

NOTICES OF PROPOSED RULEMAKING

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

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

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY

PREAMBLE

1. Sections Affected

Rulemaking Action

R4-24-101	Amend
R4-24-102	Renumber
R4-24-102	New Section
R4-24-103	Amend
R4-24-104	New Section
R4-24-105	Repeal
R4-24-105	New Section
R4-24-106	Repeal
R4-24-106	New Section
R4-24-107	Renumber
R4-24-109	Renumber
R4-24-201	Amend
R4-24-202	Renumber
R4-24-202	New Section
R4-24-203	Repeal
R4-24-203	New Section
R4-24-204	Renumber
R4-24-204	Amend
R4-24-205	Renumber
R4-24-205	New Section
R4-24-206	Repeal
R4-24-206	Amend
R4-24-207	Renumber
R4-24-207	Amend
R4-24-208	New Section
R4-24-209	Amend
Table 1	Amend
Exhibit 1	New Exhibit
R4-24-301	Repeal
R4-24-301	New Section
R4-24-302	Repeal
R4-24-302	New Section
R4-24-303	New Section

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R4-24-304	New Section
R4-24-305	New Section
R4-24-306	Amend
R4-24-307	Amend
R4-24-308	New Section
R4-24-309	New Section
R4-24-310	New Section
R4-24-311	New Section
Article 4	New Article
R4-24-401	New Section
R4-24-402	New Section
R4-24-403	New Section
Article 5	New Article
R4-24-501	New Section
R4-24-502	New Section
R4-24-503	New Section
R4-24-504	New Section
R4-24-505	New Section
R4-24-506	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. § 32-2003

Implementing statute: A.R.S §§ 32-2003, 2022, 2024, 2025, 2026, 2027, 2027, 2029, 2041, 2042, 2043, and 2051

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 4373, November 19, 1999

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

Name: Delores CDeBaca, Executive Director

Address: 1400 West Washington, Room 230
Phoenix, AZ 85007

Telephone: (602) 542-3095

Facsimile: (602) 542-3093

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

The proposed rules will involve a substantial revision and expansion of the scope of the existing rules to conform to the new statutes that were passed during the 1998 legislative session to replace the Physical Therapy Practice Act that was established in 1952. The proposed rulemaking will entail repeal and amendment of existing rules, in whole or in part, and the promulgation of new rules. There are substantial changes to definitions and other general provisions as well as to licensing and regulatory provisions. Additional articles and rules addressing continuing competence and public participation procedures are being added.

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

None.

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

Not applicable.

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

Cost impacts for the Board will be moderate and include the cost of the rule consultant assisting with this rule adoption. There is also a remote possibility of additional cost to the Board in the event that it fails to meet the time frames for approvals and must refund licensing or certification fees.

Cost impacts for applicants for license or certification, renewal, examination, duplicate license or certificate, or reinstatement are minimal, ranging from \$10 to \$285. Fee increases in this package are very small. It is not anticipated that there will be any increase in education costs for persons who wish to become licensed as physical therapists or

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certified as physical therapist assistants. A foreign-educated applicant will incur some additional minimal costs for English proficiency testing and credential evaluation, but these are statutory requirements.

Holders of licenses will now incur costs for maintaining continuing competence. A licensee shall obtain 20 hours of continuing competence activities during each 2-year license term. These may be formal classes, study groups, self study, inservice education, practice management course, subject matter meetings, teaching, publication, research, and others. It is anticipated that the cost for 20 hours of continuing competence activities will be minimal. Some activities may be available for free. But formal education programs could cost between \$100 to \$500.

Credential evaluation agencies for foreign applicants will incur minimal costs to apply to the Board for approval.

Rules which address the practice of physical therapy are not expected to cause increased costs, but rather codify existing standards of practice.

The cost of promulgating these rules will have a minimal impact on the Governor's Regulatory Review Council and the Secretary of State's Office. Minimal or no impacts are expected for any other agencies or political subdivisions of the state. Similarly, little or no cost impacts would be expected for consumers.

The principal benefits of this rulemaking are the conforming of existing rules and making of new rules to implement the new physical therapy statutes, establishing clear and concise standards and processes for licensing and certification and renewal of licenses and certificates, and clarifying areas of the practice of physical therapy. This implementation promotes the protection of public health and safety through assurance of properly educated and trained practitioners. While the costs for such a system are ultimately passed to consumers of the services, the benefits outweigh such costs.

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

Name: Delores CDeBaca, Executive Director
Address: 1400 West Washington, Room 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Facsimile: (602) 542-3093

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

Date: March 17, 2000
Time: 10:00 a.m.
Location: Northern Arizona University
Health Professions Building (Bldg. 66), Room 132
Flagstaff, Arizona
Nature: Public hearing to receive oral and written comment on proposed rules.

Date: March 21, 2000
Time: 10:00 a.m.
Location: State Office Building (North Building)
400 West Congress, Suite 131
Tucson, Arizona
Nature: Public hearing to receive oral and written comment on proposed rules.

Date: March 28, 2000
Time: 9:00 a.m.
Location: Board of Physical Therapy Examiners
1400 West Washington, Basement Conference Room
Phoenix, Arizona

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Nature: Public hearing to receive oral and written comment on proposed rules.

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

Not applicable.

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

Code of Ethics (amended June 1991) and the accompanying *Guide for Professional Conduct* (amended January 1999) of the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, VA 22314-1488 in R4-24-101.

Recommended Guidelines for Reviewing Credentialing Agencies (amended February 1997) of The Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314 in R4-24-106.

Course Work Evaluation Tool (amended March 1999) of the Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314 in R4-24-106.

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 24. BOARD OF PHYSICAL THERAPY EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section

R4-24-101. Definitions

R4-24-102. Board of Physical Therapy: Appointment; Qualifications

~~R4-24-103. Renumbered~~

~~R4-24-102~~R4-24-103. Duties of officersBoard Duties

~~R4-24-104. Renumbered~~Board Records; Access

~~R4-24-105. Filing and Investigation of Consumer Complaints~~

R4-24-105. Exemption

~~R4-24-106. Hearing Procedures~~

R4-24-106. Approval of Credential Evaluation Agencies

ARTICLE 2. LICENSING AND EXAMINATION PROVISIONS

Section

R4-24-201. Application for a Physical ~~Therapist's~~ Therapist License

R4-24-202. Application for Reinstatement of License

~~R4-24-203. Renewal of License and Address Changes~~

R4-24-203. Foreign-Educated Applicants: Supervised Clinical Practice

~~R4-24-202~~R4-24-204. Examination Scores

R4-24-205. Renewal of License and Address Changes

~~R4-24-206. Interim Permits~~

~~R4-24-204~~R4-24-206. License, Certificate, and Examination Fees

~~R4-24-205~~R4-24-207. Application for a Physical Therapist Assistant's Assistant Certificate

R4-24-208. Renewal of Certificate and Address Changes

~~R4-24-207~~R4-24-209. Time-Frames for Board Approvals

Table 1. Timeframes (in days)

Exhibit 1. Interim Period Evaluation Form

ARTICLE 3. REGULATORY PROVISIONS

Section

~~R4-24-301. Lawful Practice~~

R4-24-301. Professional Practice

~~R4-24-302. Delegation of Tasks to Physical Therapist Assistants and Aides~~

R4-24-302. Use of Titles

R4-24-303. Patient Care Management

R4-24-304. Complaints and Investigations

R4-24-305. Informal Interviews

~~R4-24-107~~R4-24-306. Issuance of Subpoenas

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- ~~R4-24-109~~R4-24-307. Rehearing or Review of Board Decisions
- R4-24-308. Disciplinary Actions; Penalties
- R4-24-309. Substance Abuse Recovery Program
- R4-24-310. Consumer Rights
- R4-24-311. Display of License; Posting Notice; Disclosure

ARTICLE 4. CONTINUING COMPETENCE

Section

- R4-21-401. Continuing Competence Requirements for Renewal
- R4-21-402. Continuing Competence Activities
- R4-21-403. Activities Not Eligible for Continuing Competence Credit

ARTICLE 5. PUBLIC PARTICIPATION PROCEDURES

Section

- R4-21-501. Agency Record; Directory of Substantive Policy Statements
- R4-21-502. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business or Consumer Impact
- R4-21-503. Public Comments
- R4-21-504. Oral Proceedings
- R4-21-505. Petition for Delayed Effective Date
- R4-21-506. Written Criticism of Rule

ARTICLE 1. GENERAL PROVISIONS:

R4-24-101. Definitions

In addition to the definitions in A.R.S. § 32-2001, in this Chapter:

- ~~1. "Accredited physical therapy education program" or "accredited physical therapy assistant education program" means a program that, at the time of the applicant's graduation, was approved by an agency recognized as qualified to accredit physical therapy or physical therapy assistant programs by either the U.S. Department of Education or the Council for higher Education Accreditation.~~
1. "Accredited educational program" means a physical therapist or physical therapist assistant educational program that is accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or an agency qualified to accredit physical therapist or physical therapist assistant programs by either the U.S. Department of Education or the Council on Post-Secondary Accreditation at the time of the applicant's graduation.
- ~~32. "Applicant" means an individual seeking a license, certificate, or permit from the Board.~~
- ~~3. "Application packet" means the forms and additional information the Board requires to be submitted by an applicant.~~
- ~~4. "Certificate" means the written authorization issued by the Board to practice as a physical therapist assistant.~~
- ~~4. "APTA" means the American Physical Therapy Association.~~
- ~~5. "Credentials evaluation report" means a written appraisal by a credentialing agency approved by the Board under A.R.S. §32-2022(B), following review of documentary evidence of a foreign-educated applicant's education to determine whether the applicant's education is substantially equivalent to that of an applicant graduated from an accredited physical therapy education program.~~
- ~~5. "Campus" means the facility and the immediately adjacent buildings.~~
- ~~6. "Criterion-referenced passing point" means the minimum acceptable score, calculated using the method determined by the Professional Examination Service, that an applicant must obtain on the physical therapist licensure examination.~~
- ~~6. "Compliance period" means the 2-year license renewal cycle which ends August 31 of even-numbered years.~~
- ~~7. "Contact hour" means 60 minutes.~~
- ~~8. "Continuing competence" means the maintaining of professional skill, knowledge, and ability of a physical therapist through scholarly and professional activities as demonstrated by the successful completion of 20 contact hours during each compliance period.~~
- ~~9. "Initial evaluation" means an assessment of a patient's physical condition, complaint, and objective findings regarding the patient's diagnosis, if any, to ascertain the patient's need for physical therapy and whether consultation with the referring practitioner or other health care practitioner is necessary before a physical therapy plan of treatment is devised and implemented.~~
- ~~9. "Credentials evaluation" means the written appraisal by an agency approved by the Board of general and professional educational course work previously completed by an applicant.~~
- ~~10. "License" means the written authorization issued by the Board to practice as a physical therapist in Arizona.~~
- ~~710. "Day" means calendar day.~~

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- 11. “Licensee” means an individual licensed by the Board as a physical therapist.
- 811. “Endorsement” means the procedure for granting an Arizona license to an applicant who is licensed as a physical therapist in another jurisdiction of the United States.
- 12. Professional examination service” means the organization that prepares and provides the national board examination for physical therapy or physical therapist assistants.
- 12. “Facility” means a building.
- 13. “Foreign-educated applicant” means a physical therapist who graduated from a physical therapist educational program outside the United States, Puerto Rico, District of Columbia, or a U.S. territory.
- 14. “Functional limitation” means restriction of the ability to perform a physical action, activity, or task in an efficient, typically expected or competent manner.
- 15. “National disciplinary database” means the Federation of State Boards of Physical Therapy’s disciplinary database of the Federation of State Boards of Physical Therapy or the U.S. Department of Health and Human Services’ Health Integrity and Protection Data Base of previous or current disciplinary actions taken against a licensed physical therapist or certified physical therapist assistant by state licensing agencies.
- 16. “National examination” means the examination produced by the Federation of State Boards of Physical Therapy and used by the Board for testing an applicant for physical therapist licensing and physical therapist assistant certification.
- 17. “Recognized standards of ethics” means the Code of Ethics (amended June 1991) and the accompanying Guide for Professional Conduct (amended January 1999) of the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, VA 22314-1488, which is incorporated herein by reference and on file with the Secretary of State, and no later editions.

R4-24-102. Board of Physical Therapy: Appointment; Qualifications

- A.** The Board may provide a list of qualified candidates to the Governor for appointment to the Board of Physical Therapy. The Board shall consider current Board geographic, gender, and practice setting distribution in making a recommendation.
- B.** A Board member shall attend Board meetings scheduled by the Board. The Board shall recommend to the Governor that a Board member who fails to attend 3 consecutive Board meetings be removed from the Board. A Board member may be excused from attending a Board meeting for any of the following reasons:
 - 1. Illness,
 - 2. Death in the immediate family,
 - 3. Military service,
 - 4. Inclement weather, or
 - 5. Any other reason as determined by the President of the Board.
- C.** The Board may recommend to the Governor that a Board member be removed for misconduct or incompetence only upon a unanimous vote of the Board following a documented effort to permit the Board member to remedy the circumstances.

R4-24-103. Renumbered

R4-24-102R4-24-103. Duties of OfficersBoard Duties

Officers of the Board are a president, vice-president, and secretary. The officers shall be elected at the first regular meeting of the Board each year by majority vote of the Board. The president shall preside at all Board meetings; but if the president is disqualified or unable to attend, another officer shall be selected to the vice-president shall preside at the meeting. The treasurer shall be responsible for the maintenance of records concerning the revenues and expenditures of the Board. The secretary shall be responsible for Board correspondence and records of proceedings. The officers may utilize the Board staff to assist with their functions.

R4-24-104. RenumberedBoard Records; Access

- A.** The Board shall maintain a public file of all records that are not confidential by law for every licensee and certificate holder.
- B.** Educational records, social security number and the home address and telephone number of a licensee shall not be made available to the public unless the home address and telephone number are the only address and telephone number of record.
- C.** Patient records, including clinical records, files, any other report or oral statement relating to diagnostic findings or treatment and any information, records, or reports kept by the Board as a result of an investigation by the board shall not be available to the public and shall be kept confidential by the Board.
- D.** Copies of the public record of the Board shall be made available for any person at a cost determined by the Board. Only a person authorized by the Board shall remove Board records from the Board premises except for an official Board meeting held at another site or for archival purposes. A person shall request the permission of the Board’s Executive Director prior to examining, inspecting, or obtaining copies of a public record. The Board may make a public record available electronically.

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R4-24-105. Filing and Investigation of Consumer Complaints

- A.** Any individual who, in good faith, believes that a licensee is or may be guilty of unprofessional conduct or incompetence, may file a consumer complaint with the Board. Complaint forms may be obtained from the Board office. The complainant shall provide the following information:
1. Name of the licensee who is the subject of the consumer complaint;
 2. Name and address of the person filing the complaint, unless the complainant desires anonymity;
 3. Nature of the consumer complaint;
 4. Details of the consumer complaint with pertinent dates and copies of any relevant documents;
 5. Whether the complainant has contacted another organization concerning the consumer complaint;
 6. Whether the complainant has contacted the licensee concerning the consumer complaint and the licensee's response, if any; and
 7. Whether the complainant is willing to testify at a hearing.
- B.** The president of the Board, or the president's designee, shall provide notice of the consumer complaint to the licensee, in writing, within 180 days of the Board receiving the complaint. The licensee shall submit a written response, including copies of records that are pertinent to the consumer complaint, to the Board within 10 days from the date that notice of the consumer complaint was mailed or hand-delivered to the licensee. The Board may hire an investigator to conduct investigations relevant to the consumer complaint. The investigator shall submit a written report of all findings to the Board.

R4-24-105. Exemption

- A.** For the purpose of an exemption from licensing or certification under A.R.S. § 32-2021(C), the National Athletic Trainers' Association shall be an approved national athletic trainers' association.
- B.** An organization may receive approval as a national athletic trainers' association from the Board by submitting evidence to the Board that the organization is a nationally-recognized national athletic trainers' association.
- C.** An organization that is denied approval under this section may request a hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10.

R4-24-106. Hearing Procedures

- A.** The Board shall conduct informal interviews pursuant to A.R.S. § 32-2042, in the following manner:
1. The Board shall send a written notice of the informal interview to all parties, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview, containing the following information:
 - a. Time, date, and place of the interview;
 - b. Explanation of the informal nature of the proceeding;
 - c. Licensee's right to appear with or without legal counsel;
 - d. Statement of the matters asserted and issues involved; and
 - e. Licensee's right to a formal hearing, held pursuant to A.R.S. §§ 32-2042 and 32-2042.01, in lieu of the informal interview.
 2. During an informal interview, the following procedure shall be used:
 - a. Introduction of the Board members present;
 - b. Swearing in of licensee and witnesses;
 - c. Optional opening comment by Board or staff;
 - d. Optional opening comment by licensee;
 - e. Questioning of the licensee, and witnesses;
 - f. Optional closing statement by licensee;
 - g. Deliberations by the Board;
 - h. Written findings of fact, conclusions of law, and order of the Board.
- B.** Formal hearing
1. The Board shall send written notice of a formal hearing to all parties, by personal service or certified mail, return receipt requested, at least 30 days before the hearing.
 2. The president of the Board may continue, reschedule, or extend a hearing for the performance of acts required by law or the Board.
- C.** Records
1. The Board shall mechanically or stenographically record all hearings.
 2. The Board or a party may request that a hearing transcript be prepared.
 3. A party that requests a transcript be prepared shall pay transcription costs.

