>32</u>	63	67	77	78	79	81	81	81	76	77	77	80	83	83	85	88	91	94	97	100
<u>33</u>	60	65	74	78	79	79	81	76	77	77	79	80	83	85	85	88	91	94	97	100
<u>34</u>	57	62	74	77	79	79	75	76	77	79	79	81	83	85	87	90	92	95	97	100
<u>35</u>	53	60	73	77	79	75	75	76	77	79	80	82	84	86	88	90	93	95	98	100
<u>36</u>	52	59	71	75	74	75	75	76	77	79	79	81	83	85	87	90	92	95	97	100
<u>37</u>	49	58	70	71	74	74	75	76	77	78	79	81	84	86	86	89	92	94	97	100
<u>38</u>	48	55	66	70	72	74	74	75	76	78	79	81	83	85	87	90	92	95	97	100
<u>39</u>	45	50	65	70	72	72	74	74	75	77	79	81	84	86	86	89	92	94	97	100
<u>40</u>	41	49	63	68	71	72	73	74	74	76	78	80	83	85	86	89	92	94	97	100

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																			
	<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<b>41</b>	40	49	63	68	71	72	72	72	73	75	76	78	81	84	85	88	91	94	97	100
<b>42</b>	40	49	62	68	70	71	71	71	71	73	75	76	81	83	85	88	91	94	97	100
<b>43</b>	39	50	62	67	69	69	70	70	70	71	73	76	79	83	85	88	91	94	97	100
<b>44</b>	39	50	60	66	68	69	68	69	69	69	71	74	79	81	85	88	91	94	97	100
<b>45</b>	37	50	60	66	68	68	68	67	67	67	69	73	78	81	85	88	91	94	97	100
<b>46</b>	37	48	58	63	65	67	66	66	66	67	71	74	78	81	84	87	90	94	97	100
<b>47</b>	36	47	55	61	63	64	64	64	65	67	71	75	79	81	84	87	90	94	97	100
<b>48</b>	35	46	53	58	60	62	63	63	65	67	72	75	79	81	83	86	90	93	97	100
<b>49</b>	34	45	51	56	58	59	61	62	63	67	72	77	80	81	83	86	90	93	97	100
<b>50</b>	34	43	49	53	55	57	60	61	63	67	73	78	80	81	81	85	89	92	96	100
<b>51</b>	32	42	47	52	55	57	60	61	63	67	73	78	80	83	84	87	90	94	97	100
<b>52</b>	32	40	46	50	54	56	60	61	63	67	73	78	81	84	85	88	91	94	100	100
<b>53</b>	30	37	44	49	54	56	59	61	65	67	74	79	83	85	87	90	92	100	100	100
<b>54</b>	30	36	43	48	53	55	59	61	65	67	74	80	84	85	89	91	100	100	100	100
<b>55</b>	29	35	42	47	53	55	59	61	65	67	75	80	84	86	90	100	100	100	100	100
<b>56</b>	28	35	42	47	53	55	57	60	63	68	74	79	83	85	100	100	100	100	100	100
<b>57</b>	28	35	42	47	53	54	57	60	64	67	74	78	81	100	100	100	100	100	100	100
<b>58</b>	26	33	43	48	54	54	56	59	63	67	73	78	100	100	100	100	100	100	100	100
<b>59</b>	26	33	43	48	54	53	57	59	63	66	73	100	100	100	100	100	100	100	100	100
<b>60</b>	25	33	43	48	54	53	56	58	62	66	100	100	100	100	100	100	100	100	100	100
<b>61</b>	25	33	43	49	55	55	57	59	63	75	100	100	100	100	100	100	100	100	100	100
<b>62</b>	25	33	43	50	56	56	58	61	75	75	100	100	100	100	100	100	100	100	100	100
<b>63</b>	24	33	45	51	56	56	59	75	75	75	100	100	100	100	100	100	100	100	100	100
<b>64</b>	24	34	45	51	57	57	75	75	75	75	100	100	100	100	100	100	100	100	100	100
<b>65</b>	24	34	45	52	57	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>66</b>	24	35	45	53	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>67</b>	25	35	45	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>68</b>	25	36	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>69</b>	27	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
<b>70</b>	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																			
<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20+</b>
<b>71</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>72</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>73</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>74</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>75</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>									
<b>76</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>100</u>										
<b>77</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>70</u>	<u>100</u>											
<b>78</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>70</u>	<u>100</u>												
<b>79</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>65</u>	<u>100</u>													
<b>80</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>60</u>	<u>100</u>														
<b>81</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>60</u>	<u>100</u>															
<b>82</b>	<u>48</u>	<u>52</u>	<u>55</u>	<u>100</u>																
<b>83</b>	<u>48</u>	<u>52</u>	<u>100</u>																	
<b>84</b>	<u>48</u>	<u>100</u>																		
<b>85+</b>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

**Table 4. Female, Aggregate**

<u>Age</u>	<u>Duration</u>																			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20+</u>
<u>0-15</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>16</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>17</u>	99	100	100	100	100	100	100	100	93	95	96	97	97	100	100	100	100	100	100	100
<u>18</u>	83	83	84	84	84	84	86	78	78	79	82	84	85	88	88	90	93	95	98	100
<u>19</u>	65	66	68	68	68	68	63	63	64	66	69	71	72	74	75	80	85	90	95	100
<u>20</u>	48	50	51	51	51	47	48	48	49	51	56	57	58	61	63	70	78	85	93	100
<u>21</u>	47	48	50	51	47	47	48	49	51	53	57	60	61	64	64	71	78	86	93	100
<u>22</u>	44	47	48	45	47	47	48	49	53	54	60	61	63	64	66	73	80	86	93	100
<u>23</u>	42	45	44	45	47	47	49	51	53	54	61	64	64	67	69	75	81	88	94	100
<u>24</u>	39	40	42	44	47	47	50	51	54	56	64	64	66	69	70	76	82	88	94	100
<u>25</u>	34	38	41	44	47	47	50	53	56	57	64	67	69	71	73	78	84	89	95	100
<u>26</u>	34	38	41	45	49	49	51	56	58	59	66	69	70	73	70	76	82	88	94	100
<u>27</u>	34	38	41	47	50	51	54	57	59	60	69	70	73	70	71	77	83	88	94	100
<u>28</u>	34	37	43	47	53	53	56	59	62	63	70	73	70	72	74	79	84	90	95	100
<u>29</u>	34	38	43	49	54	56	58	60	63	64	73	70	72	74	75	80	85	90	95	100
<u>30</u>	35	38	43	50	56	56	59	63	66	67	70	71	74	75	76	81	86	90	95	100
<u>31</u>	35	38	43	51	56	58	60	64	67	65	71	72	74	75	76	81	86	90	95	100
<u>32</u>	35	39	45	51	56	59	63	66	65	66	72	72	75	76	76	81	86	90	95	100
<u>33</u>	36	39	44	52	58	62	64	65	66	67	72	74	75	76	76	81	86	90	95	100
<u>34</u>	36	40	45	52	58	63	63	66	67	68	74	74	76	76	76	81	86	90	95	100
<u>35</u>	36	40	45	53	59	61	65	67	68	70	75	74	75	76	75	80	85	90	95	100
<u>36</u>	36	40	45	53	55	62	65	67	68	70	74	74	74	75	75	80	85	90	95	100
<u>37</u>	36	41	47	52	57	62	65	67	68	69	72	72	73	75	74	79	84	90	95	100
<u>38</u>	34	41	44	52	57	63	66	68	69	70	72	71	72	74	75	80	85	90	95	100
<u>39</u>	34	40	45	53	58	63	66	68	69	69	70	70	70	73	74	79	84	90	95	100
<u>40</u>	32	40	45	53	58	65	65	67	68	69	70	69	70	73	73	78	84	89	95	100

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

Issue	Duration																			
	Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<u>41</u>	<u>32</u>	<u>40</u>	<u>45</u>	<u>53</u>	<u>57</u>	<u>63</u>	<u>64</u>	<u>67</u>	<u>68</u>	<u>68</u>	<u>69</u>	<u>69</u>	<u>69</u>	<u>73</u>	<u>74</u>	<u>79</u>	<u>84</u>	<u>90</u>	<u>95</u>	<u>100</u>
<u>42</u>	<u>32</u>	<u>40</u>	<u>45</u>	<u>52</u>	<u>56</u>	<u>61</u>	<u>63</u>	<u>65</u>	<u>66</u>	<u>68</u>	<u>69</u>	<u>68</u>	<u>70</u>	<u>74</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>90</u>	<u>95</u>	<u>100</u>