R4-24-106. Approval of Credential Evaluation Agencies

- A.** The Board shall approve an agency to perform a credential evaluation of a foreign-educated applicant based upon:
1. The Recommended Guidelines for Reviewing Credentialing Agencies (amended February 1997) of The Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314, which is incorporated by reference and on file with the Secretary of State. This incorporation by reference contains no later editions or amendments;

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2. The agency agreement to use the Course Work Evaluation Tool (amended March 1999) of the Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314, which is incorporated by reference and on file with the Secretary of State. This incorporation by reference contains no later editions or amendments;
 3. The agency agreement to evaluate the areas of both general and professional education curriculum as determined by the Board requirements in R4-24-203(A).
- B.** A credential evaluation agency that is denied approval may request a hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10.

ARTICLE 2. LICENSING PROVISIONS

R4-24-201. Application for a Physical Therapist's Therapist License

- A.** ~~Except as stated in subsections (C) and (D), an~~ An applicant for a physical therapist's license shall submit to the Board an application packet that contains:
1. ~~If requesting to take the A completed national physical therapist's examination, a national testing service therapist examination form for computerized testing available at the Board office that contains the:~~ provided by the Board, if applicable:
 - a. ~~Applicant's name, address, birth date, social security number, and mother's maiden name;~~
 - b. ~~Date the applicant completed a physical therapy program;~~
 - e. ~~Type of examination for which applicant is applying;~~
 - d. ~~School code required by the national testing service; and~~
 - e. ~~Number of times the applicant has taken the same type of examination;~~
 2. An application form provided by the Board, signed, ~~and dated, and verified~~ and notarized that contains:
 - a. The applicant's name, business and residential ~~address~~ addresses, telephone number, birth date, and social security number;
 - b. The name and address of each university or college attended by the applicant, the dates of attendance, and if ~~applicable~~, the date of graduation and degree received, if applicable;
 - c. The name and address of the university or college ~~at which where~~ the applicant completed an accredited ~~physical therapy education~~ educational program, dates of attendance, and an official transcript with date of completion;
 - d. A statement of whether the applicant has ~~any felony or misdemeanor charges currently pending or ever been convicted of a felony or misdemeanor in any state~~ ever been licensed as a physical therapist in any other jurisdiction of the United States or foreign country;
 - e. Professional employment history for the past 5 years, including the name, address, and telephone number for each employer, job title, and description of the work done;
 - f. A statement of whether the applicant has ever ~~had a professional or occupational license, certificate, or registration, other than a driver's license, suspended or revoked by any state or foreign country; been convicted of a felony, misdemeanor involving moral turpitude, or entered into diversion in lieu of prosecution in any jurisdiction of the United States or foreign country and if so, an explanation~~;
 - e.g. ~~A statement of whether an award has ever been issued against the applicant for malpractice or whether a lawsuit for malpractice is currently pending~~; A statement of whether the applicant has ever had an application for a professional or occupational license, certificate, or registration, other than a driver's license, ~~denied, or rejected, suspended, or revoked by any state jurisdiction of the United States or foreign country and if so, an explanation~~;
 - h. A statement of whether the applicant has ~~ever~~ been found guilty of or has ~~charges~~ a complaint, allegation, or charge currently pending for ~~immoral or unprofessional conduct~~ any action by a professional licensing board in any ~~state~~; jurisdiction of the United States or foreign country and if so, an explanation;
 - i. A statement ~~of whether the applicant has ever had a malpractice judgment or has a lawsuit currently pending for malpractice and if so, an explanation~~;
 - j. A statement of whether the applicant is currently more than 30 days in arrears for payments payment required by a judgment and order for child support in Arizona or any other state; and jurisdiction;
 - k. A statement of whether the applicant has any impairment to the applicant's cognitive, communicative, or physical ability to engage in the practice of physical therapy with skill and safety and if so, an explanation;
 - l. A statement of whether the applicant has abused alcohol or any chemical substance, including prescription medications, that in any way has impaired or limited the applicant's ability to practice physical therapy with skill and safety and if so, an explanation;
 - m. A statement of whether the applicant is participating in a substance abuse recovery program and if so, an explanation;
 - n. A statement of whether the applicant has been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder and if so, an explanation;
 - o. A statement of whether the applicant has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorders and if so, an explanation;

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- p. A statement of whether the applicant has been the subject of any criminal investigation by a federal, state, or local agency or had criminal charges filed against the applicant and if so, an explanation;
 - jq. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
 - 3. A passport photograph of the applicant no larger than 1 1/2 x 2 inches and taken not more than 6 months before the date of application;
 - 4. A completed questionnaire covering Arizona statutes and rules pertaining to physical therapy ~~that has been~~ provided by the Board ~~and completed by the applicant~~; and
 - 5. ~~The A~~ fee required in ~~R4-24-204~~; R4-24-206.
- B.** In addition to the requirements in subsection (A), an applicant shall arrange to have ~~directly~~ submitted directly to the Board:
- 1. An official transcript or letter stating showing that the applicant has completed all requirements ~~for a physical therapy education of an accredited educational program that is signed by the registrar of the university or college at which where the applicant completed the physical therapy education therapist educational program~~; and
 - 2. Verification of passing a national ~~board~~ examination in physical therapy as evidenced by an original notice of examination ~~results issued by the professional examination service that prepared the examination~~; results.
- C.** In addition to the requirements in subsections (A)(2) through (A)(5) and (B), an applicant for a physical therapist's ~~therapist's~~ license by endorsement shall submit to the Board:
- 1. The name of the licensing or certifying agency of ~~the~~ any jurisdiction in which the applicant is currently or has been previously licensed;
 - 2. A verification of ~~license~~ license, signed and dated by an official of the agency licensing the applicant, that includes all of the following:
 - a. The name and address of the applicant;
 - b. The license number and date of issuance;
 - c. The current status of the license;
 - d. The expiration date of the license;
 - e. A statement of whether the applicant was ever denied a license by the ~~agency~~ agency and if so, an explanation; and
 - f. A statement of whether any disciplinary action is pending or has ever been taken against the applicant and if so, an explanation.
- D.** In addition to ~~the documents in A.R.S. § 32-2022 (B), submitting the fee required by the Board and documents in subsections (A)(2) through (A)(5); and (B), a foreign-educated applicant shall:~~
- 1. ~~Submit~~ submit to the Board:
 - a. ~~Documentation of completion of a supervised clinical practice;~~
 - b. ~~Proof~~ proof of legal authorization to reside and seek employment in the United States or ~~its territories~~;
 - c. ~~Proof of a passing score on the English proficiency examination, if applicable; and~~
 - d. ~~The fee required by the Board;~~
 - 2. ~~Arrange a U.S. territory, and arrange~~ to have directly submitted to the Board:
 - a1. A credential evaluation report; ~~and prepared within one year before the date of application;~~
 - b2. ~~If applicable, verification~~ Verification of passing a national ~~board~~ examination in physical therapy as evidenced by an original notice of examination results ~~issued by the professional examination service that prepared the examination; and~~
 - 3. Written documentation of authorization to practice without limitation issued by the authorizing body in the country where the professional education as a physical therapist was received.
- E.** An applicant who has twice failed the national examination shall submit a written plan for remediation to the Board before Board approval for subsequent testing.
- F.** The Board shall deny a license to an applicant who fails to meet the requirements of this Section or Arizona Revised Statutes, Title 32, Chapter 19. An applicant denied a license may request a hearing under Arizona Revised Statutes, Title 41, Chapter 6, Article 10.

R4-24-202. Application for Reinstatement of License

The Board shall require an applicant whose license has lapsed for more than 3 consecutive years prior to applying to demonstrate competence by serving an internship. If the license application is not denied for other reasons, the licensee shall serve an internship under a restricted license.

- 1. The internship under restricted license shall be under the supervision of a physical therapist, and for not less than 160 hours nor more than 960 hours.
- 2. The internship shall be in a clinical setting that provides broad exposure to general physical therapy. The site shall be capable of providing experience in the activities identified on the Interim Period Evaluation Form attached as Exhibit 1. The supervising physical therapist shall complete the Interim Period Evaluation Form and submit it to the Board prior to completion of the internship.

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3. A licensee shall be granted an unrestricted license by the Board upon submission to the Board of an Interim Period Evaluation Form that indicates that all skills have been completed with an evaluation rating of “approved”.
4. If the licensee does not receive an “approved” rating on all skills on the Interim Period Evaluation Form before the end of the internship, additional remedial activities shall be required. The Board may require the licensee to complete additional time in a supervised internship, take additional course work, and pass an examination. An unrestricted license shall be granted following completion of the remedial activities. The Board shall deny an unrestricted license to any licensee who fails to complete the remedial activities. The licensee may appeal the denial of license under Title 41, Chapter 6, Article 10.

R4-24-203. Renewal of License and Address Change

- A.** Licensees shall renew their licenses at or before the end of each 2-year period. Failure of the Board to inform a licensee of license expiration shall not justify or excuse a licensee’s nonrenewal or untimely renewal.
- B.** A licensee shall submit renewal payments to the Board by mail by cashier’s check, money order, or personal check, or in person at the Board office by cashier’s check, money order, personal check, or cash.
- C.** The Board shall mail a receipt and registration card that signifies the named licensee has a current and valid license to each licensee who renews a license.
- D.** Licensees shall notify the Board, in writing, within 10 days of a change of address to be used by the Board.