<u>43</u>	<u>31</u>	<u>39</u>	<u>45</u>	<u>51</u>	<u>55</u>	<u>59</u>	<u>61</u>	<u>65</u>	<u>65</u>	<u>66</u>	<u>68</u>	<u>69</u>	<u>69</u>	<u>74</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<u>44</u>	<u>31</u>	<u>39</u>	<u>45</u>	<u>50</u>	<u>54</u>	<u>58</u>	<u>61</u>	<u>63</u>	<u>64</u>	<u>66</u>	<u>67</u>	<u>68</u>	<u>71</u>	<u>75</u>	<u>78</u>	<u>82</u>	<u>87</u>	<u>91</u>	<u>96</u>	<u>100</u>
<u>45</u>	<u>31</u>	<u>38</u>	<u>44</u>	<u>49</u>	<u>53</u>	<u>56</u>	<u>59</u>	<u>62</u>	<u>63</u>	<u>65</u>	<u>67</u>	<u>68</u>	<u>71</u>	<u>77</u>	<u>79</u>	<u>83</u>	<u>87</u>	<u>92</u>	<u>96</u>	<u>100</u>
<u>46</u>	<u>29</u>	<u>37</u>	<u>43</u>	<u>48</u>	<u>51</u>	<u>54</u>	<u>59</u>	<u>62</u>	<u>63</u>	<u>65</u>	<u>67</u>	<u>69</u>	<u>71</u>	<u>77</u>	<u>78</u>	<u>82</u>	<u>87</u>	<u>91</u>	<u>96</u>	<u>100</u>
<u>47</u>	<u>28</u>	<u>35</u>	<u>41</u>	<u>46</u>	<u>49</u>	<u>54</u>	<u>57</u>	<u>61</u>	<u>62</u>	<u>66</u>	<u>68</u>	<u>69</u>	<u>71</u>	<u>77</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<u>48</u>	<u>28</u>	<u>35</u>	<u>41</u>	<u>44</u>	<u>49</u>	<u>52</u>	<u>57</u>	<u>61</u>	<u>63</u>	<u>66</u>	<u>68</u>	<u>71</u>	<u>72</u>	<u>75</u>	<u>77</u>	<u>82</u>	<u>86</u>	<u>91</u>	<u>95</u>	<u>100</u>
<u>49</u>	<u>26</u>	<u>34</u>	<u>39</u>	<u>43</u>	<u>47</u>	<u>52</u>	<u>55</u>	<u>61</u>	<u>63</u>	<u>67</u>	<u>69</u>	<u>71</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>85</u>	<u>90</u>	<u>95</u>	<u>100</u>
<u>50</u>	<u>25</u>	<u>32</u>	<u>38</u>	<u>41</u>	<u>46</u>	<u>50</u>	<u>55</u>	<u>61</u>	<u>63</u>	<u>67</u>	<u>69</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>74</u>	<u>79</u>	<u>84</u>	<u>90</u>	<u>95</u>	<u>100</u>
<u>51</u>	<u>25</u>	<u>32</u>	<u>38</u>	<u>41</u>	<u>45</u>	<u>50</u>	<u>55</u>	<u>61</u>	<u>63</u>	<u>66</u>	<u>68</u>	<u>69</u>	<u>71</u>	<u>74</u>	<u>74</u>	<u>79</u>	<u>84</u>	<u>90</u>	<u>95</u>	<u>100</u>
<u>52</u>	<u>23</u>	<u>30</u>	<u>36</u>	<u>41</u>	<u>45</u>	<u>51</u>	<u>56</u>	<u>61</u>	<u>62</u>	<u>65</u>	<u>66</u>	<u>68</u>	<u>68</u>	<u>73</u>	<u>73</u>	<u>78</u>	<u>84</u>	<u>89</u>	<u>100</u>	<u>100</u>
<u>53</u>	<u>23</u>	<u>30</u>	<u>36</u>	<u>41</u>	<u>47</u>	<u>51</u>	<u>56</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>65</u>	<u>66</u>	<u>68</u>	<u>72</u>	<u>72</u>	<u>78</u>	<u>83</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>54</u>	<u>22</u>	<u>29</u>	<u>35</u>	<u>41</u>	<u>47</u>	<u>53</u>	<u>57</u>	<u>61</u>	<u>61</u>	<u>62</u>	<u>62</u>	<u>66</u>	<u>66</u>	<u>69</u>	<u>70</u>	<u>76</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>55</u>	<u>22</u>	<u>29</u>	<u>35</u>	<u>41</u>	<u>47</u>	<u>53</u>	<u>57</u>	<u>61</u>	<u>61</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>68</u>	<u>69</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>56</u>	<u>22</u>	<u>29</u>	<u>35</u>	<u>41</u>	<u>45</u>	<u>51</u>	<u>56</u>	<u>59</u>	<u>60</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>67</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>57</u>	<u>22</u>	<u>29</u>	<u>35</u>	<u>41</u>	<u>45</u>	<u>50</u>	<u>54</u>	<u>56</u>	<u>58</u>	<u>59</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>100</u>						
<u>58</u>	<u>22</u>	<u>30</u>	<u>36</u>	<u>41</u>	<u>44</u>	<u>49</u>	<u>53</u>	<u>56</u>	<u>57</u>	<u>57</u>	<u>61</u>	<u>62</u>	<u>100</u>							
<u>59</u>	<u>22</u>	<u>30</u>	<u>36</u>	<u>41</u>	<u>44</u>	<u>48</u>	<u>51</u>	<u>53</u>	<u>55</u>	<u>56</u>	<u>59</u>	<u>100</u>								
<u>60</u>	<u>22</u>	<u>30</u>	<u>36</u>	<u>41</u>	<u>43</u>	<u>47</u>	<u>50</u>	<u>51</u>	<u>53</u>	<u>55</u>	<u>100</u>									
<u>61</u>	<u>22</u>	<u>29</u>	<u>35</u>	<u>39</u>	<u>42</u>	<u>46</u>	<u>49</u>	<u>50</u>	<u>52</u>	<u>80</u>	<u>100</u>									
<u>62</u>	<u>20</u>	<u>28</u>	<u>33</u>	<u>39</u>	<u>41</u>	<u>45</u>	<u>47</u>	<u>49</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>63</u>	<u>20</u>	<u>28</u>	<u>33</u>	<u>38</u>	<u>41</u>	<u>44</u>	<u>46</u>	<u>80</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>64</u>	<u>19</u>	<u>27</u>	<u>32</u>	<u>36</u>	<u>40</u>	<u>42</u>	<u>80</u>	<u>80</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>65</u>	<u>19</u>	<u>25</u>	<u>30</u>	<u>35</u>	<u>39</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>66</u>	<u>19</u>	<u>25</u>	<u>30</u>	<u>35</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>67</u>	<u>19</u>	<u>25</u>	<u>30</u>	<u>72</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>68</u>	<u>19</u>	<u>25</u>	<u>68</u>	<u>72</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>69</u>	<u>19</u>	<u>64</u>	<u>68</u>	<u>72</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<u>70</u>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																			
<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20+</b>
<b>71</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>72</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>73</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>74</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>75</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>76</b>	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
<b>77</b>	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
<b>78</b>	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>79</b>	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>80</b>	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>81</b>	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>82</b>	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>83</b>	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>84</b>	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>85+</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

**Table 5. Female, Non-smoker**

<u>Age</u>	<u>Duration</u>																			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20+</u>
<u>0-15</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>16</u>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<u>17</u>	96	98	98	98	98	99	99	99	92	92	93	95	95	97	99	99	99	100	100	100
<u>18</u>	78	80	80	80	80	81	81	74	75	75	78	79	82	83	85	88	91	94	97	100
<u>19</u>	60	62	63	63	63	65	59	59	60	60	64	67	67	70	72	78	83	89	94	100
<u>20</u>	42	44	45	45	45	42	42	42	45	45	50	51	53	56	58	66	75	83	92	100
<u>21</u>	41	42	44	45	41	42	42	44	47	47	51	53	54	57	59	67	75	84	92	100
<u>22</u>	39	41	44	41	41	42	44	45	49	49	54	56	57	58	60	68	76	84	92	100
<u>23</u>	38	41	38	40	41	42	44	46	49	50	56	57	58	60	62	70	77	85	92	100
<u>24</u>	36	36	38	40	41	42	46	47	50	51	58	59	60	62	63	70	78	85	93	100