R4-24-203. Foreign-Educated Applicants: Supervised Clinical Practice

- A.** For a credential evaluation agency to determine that a foreign-educated applicant’s education is substantially equivalent to the education provided to a physical therapist in an accredited educational program, a foreign-educated applicant shall have:
 1. A minimum of a bachelor’s degree in physical therapy;
 2. Completed at least 120 semester credit hours, including at least 58 semester credit hours in college level general education and at least 61 semester credit hours in professional education;
 3. A minimum grade of C or its equivalent in each professional education course; and
 4. Earned all semester credit hours at a university or college.
- B.** A foreign-educated applicant shall arrange to have original documentation, including an official transcript or letter signed by the registrar of the university or college stating that the applicant has completed all requirements of a physical therapist educational program, sent directly to the credential evaluation agency. All documentation shall be in English or accompanied by a verified English translation. Following review, the credential evaluation agency shall notify the Board of the results.
- C.** Following receipt of the educational credential evaluation by the Board, if an applicant has an educational deficiency, the applicant shall complete one of the following requirements as directed by the Board:
 1. Application of college level examination program scores towards semester credit hours for a limited number of courses as determined by the Board; or
 2. Completion of college courses in the deficiency with a minimum grade average of C or its equivalent.
- D.** A foreign-educated applicant for whom English is not the native language shall pass the following English proficiency examinations and arrange for the scores to be sent directly to the Board:
 1. Test of English as a Foreign Language with a minimum score of 560;
 2. Test of Spoken English with a minimum score of 50; and
 3. Test of Written English with a minimum score of 4.5 or better.
- E.** A foreign-educated applicant shall complete all educational or course work requirements set by the Board prior to receiving an interim permit to begin a period of supervised clinical practice.
- F.** A foreign-educated applicant for an interim permit shall submit the application required in R4-24-201.
- G.** Under A.R.S. § 32-2025, the Board shall issue an interim permit to each qualified foreign-educated applicant bearing the:
 1. Name of the applicant;
 2. Date of issue; and
 3. Date of expiration.
- H.** The supervised clinical practice period shall be in a clinical setting that provides learning experiences for an applicant that includes:
 1. Examination, evaluation and testing of persons who have mechanical, physiological and developmental impairments, functional limitations and disabilities, or other health and movement related conditions in order to determine a diagnosis, prognosis and plan of therapeutic intervention; and
 2. The alleviating of impairments and functional limitations by designing, implementing, and modifying therapeutic interventions.
- I.** The supervised clinical practice shall provide a minimum of 20 hours per week of supervised practice for 180 days, or 40 hours per week for 90 days.
- J.** To receive Board approval of the site for clinical practice and of the supervisor for the supervised clinical practice period, an applicant shall submit to the Board:

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1. A written request for approval of the facility and supervisor, including the name of the facility, the name and license number of the supervisor, and a description of the physical therapy services provided at the facility;
 2. Evidence that within the requested facility the supervisor can observe and report on the applicant's evaluative, diagnostic and intervention planning skills and the applicant's provision of therapeutic interventions listed on the Board's Interim Period Evaluation Form, and that the facility has no current restriction by a state or federal government agency; and
 3. Evidence that the supervisor holds an unrestricted license to practice physical therapy in this state for the previous 2-year period and previous experience as a clinical education instructor.
- K.** The Board shall consider the request for approval as a clinical practice site at a regularly scheduled Board meeting and may request an interview with the supervisor. Upon approval, the proposed supervisor shall sign a statement agreeing to act as supervisor and to fulfill the required supervisory obligation, and shall submit the statement to the Board.
- L.** The clinical supervisor shall submit a report including the Board's Interim Period Evaluation Form prior to the end of the supervised practice.
- M.** If the Board determines from the report submitted by the supervisor that all clinical learning experiences have not been completed by the applicant or that the Interim Period Evaluation Form indicates that all skills have not been completed with an evaluation rating of "approved", the Board may require an additional 90 days of supervised clinical practice, not to exceed a total supervised clinical practice period of 270 days.
- N.** The Board shall deny a license to an applicant who fails to meet the requirements of this Section or Arizona Revised Statutes, Title 32, Chapter 19. An applicant denied a license may request a hearing under Arizona Revised Statutes, Title 41, Chapter 6, Article 10.

~~R4-24-202~~R4-24-204. Examination Scores

- A.** To be licensed as a physical therapist, an applicant for license by examination shall obtain a score on the national examination for physical therapists that equals or exceeds the criterion-referenced passing point. The criterion-referenced passing point shall be set to equal a scaled score of 600, based on a scale ranging from 200 to 800.
- B.** To be certified as a physical therapist assistant, an applicant for certification by examination shall obtain a score on the national examination for physical therapist assistants that equals or exceeds a criterion-referenced passing point of 600, based on a scale ranging from 200 to 800.

R4-24-205. Renewal of License and Address Changes

- A.** A licensee shall submit an application to renew a license to practice physical therapy on a form provided by the Board on or before August 31 of even-numbered years, and shall provide:
1. A statement of whether the licensee has ever been convicted of a felony, a misdemeanor involving moral turpitude, or entered into diversion in lieu of prosecution in any jurisdiction of the United States or foreign country and if so, an explanation;
 2. A statement of whether the licensee has ever had an application for a professional or occupational license, certificate or registration, other than a driver's license denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
 3. A statement of whether the licensee has ever been found guilty of or has a complaint, allegation, or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country and if so, an explanation;
 4. A statement of whether the licensee has ever had a judgment against the licensee or has a lawsuit currently pending for malpractice and if so, an explanation;
 5. A statement of whether the licensee is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
 6. A statement of whether the licensee has any impairment to the licensee's cognitive, communicative or physical ability to engage in the practice of physical therapy with skill and safety and if so, an explanation;
 7. A statement of whether the licensee has abused alcohol or any chemical substance, including prescription medications, that in any way has impaired or limited the licensee's ability to practice physical therapy with skill and safety and if so, an explanation;
 8. A statement of whether the licensee is participating in a substance recovery program and if so, an explanation;
 9. A statement of whether the licensee has been diagnosed as having or is being treated for any psychiatric disorder which includes, but is not limited to, bipolar disorder, schizophrenia, or paranoia and if so, an explanation;
 10. A statement of whether the licensee has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorders and if so, an explanation;
 11. A statement of whether the licensee has been the subject of any criminal investigation by a federal, state, or local agency, or had criminal charges filed against the licensee and if so, an explanation;
 12. Beginning in the year 2002, a statement of whether the licensee has completed the 20 contact hours requirement for the previous compliance period as required in R4-21-401, and
 13. A sworn statement verifying the truthfulness of the information provided by the licensee.

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- B.** Failure of the Board to inform a licensee of license expiration shall not excuse a licensee's non-renewal or untimely renewal.
- C.** A licensee shall submit a license renewal fee to the Board by mail or in person. The fee shall be paid by cashier's check, money order, or personal check.
- D.** The Board shall deny a license renewal to an applicant for renewal who fails to comply with renewal requirements. A person denied renewal of license may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.
- E.** The Board shall mail a receipt and registration card to each licensee who renews a license showing the named licensee has a current and valid license.
- F.** A licensee shall notify the Board, in writing, within 30 days of a change of address to be used by the Board.

~~R4-24-206.~~ Interim Permits

- A.** ~~A foreign educated applicant for licensure shall submit the application in R4-24-201(D).~~
- B.** ~~Under A.R.S. § 32-2025, the Board shall issue an interim permit to each qualified foreign educated applicant bearing the:~~
 - 1. ~~Name of the applicant,~~
 - 2. ~~Date of issue, and~~
 - 3. ~~Date of expiration.~~

~~R4-24-204~~R4-24-206. License, Certificate, and Examination Fees

The Board shall charge the following fees ~~relating to licensure for~~ licensing, certification, and examinations:

- 1. Original application for license or certificate:
 - a. Twelve months or more, \$200 for a physical therapist and \$150 for a physical therapist assistant;
 - b. Less than 12 months, \$150 for a physical therapist and \$100 for a physical therapist assistant;
- 1. ~~Original license application—\$100;~~
- 2. ~~Examination or each re-examination~~ reexamination for a physical therapist or physical therapist assistant - ~~\$225~~ \$285;
- 3. Original license:
 - a. ~~Twelve months or more—\$75,~~
 - b. ~~Less than 12 months—\$50,~~
- 43. ~~Biennial renewal \$75,~~ \$100 for a physical therapist and \$50 for a physical therapist assistant;
- 54. ~~Duplicate license or certificate, \$10 for both a physical therapist and a physical therapist assistant; and~~
- 65. ~~Reinstatement—\$75, \$100 for a physical therapist and \$50 for a physical therapist assistant.~~
- B.** ~~The Board shall charge the following fees for copies of public records~~
 - 1. ~~For commercial purposes: 25¢ per name and address and \$15 per hour of search time;~~
 - 2. ~~For noncommercial purposes: 25¢ per page.~~
 - 3. ~~Requests for copies of public records shall be accompanied by a notarized statement of the purpose for which the documents are requested and prepayment of fees. Official request forms shall be used and may be obtained from the Board office.~~