<u>25</u>	32	34	37	40	41	43	46	49	51	53	59	60	62	63	64	71	78	86	93	100
<u>26</u>	32	34	37	41	43	45	47	50	53	53	60	62	63	64	62	70	77	85	92	100
<u>27</u>	32	34	38	43	46	47	49	51	53	55	62	63	64	62	62	70	77	85	92	100
<u>28</u>	30	34	39	43	47	49	51	53	56	58	63	63	61	62	63	70	78	85	93	100
<u>29</u>	30	35	40	45	50	51	52	55	58	59	64	61	62	63	63	70	78	85	93	100
<u>30</u>	31	35	40	46	51	52	53	56	59	60	62	62	63	65	65	72	79	86	93	100
<u>31</u>	31	35	40	46	51	53	55	58	60	58	62	62	63	65	65	72	79	86	93	100
<u>32</u>	32	35	40	45	51	53	56	59	57	58	62	63	63	65	64	71	78	86	93	100
<u>33</u>	32	36	41	47	52	55	58	55	58	59	63	63	65	65	65	72	79	86	93	100
<u>34</u>	33	36	41	47	52	55	55	57	58	59	63	65	64	65	64	71	78	86	93	100
<u>35</u>	33	36	41	47	52	53	57	58	59	61	63	64	64	64	64	71	78	86	93	100
<u>36</u>	33	36	41	47	49	53	57	58	59	61	63	64	63	64	63	70	78	85	93	100
<u>37</u>	32	36	41	44	49	53	57	58	59	60	62	62	61	62	63	70	78	85	93	100
<u>38</u>	32	37	39	45	50	54	57	58	60	60	61	61	61	62	61	69	77	84	92	100
<u>39</u>	30	35	39	45	50	54	57	58	60	59	60	60	59	60	61	69	77	84	92	100
<u>40</u>	28	35	39	45	50	54	56	57	59	59	60	59	59	59	60	68	76	84	92	100

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																			
	<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<b>41</b>	<u>28</u>	<u>35</u>	<u>39</u>	<u>45</u>	<u>49</u>	<u>52</u>	<u>55</u>	<u>55</u>	<u>58</u>	<u>57</u>	<u>58</u>	<u>59</u>	<u>58</u>	<u>59</u>	<u>60</u>	<u>68</u>	<u>76</u>	<u>84</u>	<u>92</u>	<u>100</u>
<b>42</b>	<u>27</u>	<u>35</u>	<u>39</u>	<u>44</u>	<u>49</u>	<u>52</u>	<u>54</u>	<u>55</u>	<u>56</u>	<u>57</u>	<u>57</u>	<u>57</u>	<u>58</u>	<u>60</u>	<u>61</u>	<u>69</u>	<u>77</u>	<u>84</u>	<u>92</u>	<u>100</u>
<b>43</b>	<u>27</u>	<u>34</u>	<u>39</u>	<u>44</u>	<u>47</u>	<u>50</u>	<u>53</u>	<u>53</u>	<u>55</u>	<u>55</u>	<u>56</u>	<u>57</u>	<u>56</u>	<u>60</u>	<u>61</u>	<u>69</u>	<u>77</u>	<u>84</u>	<u>92</u>	<u>100</u>
<b>44</b>	<u>26</u>	<u>34</u>	<u>38</u>	<u>42</u>	<u>47</u>	<u>50</u>	<u>52</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>55</u>	<u>55</u>	<u>56</u>	<u>61</u>	<u>62</u>	<u>70</u>	<u>77</u>	<u>85</u>	<u>92</u>	<u>100</u>
<b>45</b>	<u>26</u>	<u>33</u>	<u>38</u>	<u>42</u>	<u>45</u>	<u>48</u>	<u>51</u>	<u>51</u>	<u>52</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>56</u>	<u>61</u>	<u>62</u>	<u>70</u>	<u>77</u>	<u>85</u>	<u>92</u>	<u>100</u>
<b>46</b>	<u>24</u>	<u>32</u>	<u>37</u>	<u>40</u>	<u>43</u>	<u>47</u>	<u>49</u>	<u>51</u>	<u>52</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>56</u>	<u>60</u>	<u>61</u>	<u>69</u>	<u>77</u>	<u>84</u>	<u>92</u>	<u>100</u>
<b>47</b>	<u>24</u>	<u>30</u>	<u>35</u>	<u>39</u>	<u>42</u>	<u>45</u>	<u>47</u>	<u>49</u>	<u>51</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>56</u>	<u>59</u>	<u>60</u>	<u>68</u>	<u>76</u>	<u>84</u>	<u>92</u>	<u>100</u>
<b>48</b>	<u>23</u>	<u>30</u>	<u>35</u>	<u>37</u>	<u>40</u>	<u>44</u>	<u>47</u>	<u>49</u>	<u>50</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>55</u>	<u>59</u>	<u>57</u>	<u>66</u>	<u>74</u>	<u>83</u>	<u>91</u>	<u>100</u>
<b>49</b>	<u>23</u>	<u>29</u>	<u>33</u>	<u>35</u>	<u>39</u>	<u>42</u>	<u>45</u>	<u>48</u>	<u>50</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>55</u>	<u>57</u>	<u>56</u>	<u>65</u>	<u>74</u>	<u>82</u>	<u>91</u>	<u>100</u>