~~R4-24-205.~~R4-24-207. Application for a Physical Therapist Assistant's Assistant Certificate

- A.** ~~An applicant for a physical therapist assistant certificate shall submit to the Board an application packet that contains:~~
 - 1. ~~If requesting to take the A completed national physical therapist's therapist assistant examination, a national testing service examination form for computerized testing available at provided by the Board office, if applicable;~~
 - a. ~~Applicant's name, address, birth date, social security number, and mother's maiden name;~~
 - b. ~~Date the applicant completed a physical therapist assistant program;~~
 - c. ~~Type of examination for which applicant is applying;~~
 - d. ~~School code required by the national testing service; and~~
 - e. ~~Number of times the applicant has taken the same type of examination;~~
 - 2. ~~An application form provided by the Board, signed, and dated, and verified by the applicant, and notarized that contains:~~
 - a. ~~The applicant's name, business and residential addresses, telephone number, birth date, and social security number;~~
 - b. ~~The name and address of each university or college attended by the applicant, the dates of attendance, and if applicable, the date of graduation and degree received the school or college where the applicant completed a physical therapist assistant educational program, dates of attendance, and date of completion;~~
 - c. ~~The name and address of the university or college at which the applicant completed an accredited a physical therapist assistant education program, dates of attendance, and date of completion;~~
 - dc. ~~A statement of whether the applicant has ever been licensed or certified as a physical therapist assistant in any other state jurisdiction of the United States or foreign country;~~
 - ed. ~~A statement of whether the applicant has any felony or misdemeanor charges currently pending or has ever been convicted of a felony or felony, a misdemeanor involving moral turpitude, or entered into diversion in lieu of prosecution in any state jurisdiction of the United States or foreign country; country and if so, an explanation;~~

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- ~~fe.~~ A statement of whether the applicant has ever had an application for a professional or occupational license, certificate, or registration, other than a ~~driver's license, denied or rejected by any state or foreign country; driver's license, denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;~~
- f. A statement of whether the applicant has ever been found guilty of or has a complaint, allegation, or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country and if so, an explanation;
- g. A statement of whether the applicant has ever had a ~~professional or occupational license, certificate, or registration, other than a driver's license, suspended or revoked by any state or foreign country; malpractice judgment or has a lawsuit currently pending for malpractice and if so, an explanation;~~
- h. A statement of whether ~~an award has ever been issued against the applicant for malpractice or whether a lawsuit for malpractice is currently pending; the applicant is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;~~
- i. A statement of whether the applicant has ~~been found guilty of or has charges currently pending for immoral or unprofessional conduct by a professional licensing board in any state; any impairment to the applicant's cognitive, communicative, or physical ability to participate in therapeutic interventions with skill and safety and if so, an explanation;~~
- j. A statement of whether the applicant has abused alcohol or any chemical substance, including prescription medications, that in any way has impaired or limited the applicant's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
- ~~jk.~~ A statement ~~of whether the applicant is currently more than 30 days in arrears for payments required by a judgment and order for child support in Arizona or any other state; and participating in a substance abuse recovery program and if so, an explanation;~~
- l. A statement of whether the applicant has been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder and if so, an explanation;
- m. A statement of whether the applicant has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorders and if so, an explanation;
- n. A statement of whether the applicant has been the subject of any criminal investigation by a federal, state or local agency, or had any criminal charges filed against the applicant and if so, an explanation;
- ~~ko.~~ A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
- 3. A passport photograph of the applicant no larger than 1 1/2 x 2 inches and taken not more than 6 months before the date of application;
- 4. A completed questionnaire covering Arizona statutes and rules pertaining to physical ~~therapist assistants therapy~~ that has been provided by the ~~Board and completed by the applicant; and Board; and~~
- 5. ~~The fees A fee~~ required in ~~A.A.C. R4-24-204, R4-24-206.~~
- B.** In addition to the requirements in subsection (A), an applicant shall arrange to have directly submitted to the Board:
 - 1. An official transcript or letter ~~stating showing~~ that the applicant has completed all requirements ~~for a physical therapist assistant education of an accredited educational program that is signed by the registrar of the university school or college at which where~~ the applicant completed the physical therapist assistant ~~education educational~~ program; and
 - 2. Verification of passing a national ~~board examination for in physical therapist assistants as evidenced by therapy through~~ an original notice of examination results ~~issued by the professional examination service that prepared the examination; and,~~
 - 3. If applicable, a verification of licensure or certification, signed and dated by an official of the agency licensing or certifying the applicant that includes all of the following:
 - a. ~~The name and address of the applicant;~~
 - b. ~~The license or certificate number and date of issuance;~~
 - c. ~~The current status of the license or certificate;~~
 - d. ~~The expiration date of the license or certificate;~~
 - e. ~~A statement of whether the applicant was ever denied a license or certificate by the agency; and~~
 - f. ~~A statement of whether any disciplinary action is pending or has ever been taken against the applicant.~~
- C.** The Board shall deny a certificate to an applicant for failing to meet the requirements of this Section or Arizona Revised Statutes, Title 32, Chapter 19. A person denied a certificate may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

R4-24-208. Renewal of Certificate and Address Changes

- A.** A certificate-holder shall submit a renewal application to renew a physical therapist assistant certificate on or before August 31 of even-numbered years and shall provide:

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1. A statement of whether the certificate-holder has ever been convicted of a felony, a misdemeanor involving moral turpitude, or entered into diversion in lieu of prosecution in any jurisdiction of the United States or foreign country and if so, an explanation;
 2. A statement of whether the certificate-holder has ever had an application for a professional or occupational license, certificate, or registration, other than a driver's license, denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
 3. A statement of whether the certificate-holder has ever been found guilty of or has a complaint, allegation, or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country and if so, an explanation;
 4. A statement of whether the certificate-holder has ever had a judgment against the certificate-holder or has a lawsuit currently pending for malpractice and if so, an explanation;
 5. A statement of whether the certificate-holder is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
 6. A statement of whether the certificate-holder has any impairment to the certificate-holder's cognitive, communicative, or physical ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
 7. A statement of whether the certificate-holder has abused alcohol or any chemical substance, including prescription medications, that in any way has impaired or limited the certificate-holder's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
 8. A statement of whether the certificate-holder is participating in a substance abuse recovery program and if so, an explanation;
 9. A statement of whether the certificate-holder has been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder and if so, an explanation;
 10. A statement of whether the certificate-holder has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorders and if so, an explanation;
 11. A statement of whether the certificate-holder has been the subject of any criminal investigation by a federal, state or local agency, or had criminal charges filed against the certificate-holder and if so, an explanation; and
 12. A sworn statement verifying the truthfulness of the information provided by the certificate-holder.
- B.** Failure of the Board to inform a certificate-holder of certificate expiration shall not excuse a certificate-holder's non-renewal or untimely renewal.
- C.** A certificate-holder shall submit a certificate renewal fee to the Board by mail or in person. The fee shall be paid by cashier's check, money order, or personal check.
- D.** The Board shall deny a certificate renewal to an applicant for renewal who fails to comply with a renewal requirement. A person denied renewal of certification may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.
- E.** The Board shall mail a receipt and registration card to each certificate-holder who renews a certificate showing the named certificate-holder has a current and valid certificate.
- F.** A certificate-holder shall notify the Board, in writing, within 30 days of a change of address to be used by the Board.

~~R4-24-207~~R4-24-209. Timeframes for Board Approvals

- A.** The overall timeframe described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is listed in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall timeframe. The overall timeframe and the substantive timeframe may not be extended by more than 25% of the overall timeframe.
- B.** The administrative completeness review timeframe described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is listed in Table 1.
1. The administrative completeness review timeframe begins:
 - a. When the Board receives an application packet for ~~For~~ approval to take the national physical therapy examination or national physical therapist assistant's examination as required in A.R.S. §§ 32-2022 and 32-2024, ~~when the Board receives an application packet;~~
 - b. When an applicant takes a national physical therapy examination or national physical therapist assistant's examination as required in A.R.S. §§ 32-2022 and 32-2024 for ~~For~~ approval or denial of a license or a certificate, ~~when an applicant takes a national physical therapy examination or national physical therapist assistant's examination as required in A.R.S. §§ 32-2022 and 32-2024;~~
 - c. When the Board receives an application packet for ~~For~~ a license by endorsement under A.R.S. § 32-2023(A), ~~when the Board receives an application packet;~~ or
 - d. When the Board receives an application packet for ~~For~~ approval or denial of a license for a foreign-educated applicant, ~~when the Board receives an application packet.~~
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information.
 - a. The administrative completeness review timeframe and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.

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- b. An applicant who disagrees with the Board's statement of deficiencies may request a hearing as provided in A.R.S. § 32-2023.
- 3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
- 4. If the Board grants a license, certificate, or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.
- C.** The substantive review timeframe described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the postmark date of the notice of administrative completeness.
 - 1. During the substantive review timeframe, the Board may make 1 comprehensive written request for additional information or documentation. The timeframe for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
 - 2. The Board shall send a written notice of approval to an applicant to take the national physical therapist's examination or national physical therapist assistant's examination or approval of a license or certificate to an applicant who meets the qualifications in A.R.S. §§ 32-2001 through 32-2027 and these rules.
 - 3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-2001 through 32-2027 and these rules.
- D.** The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
 - 1. Supply the missing information requested under subsection (B)(2) or (C)(1); or
 - 2. Take the national physical therapist's examination or national physical therapist assistant's examination.
- E.** An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.
- F.** If a timeframe's last day falls on a Saturday, Sunday, or an official state holiday, the Board shall consider the next business day the timeframe's last day.
- G.** An applicant shall send written notice to the Board within 30 days from the date of any change of applicant's address.

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Table 1. Timeframes (in days)

Type of Applicant	Type of Approval	Statutory Authority	Overall Timeframe	Administrative Completeness Timeframe	Substantive Review Timeframe
Regular License; Foreign-educated Applicant; Physical Therapist Assistant Certificate (R4-24-201, R4-24-205)	Approval to take an examination	A.R.S. § 32-2024	90	30	60
Regular License (R4-24-201)	License	A.R.S. §§ 32-2022; 32-2023	60	30	30
License by Endorsement (R4-24-201)	License by Endorsement	A.R.S. § 32-2026	60	15	45
Physical Therapist Assistant Certificate (R4-24-205)	Certificate	A.R.S. §§ 32-2022; 32-2023	60	30	30
Foreign-educated (R4-24-201)	Interim Permit	A.R.S. § 32-2025	30	15	15
Foreign-educated (R4-24-201)	License	A.R.S. §§ 32-2022; 32-2025	60	45	15

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EXHIBIT 1
INTERIM PERIOD EVALUATION FORM

NAME: _____ **PERIOD FROM:** _____ **TO:** _____

SUPERVISOR: _____ **FACILITY:** _____

NOTE: ALL SKILL MUST BE APPROVED PRIOR TO END OF SUPERVISED PERIOD

<u>SKILL</u>	<u>APPROVED</u>	<u>OBSERVED NOT APPROVED</u>	<u>NOT OBSERVED</u>	<u>COMMENTS</u>
<u>PROFESSIONAL BEHAVIOR</u>				
1. <u>Demonstrates professional/ethical conduct</u>				
2. <u>Pursues professional development</u>				
3. <u>Effective Time Management</u>				
4. <u>Able to problem-solve</u>				
<u>COMMUNICATION</u>				
5. <u>Therapeutic rapport with patient, families, etc.</u>				
6. <u>Communicates with patient and family</u>				
7. <u>Uses and interprets non-verbal communication with patients/family</u>				
8. <u>Responds appropriately to behavior/condition of patient</u>				
9. <u>Interacts with professionals/exchanges communication</u>				
10. <u>Utilizes supportive personnel effectively</u>				
11. <u>Appropriate documentation</u>				
<u>EVALUATION</u>				
12. <u>Performs comprehensive evaluation</u>				
13. <u>Interprets evaluation</u>				
14. <u>Sets appropriate goals</u>				
15. <u>Plans discharge</u>				
16. <u>Analyzes posture</u>				
17. <u>Evaluates sensory status</u>				
18. <u>Analyzes gait</u>				
19. <u>Evaluates functional activities</u>				
20. <u>Assesses neuromuscular status</u>				
21. <u>Evaluates ROM</u>				
22. <u>Performs MMT</u>				
23. <u>Assesses need for orthodic devices</u>				
24. <u>Assesses and responds to physiologic status of patient</u>				

ARTICLE 3. REGULATION OF PHYSICAL THERAPY

R4-24-301. Professional Practice

- A.** A licensee shall provide the referring practitioner, if any, with information that may assist in the determination of an accurate diagnosis. A licensee shall provide this information, verbally or in writing, after a patient is initially evaluated by the licensee.
- B.** A licensee shall not delegate the following responsibilities to an individual who is not a licensee:
1. Initial written evaluation for each patient;
 2. Planning each patient's treatment program and determining which elements of the program may be delegated to a physical therapist assistant or aide;
 3. Periodic written reevaluation, including observation, and written documentation of the treatment program and the patient's progress; and
 4. Written discharge summary of the patient and the patient's response to the treatment at the termination of the treatment program.

R4-24-301. Lawful Practice

- A.** A physical therapist shall provide the referring practitioner, if any, or other health professional involved in the care of the patient, with information from the patient assessment, diagnosis, and plan of care. A physical therapist shall provide this information, verbally or in writing, after a patient is initially evaluated.
- B.** A physical therapist shall maintain the confidentiality of patient records in accordance with A.R.S. Title 12, Chapter 7.
- C.** A physical therapist shall obtain a patient's informed consent before treatment. The consent shall include:
1. The nature of the proposed intervention;
 2. Material risk of harm or complication;
 3. A reasonable alternative to the proposed intervention; and
 4. The goal of treatment.

R4-24-302. Delegation of Tasks to Physical Therapist Assistants and Aides

- A.** A licensee shall not delegate to a less qualified person any service that requires the skill, knowledge, and judgment of a licensed physical therapist.
- B.** Adequate supervision by a licensee of physical therapist assistants or aides includes the following:
1. Evaluation of the performance of delegated responsibilities and assigned tasks;
 2. Instruction and training in required skills;
 3. Maintenance of written documentation of instruction and training provided;
 4. Periodic re-evaluation of the performance of delegated tasks;
 5. On-site supervision of no more than a combination of 3 physical therapist assistants or aides engaged in direct patient care; and
 6. Verification that a physical therapist assistant graduated from a Board approved, accredited, physical therapy education program.
- C.** Within 10 days of undertaking the supervision of a physical therapist assistant, a licensee shall provide written notice to the Board of the name, address, place of employment, and education verification for each physical therapist assistant.
- D.** A supervising physical therapist shall be responsible for all physical therapy care given by physical therapist assistants.

R4-24-302. Use of Titles

- A.** A licensed physical therapist shall use the designation "PT" immediately following the licensee's name or signature. A licensed physical therapist shall not use the designations "RPT" and "LPT" in connection with the physical therapist's name or place of business. A licensed physical therapist may be subject to disciplinary action by the Board for improper use of designations.
- B.** A certified physical therapist assistant shall use the designation "PTA" immediately following the physical therapist assistant's name. A certified physical therapist assistant may be subject to disciplinary action by the Board for improper use of designations.
- C.** For purposes of identification and documentation, students of physical therapist or physical therapist assistant educational programs shall use their own name, followed by the designation "Physical Therapy Student" or "Physical Therapy Assistant Student" or "Physical Therapy Asst. Student".

R4-24-303. Patient Care Management

- A.** A physical therapist is responsible for the scope of patient management in the practice of physical therapy as defined by A.R.S. § 32-2001(9). The physical therapist shall:
1. Perform and document the initial evaluation of each patient.
 2. Perform and document periodic re-evaluation of each patient.
 3. Document a discharge summary of the patient and the patient's response to treatment at discharge; and
 4. Perform and document all therapeutic interventions that require the expertise of a physical therapist.

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- B. A physical therapist shall determine the assistive personnel's education and training prior to delegating in accordance with A.R.S. §32-2043.
- C. For each date of service, a physical therapist shall provide all therapeutic interventions that require the expertise of a physical therapist and shall determine the use of assistive personnel to provide for the delivery of services that is safe, effective, and efficient for each patient.
- D. The documentation for each treatment session shall be signed in handwriting or electronically by either the physical therapist or the physical therapist assistant.
- E. A physical therapist shall concurrently supervise not more than 2 assistive personnel. In addition to 2 assistive personnel, a physical therapist may supervise 2 additional persons who are physical therapist students, physical therapist assistant students, physical therapists under restricted license or interim permit, or any combination of these.
- F. A physical therapist's responsibility for patient management shall include oversight of all documentation for services rendered to each patient, including awareness of fees charged or reimbursement methodology used, and what constitutes an unreasonable or fraudulent fee.

R4-24-304. Complaints and Investigations

- A. A complaint to the Board shall be made in writing and transmitted to the Board by mail or facsimile on a form provided by the Board. A complainant shall provide the following information:
 - 1. Name of licensee or certificate holder who is the subject of complaint;
 - 2. Name and address of person filing complaint;
 - 3. Nature of the complaint;
 - 4. Details of the complaint with pertinent dates and activities;
 - 5. Whether the complainant has contacted any other organization regarding the complaint;
 - 6. Whether complainant has contacted the licensee or certificate-holder concerning the complaint, and the licensee's or certificate-holder's response, if any; and
 - 7. Whether the complainant is willing to testify at a hearing.
- B. The Board shall notify a licensee or certificate-holder, in writing, within 90 days after receiving a complaint. The licensee or certificate-holder shall submit a written response, including records or documentation as requested by the Board, within 20 days from the date that notice of the complaint was mailed or delivered to the licensee or certificate-holder.