<b>50</b>	<u>21</u>	<u>27</u>	<u>32</u>	<u>34</u>	<u>37</u>	<u>41</u>	<u>44</u>	<u>48</u>	<u>50</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>55</u>	<u>56</u>	<u>55</u>	<u>64</u>	<u>73</u>	<u>82</u>	<u>91</u>	<u>100</u>
<b>51</b>	<u>21</u>	<u>26</u>	<u>30</u>	<u>34</u>	<u>37</u>	<u>41</u>	<u>44</u>	<u>48</u>	<u>49</u>	<u>51</u>	<u>53</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>55</u>	<u>64</u>	<u>73</u>	<u>82</u>	<u>91</u>	<u>100</u>
<b>52</b>	<u>20</u>	<u>25</u>	<u>30</u>	<u>33</u>	<u>37</u>	<u>41</u>	<u>44</u>	<u>47</u>	<u>48</u>	<u>50</u>	<u>50</u>	<u>51</u>	<u>51</u>	<u>55</u>	<u>53</u>	<u>62</u>	<u>72</u>	<u>81</u>	<u>100</u>	<u>100</u>
<b>53</b>	<u>19</u>	<u>24</u>	<u>29</u>	<u>32</u>	<u>37</u>	<u>41</u>	<u>43</u>	<u>47</u>	<u>48</u>	<u>48</u>	<u>49</u>	<u>49</u>	<u>51</u>	<u>52</u>	<u>52</u>	<u>62</u>	<u>71</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>54</b>	<u>18</u>	<u>24</u>	<u>29</u>	<u>32</u>	<u>37</u>	<u>41</u>	<u>43</u>	<u>45</u>	<u>47</u>	<u>47</u>	<u>47</u>	<u>49</u>	<u>49</u>	<u>51</u>	<u>51</u>	<u>61</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>55</b>	<u>18</u>	<u>23</u>	<u>28</u>	<u>32</u>	<u>37</u>	<u>41</u>	<u>43</u>	<u>45</u>	<u>45</u>	<u>45</u>	<u>46</u>	<u>46</u>	<u>47</u>	<u>50</u>	<u>50</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>56</b>	<u>18</u>	<u>23</u>	<u>28</u>	<u>32</u>	<u>36</u>	<u>39</u>	<u>42</u>	<u>44</u>	<u>44</u>	<u>45</u>	<u>46</u>	<u>46</u>	<u>46</u>	<u>49</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<b>57</b>	<u>18</u>	<u>23</u>	<u>28</u>	<u>31</u>	<u>35</u>	<u>38</u>	<u>41</u>	<u>42</u>	<u>44</u>	<u>44</u>	<u>45</u>	<u>45</u>	<u>46</u>	<u>100</u>						
<b>58</b>	<u>17</u>	<u>23</u>	<u>26</u>	<u>31</u>	<u>35</u>	<u>36</u>	<u>38</u>	<u>41</u>	<u>41</u>	<u>42</u>	<u>45</u>	<u>45</u>	<u>100</u>							
<b>59</b>	<u>17</u>	<u>23</u>	<u>26</u>	<u>30</u>	<u>33</u>	<u>35</u>	<u>38</u>	<u>39</u>	<u>40</u>	<u>41</u>	<u>44</u>	<u>100</u>								
<b>60</b>	<u>17</u>	<u>23</u>	<u>26</u>	<u>30</u>	<u>32</u>	<u>34</u>	<u>36</u>	<u>38</u>	<u>39</u>	<u>40</u>	<u>100</u>									
<b>61</b>	<u>17</u>	<u>22</u>	<u>25</u>	<u>29</u>	<u>32</u>	<u>33</u>	<u>35</u>	<u>36</u>	<u>38</u>	<u>80</u>	<u>100</u>									
<b>62</b>	<u>16</u>	<u>22</u>	<u>25</u>	<u>28</u>	<u>30</u>	<u>32</u>	<u>34</u>	<u>35</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>63</b>	<u>16</u>	<u>20</u>	<u>24</u>	<u>28</u>	<u>30</u>	<u>32</u>	<u>34</u>	<u>80</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>64</b>	<u>14</u>	<u>21</u>	<u>24</u>	<u>27</u>	<u>29</u>	<u>30</u>	<u>80</u>	<u>80</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>65</b>	<u>15</u>	<u>19</u>	<u>23</u>	<u>25</u>	<u>28</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>66</b>	<u>15</u>	<u>19</u>	<u>23</u>	<u>25</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>67</b>	<u>15</u>	<u>19</u>	<u>22</u>	<u>72</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>68</b>	<u>13</u>	<u>18</u>	<u>68</u>	<u>72</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>69</b>	<u>13</u>	<u>64</u>	<u>68</u>	<u>72</u>	<u>72</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									
<b>70</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>									

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																			
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20+</b>
<b>71</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>72</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>73</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>74</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>75</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>76</b>	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
<b>77</b>	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
<b>78</b>	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>79</b>	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>80</b>	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>81</b>	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>82</b>	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>83</b>	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>84</b>	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>85+</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

**Table 6. Female, Smoker**

<u>Issue</u>	<u>Duration</u>																				
	<u>Age</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>	<u>19</u>	<u>20+</u>
<b>0-15</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>16</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>17</b>	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
<b>18</b>	99	100	100	100	100	100	100	95	96	97	100	100	100	100	100	100	100	100	100	100	100
<b>19</b>	87	89	92	92	92	92	84	84	86	86	92	93	95	96	99	99	99	100	100	100	100
<b>20</b>	74	77	80	80	80	73	73	73	75	77	83	83	86	88	90	92	94	96	98	98	100
<b>21</b>	71	74	78	78	71	71	73	74	77	79	85	86	88	89	90	92	94	96	98	98	100
<b>22</b>	68	71	75	70	71	71	73	74	78	79	88	90	89	89	92	94	95	97	98	98	100
<b>23</b>	65	69	67	70	70	70	73	77	79	81	89	90	90	92	92	94	95	97	98	98	100
<b>24</b>	62	60	64	69	70	70	74	77	79	81	92	90	92	93	93	94	96	97	99	99	100
<b>25</b>	53	58	63	67	69	70	74	78	81	82	92	93	93	95	95	96	97	98	99	99	100
<b>26</b>	53	58	63	69	71	72	75	79	82	82	93	93	95	96	90	92	94	96	98	98	100
<b>27</b>	52	56	63	70	74	74	78	81	82	84	93	95	95	90	90	92	94	96	98	98	100
<b>28</b>	52	56	64	71	75	77	79	82	85	86	95	95	90	92	92	94	95	97	98	98	100
<b>29</b>	51	56	64	71	78	78	81	84	86	88	95	90	90	92	92	94	95	97	98	98	100
<b>30</b>	51	56	64	72	79	79	82	85	88	89	90	90	92	93	93	94	96	97	99	99	100
<b>31</b>	51	56	64	72	78	81	84	84	88	84	90	90	92	93	93	94	96	97	99	99	100
<b>32</b>	51	56	64	71	78	81	85	86	84	85	90	90	92	94	93	94	96	97	99	99	100
<b>33</b>	51	57	62	71	78	82	85	83	84	85	90	92	93	93	93	94	96	97	99	99	100
<b>34</b>	51	56	62	71	78	82	81	83	85	86	90	92	92	94	93	94	96	97	99	99	100
<b>35</b>	51	56	62	71	78	79	83	84	85	86	90	91	91	93	93	94	96	97	99	99	100
<b>36</b>	49	56	62	71	74	79	83	84	85	86	90	90	91	93	92	94	95	97	98	98	100
<b>37</b>	48	55	62	67	74	79	83	84	85	86	89	90	89	92	91	93	95	96	98	98	100
<b>38</b>	47	55	57	66	72	77	81	84	86	86	87	88	88	90	91	93	95	96	98	98	100
<b>39</b>	45	50	57	66	72	77	81	83	85	86	86	87	86	89	90	92	94	96	98	98	100
<b>40</b>	41	50	57	66	72	77	81	83	84	85	86	86	86	86	89	91	93	96	98	98	100

**Arizona Administrative Register**  
**Notices of Final Rulemaking**

Issue	Duration																			
	Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<b>41</b>	40	50	57	65	71	76	79	81	83	84	85	86	85	89	90	92	94	96	98	100
<b>42</b>	40	49	57	65	69	74	77	80	82	83	84	85	86	90	92	94	95	97	98	100
<b>43</b>	39	49	55	63	69	73	76	78	80	82	83	84	85	92	93	94	96	97	99	100