R4-24-305. Informal Interviews

- A. The Board shall send written notice of an informal interview to the licensee or certificate holder, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview.
- B. The written notice shall contain:
 - 1. The time, date, place of the interview;
 - 2. An explanation of the informal nature of the proceedings;
 - 3. The licensee's or certificate-holder's right to appear with or without legal counsel;
 - 4. A statement of the allegations and issues involved;
 - 5. The licensee's or certificate holder's right to a formal hearing in lieu of the informal interview; and
 - 6. Notice that the Board may take disciplinary action as a result of the deliberations of the informal interview;
- C. An informal interview shall proceed as follows:
 - 1. Introduction of the licensee or certificate-holder and, if applicable, legal counsel for the licensee or certificate-holder;
 - 2. Introduction of the Board members, staff and Assistant Attorney General present;
 - 3. Swearing in of the licensee or certificate-holder and witnesses;
 - 4. Brief summary of the allegations or purpose of the informal interview;
 - 5. Optional opening comment by licensee or certificate-holder;
 - 6. Questioning of the licensee or certificate-holder and witnesses;
 - 7. Optional additional comments by licensee or certificate-holder;
 - 8. Deliberation and deciding the case by the Board.

R4-24-107R4-24-306. Issuance of Subpoenas

- A. The ~~secretary of the Board or the executive director~~ Executive Director shall approve and issue all subpoenas pursuant to ~~under~~ Arizona Revised Statutes, Title 32, Chapter 19.
- B. A party requesting the issuance of the a subpoena to be issued shall serve the subpoena in accordance with as provided by the Arizona Rules of Civil Procedure.

R4-24-109R4-24-307. Rehearing or Review of Board Decisions

- A. Except as provided in subsection (G), a party to a contested case who is aggrieved by the Board's decision in the action may file with the Board a written motion for rehearing or review. The motion shall be filed within 30 days after service of the decision and shall particularly state the grounds for the motion. For purposes of this subsection, a decision is served when personally delivered or sent by certified mail to the party's last known residential or business address.

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- B. A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A response may be filed to a motion or amended motion by any other party, within 15 days of service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. The Board may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party's rights:
 - 1. Irregularity in the administrative proceedings of the Board or the prevailing party, or any order or abuse of discretion which deprived the moving party of a fair hearing;
 - 2. Misconduct of the Board or the prevailing party;
 - 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties or disciplinary action;
 - 6. Error in the admission or rejection of evidence or other errors of law in the original hearing; or
 - 7. A decision that is not justified by the evidence or is contrary to law.
- D. The Board may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues raised for any of the reasons stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.
- E. No later than 15 days after making a decision, the Board may order a rehearing or review on its own initiative for any of the reasons stated in subsection (C). After giving notice to the parties or ~~their~~ the parties' counsel, the Board may grant a motion for rehearing or review on grounds not stated in the motion. In either case, the order granting a rehearing or review shall specifically state the grounds for the rehearing or review.
- F. When a motion for rehearing or review is based upon affidavits, the affidavits shall be served with the motion. An opposing party may serve opposing affidavits within 10 days of service of the original affidavits. This 10-day period may be extended for not more than 20 days by the Board for good cause shown or by written stipulation of the parties. The Board may permit reply affidavits.
- G. If the Board makes a specific finding that immediate effectiveness of a particular decision is necessary for the preservation of public health and that rehearing or review is impracticable, unnecessary, or contrary to public interest, the decision may be issued as final without opportunity for rehearing or review. If a decision is issued as final, the time limits for judicial review of the Board's final decisions, ~~which are set forth~~ at A.R.S. § 12-901 et seq., ~~are applicable~~ apply.

R4-24-308. Disciplinary Actions; Penalties

- A. All disciplinary actions including a decree of censure shall remain a part of a licensee's or certificate-holder's public record.
- B. The Board shall include corrective action specific to the grounds upon which the disciplinary action is based when restricting a license or certificate. Supervision of a restricted licensee or certificate-holder shall be by an unrestricted licensee approved by the Board.
- C. A physical therapist or physical therapist assistant who's license or certificate is suspended, revoked or voluntarily surrendered shall return the license or certificate to the Board within 10 days of receipt of a final Board order.
- D. Following a period of restricted license or certificate, a licensee or certificate-holder shall appear before the Board and submit evidence of having completed all Board requirements and stipulations prior to termination of the restriction.
- E. Following revocation of a license or certificate in any jurisdiction, an individual may not reapply for a license or certificate for a period of 2 years.
- F. An applicant whose license was previously revoked shall appear before the Board before a license is granted.

R4-24-309. Substance Abuse Recovery Program

- A. In addition to the requirements of A.R.S. § 32-2050, to participate in a substance abuse recovery program, a licensee or certificate-holder shall submit to the Board:
 - 1. Evidence that the program is licensed by the Arizona Department of Health Services to provide substance abuse recovery services.
 - 2. If ordered by the Board or its designee, results of body fluid examinations at any time;
 - 3. An agreement, signed by an authorized representative of the program and the licensee or certificate-holder, that the program shall provide to the Board:
 - a. Periodic reports regarding treatment program activity;
 - b. All treatment records when requested by the Board;
 - c. Periodic reports regarding the licensee's or certificate-holder's diagnosis, prognosis, and the recommendations for continuing care, treatment, and supervision; and
 - d. An immediate report if the licensee or certificate-holder refuses to submit to treatment, is noncompliance with the established program, or if the licensee's or certificate-holder's impairment is not substantially alleviated through treatment.

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- B.** In order to determine that a licensee or certificate-holder who has entered into a written agreement with the Board, or has been disciplined for substance abuse, is not impaired by drugs or alcohol following the termination of treatment or the order, the Board or its designee may require the licensee to submit to body fluid examinations at any time within five consecutive years following termination of the order or treatment program.

R4-24-310. Consumer Rights

Members of the public may contact the Board office to access public information on a licensee, a certificate-holder, official actions of the Board, and open meetings.

R4-24-311. Display of License; Posting Notice; Disclosure

- A.** Each licensee shall display the license and current renewal certificate in a location accessible to public view at the licensee's place of practice.
- B.** A licensee shall post notice at the licensee's place of practice in a location accessible to public view the name, address, and telephone number of the Board office, and a statement informing consumers that a complaint against a licensee can be directed to the Board.
- C.** Written disclosure to a patient shall be provided prior to evaluation and initiation of physical therapy when a referring practitioner is deriving direct or indirect compensation from the referral. The written disclosure shall:
1. State that "Under A.R.S. § 32-2051(C), I am required by law to inform you in writing that your referring physician [or specify if different than a physician] derives either direct or indirect compensation related to your physical therapy. You may choose to receive physical therapy here or, if you elect not to receive physical therapy here, I will provide you with the names, addresses and telephone numbers of two other physical therapists qualified to provide you with physical therapy."
 2. Be signed by the physical therapist.

ARTICLE 4. CONTINUING COMPETENCE

R4-24-401. Continuing Competence Requirements for Renewal

- A.** Except as provided in subsection (F), beginning September 1, 2000, a licensed physical therapist shall earn 20 contact hours for each compliance period to be eligible for renewal of license.
1. A licensee shall earn at least 10 contact hours from Category A continuing competence activities. No more than 5 of the required contact hours from Category A shall be obtained from nonclinical course work.
 2. No more than 10 contact hours may be earned by a licensee during any compliance period from Categories B and C continuing competence activities. No more than 5 contact hours from categories B and C may be obtained from non-clinical course work.
 3. If the licensee's initial license is for one year or less, the licensee shall earn 10 contact hours during the initial compliance period.
- B.** A licensee shall not receive contact hour credit for repetitions of an activity.
- C.** The continuing competence compliance period for a licensee begins on September 1 following the issuance of an initial license or a license renewal and ends on August 31 of even-numbered years.
- D.** A licensee shall not carry over contact hours from one compliance period to another.
- E.** An applicant for license renewal shall submit a signed statement to the Board with the renewal application stating whether continuing competence requirements have been fulfilled for the current compliance period.
- F.** The Board may, at its discretion, waive continuing competence requirements on an individual basis for reasons of extreme hardship such as illness, disability, active service in the military or other extraordinary circumstance as determined by the Board. A licensee who seeks a waiver of the continuing competence requirements shall provide to the Board, in writing, the specific reasons for requesting the waiver and such additional information as the Board may request in support of the waiver.
- G.** A licensee is subject to Board auditing for continuing competence compliance.
1. Selection for audit shall be random and notice of audit sent within 60 calendar days following the license renewal deadline.
 2. Within 30 days of receipt of a notice of audit, a licensee shall submit evidence to the Board that shows compliance with the requirements of continuing competence. Documentation of a continuing competence activity shall include:
 - a. The date, place, course title, sponsor, schedule, and presenter;
 - b. The number of contact hours received for the activity; and
 - c. Proof of completion, such as an abstract, certificate of attendance, sign in log, or other certification of completion.
- H.** A licensee shall retain evidence of participation in a continuing competence activity for the 2 preceding compliance periods.
- I.** The Board shall notify a licensee who has been audited whether the licensee is in compliance with continuing competence requirements. A licensee shall be notified by the Board, by certified mail, within 30 working days following the determination by the Board

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- J.** A licensee found not in compliance with continuing competence requirements shall have 6 months from the notice of non-compliance to satisfy the continuing competence requirements. A licensee may request a hearing to contest the Board's decision under A.R.S. Title 41, Chapter 6, Article 10.
- K.** Penalties for failure to comply with continuing competence requirements may be imposed by the Board following a hearing conducted under A.R.S. Title 41, Chapter 6, Article 10. Penalties may include imposition of additional continuing competence requirements, restriction, suspension, or revocation of license.