<b>44</b>	39	48	55	62	67	71	75	78	80	80	82	84	86	93	96	97	98	98	99	100
<b>45</b>	37	47	55	61	65	70	73	76	78	80	81	84	86	94	97	98	98	99	99	100
<b>46</b>	36	46	53	59	63	68	71	75	77	79	83	85	86	93	96	97	98	98	99	100
<b>47</b>	34	44	51	57	62	66	70	75	77	80	83	85	86	93	94	95	96	98	99	100
<b>48</b>	34	44	50	54	60	64	69	74	77	80	84	86	87	92	92	94	95	97	98	100
<b>49</b>	33	42	48	53	58	63	68	74	77	81	84	86	87	92	91	93	95	96	98	100
<b>50</b>	31	41	46	51	57	61	67	74	77	81	85	87	87	91	90	92	94	96	98	100
<b>51</b>	30	39	45	51	56	61	67	74	75	80	83	85	85	90	90	92	94	96	98	100
<b>52</b>	29	38	45	50	56	62	68	74	75	79	81	83	84	90	90	92	94	96	100	100
<b>53</b>	28	37	43	49	57	62	68	73	74	77	79	81	83	89	89	91	93	100	100	100
<b>54</b>	28	36	43	49	57	63	69	73	74	75	78	80	81	87	89	91	100	100	100	100
<b>55</b>	26	35	42	49	57	63	69	73	73	74	76	78	79	86	87	100	100	100	100	100
<b>56</b>	26	35	42	49	56	62	67	71	72	74	76	78	79	85	100	100	100	100	100	100
<b>57</b>	26	35	42	49	55	61	66	69	72	73	76	78	79	100	100	100	100	100	100	100
<b>58</b>	28	36	43	49	55	59	63	68	69	72	76	78	100	100	100	100	100	100	100	100
<b>59</b>	28	36	43	49	54	57	63	67	68	70	76	100	100	100	100	100	100	100	100	100
<b>60</b>	28	36	43	49	53	57	61	64	67	69	100	100	100	100	100	100	100	100	100	100
<b>61</b>	26	35	42	48	52	56	59	63	66	80	100	100	100	100	100	100	100	100	100	100
<b>62</b>	26	33	41	47	51	55	58	62	80	80	100	100	100	100	100	100	100	100	100	100
<b>63</b>	25	33	41	46	51	55	57	80	80	80	100	100	100	100	100	100	100	100	100	100
<b>64</b>	25	33	40	45	50	53	80	80	80	80	100	100	100	100	100	100	100	100	100	100
<b>65</b>	24	32	39	44	49	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>66</b>	24	32	39	44	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>67</b>	24	32	39	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>68</b>	24	32	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>69</b>	24	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
<b>70</b>	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

<b>Issue</b>	<b>Duration</b>																				
	<b>Age</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20+</b>
<b>71</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>										
<b>72</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>										
<b>73</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>										
<b>74</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>										
<b>75</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>80</u>	<u>100</u>										
<b>76</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>80</u>	<u>100</u>											
<b>77</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>75</u>	<u>100</u>												
<b>78</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>75</u>	<u>100</u>													
<b>79</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>72</u>	<u>100</u>														
<b>80</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>68</u>	<u>100</u>															
<b>81</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>68</u>	<u>100</u>																
<b>82</b>	<u>60</u>	<u>60</u>	<u>64</u>	<u>100</u>																	
<b>83</b>	<u>60</u>	<u>60</u>	<u>100</u>																		
<b>84</b>	<u>60</u>	<u>100</u>																			
<b>85+</b>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>