R4-24-402. Continuing Competence Activities

- A.** Category A continuing competence education shall be sponsored and approved by:
1. An accredited medical or physical therapy school;
 2. A state or national medical or physical therapy association, or a component of the association; or
 3. A national medical or physical therapy specialty society.
- B.** Category A continuing competence education includes:
1. A physical therapy continuing education course designed to provide necessary understanding of current research, clinical skills, procedures, or treatment related to the practice of physical therapy. Calculation of contact hours shall be determined by dividing the total minutes of instruction by 60. Breaks shall not be included as part of instructional time.
 2. Completion or renewal of a physical therapy clinical specialty certification approved by the Board. This activity fulfills the 20 contact hours requirement for the compliance period within which it is completed or renewed.
 3. A physical therapy clinical residency program. Participation in a physical therapy clinical residency program constitutes 10 contact hours per year of participation, with a maximum of 2 years participation.
 4. Completion of Post Graduate Physical Therapy Education from an accredited college or university. This activity fulfills the 20 contact hours requirement for the compliance period within which it is completed.
- C.** Category B continuing competence education includes:
1. Study Group.
 - a. A study group shall be a structured meeting designed for the study of a clinical physical therapy topic dealing with current research, clinical skills, procedures, or treatment related to the practice of physical therapy.
 - b. A study group shall have a minimum of 3 participants and 2 hours of participation in order to be worth 1 contact hour. A maximum of 5 contact hours may be earned for study group activity per compliance period.
 2. Self-Instruction.
 - a. Self-instruction shall be a structured course of study relating to 1 clinical physical therapy topic dealing with current research, clinical skills, procedures or treatment related to the practice of physical therapy. Self-instruction may be directed by a correspondence course, video, internet, or satellite program.
 - b. 2 hours of self-instruction shall be required for each 1 contact hour. A maximum of 5 contact hours may be earned by self-instruction per compliance period.
 3. Inservice Education.
 - a. Inservice education shall be attendance at a presentation pertaining to current research, clinical skills, procedures or treatment related to the practice of physical therapy or relating to patient welfare or safety including CPR certification.
 - b. 1 hour of inservice education equals 1 contact hour. A maximum of 5 contact hours may be earned for inservice education per compliance period.
- D.** Category C modes of continuing competence includes:
1. Physical therapy practice management course work.
 - a. Physical therapy practice management course work is course work concerning physical therapy administration, professional responsibility, ethical obligations or legal requirements applicable to physical therapy practice settings.
 - b. A licensee shall receive a "pass" in a pass/fail course or a minimum of a "C" in a graded course to receive credit.
 - c. 1 hour of practice management course work equals 1 contact hour. A maximum of 5 contact hours may be earned for practice management course work.
 2. Teaching or lecturing.
 - a. Teaching or lecturing is the presentation of an original educational program dealing with current research, clinical skills, procedures, treatment or practice management related to the practice of physical therapy principally for health care professionals. Credit may be earned for teaching when the presentation is accompanied by written materials prepared, augmented or updated by the presenter including course objectives and program content.
 - b. One 60 minute instructional period shall be equal to 3 contact hours.
 - c. No credit shall be given for a repeated presentation within the same compliance period.
 3. Publication.

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- a. Publication includes writing for professional publication that has direct application to the practice of physical therapy. Credit may be earned for publication of material that is a minimum of 1500 words in length and published by a recognized third-party publisher of physical therapy material.
- b. Each article published in a refereed journal, book chapter or book shall be equal to 10 contact hours. Articles published in non-refereed journals, magazines, newsletters or periodicals shall be equal to 5 contact hours.

R4-24-403. Activities Not Eligible for Continuing Competence Credit

The following activities shall not receive continuing competence credit:

1. A regularly scheduled educational opportunity provided within an institution, such as rounds;
2. A staff meeting;
3. A publication or presentation by a licensee to a lay or non-professional group; and
4. Teaching of personnel, students, or staff as part of a job requirement.

ARTICLE 5. PUBLIC PARTICIPATION PROCEDURES

R4-21-501. Public Records; Rulemaking Record and Directory of Substantive Policy Statements

The official rulemaking record and directory of substantive policy statements is located in the office of the Board and may be reviewed any week day, 8:00 a.m. until 5:00 p.m., except state holidays.

R4-21-502. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact

A petition to adopt, amend, or repeal a rule or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. § 41-1033 or to object to a rule in accordance with A.R.S. § 41-1056.01 shall be filed with the Board as prescribed in this Section. Each petition shall contain:

1. The name and current address of the petitioner;
2. The specific language of the proposed rule for the adoption of a new rule;
3. The citation for the applicable Arizona Administrative Code number and rule title for the amendment of a current rule. The request shall include the specific language of the current rule, any language to be deleted shall be stricken through but legible, and any new language shall be underlined;
4. For the repeal of a current rule, the citation for the applicable A.A.C. number and title of the rule proposed for repeal;
5. The reasons a rule should be adopted, amended, or repealed, and if in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including:
 - a. Statistical data or other justification, with clear reference to an attached exhibit;
 - b. Identification of what person or segment of the public would be affected and how the person or segment would be affected; and
 - c. If the petitioner is a public agency, a summary of a relevant issue raised in any public hearing, or as A written comment offered by the public;
6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reason the existing Board practice or substantive policy statement constitutes a rule and the proposed action requested of the Board.
7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
 - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the rule; or
 - b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on A person subject to the rule.
8. The signature of the person submitting the petition.

R4-21-503. Public Comments

- A.** On or before the date of the close of record, a person may comment upon a rule proposed by the Board by submitting written comments on the proposed rule or upon any other matter noticed for public comment in the Arizona Administrative Register to the Board.
- B.** The Board considers a written comment submitted on the date it is received by the Board, except if a comment is mailed the date of receipt shall be the postmarked date.
- C.** The Board shall consider all written comments that conform with A.R.S. § 41-1023.

R4-21-504. Oral Proceedings

- A.** A person requesting an oral proceeding, as prescribed in A.R.S. § 41-1023(C), shall:
 1. File the request with the Board;
 2. Include the name and current address of the person making the request; and

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3. Refer to the proposed rule and include the date and issue of the Arizona Administrative Register in which the notice was published, if known.
- B.** The Board shall record an oral proceeding either electronically or stenographically, and any cassette tape, transcript, register, or written comment received shall become part of the official record.
- C.** The presiding officer shall use the following guidelines to conduct an oral proceeding:
 1. Registration of attendees. Registration of attendees shall be voluntary;
 2. Registration of a person intending to speak. Registration information shall include the registrant's name, representative capacity, if applicable, a notation of the registrant's position with regard to the proposed rule and the approximate length of time the registrant wishes to speak;
 3. Opening of the record. The presiding officer shall open the proceeding by identifying the rule to be considered, the location, date, time, and purpose of the proceeding, and present the agenda;
 4. A statement by a Board representative. The Board representative shall explain the background and general content of the proposed rule;
 5. A public oral comment period. The presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. An oral comment may be limited to prevent undue repetition; and
 6. Closing remarks. The presiding officer shall announce the location where the written public comment is to be sent.

R4-21-505. Petition for Delayed Effective Date

- A.** A person wanting to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the Board. The petition shall contain:
 1. The name and current address of the person submitting the petition;
 2. Identification of the proposed rule;
 3. The need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted, and the reasons why the public interest will not be harmed by the later date; and
 4. The signature of the person submitting the petition.
- B.** The Board shall make a decision and notify the petitioner of the decision within 60 days of receipt of the petition.

R4-21-506. Written Criticism of Rule

- A.** Any person may file a written criticism of an existing rule with the Board.
- B.** The criticism shall clearly identify the rule and specify why the existing rule is inadequate, unduly burdensome, unreasonable, or otherwise improper.
- C.** The Board shall acknowledge receipt of A criticism within 15 days and shall place the criticism in the official record for review by the Board under A.R.S. § 41-1056.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 5. LAND DEPARTMENT

ARTICLE 17. NATURAL RESOURCE CONSERVATION DISTRICTS

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R12-5-1701.	Repeal
R12-5-1702.	Repeal
R12-5-1703.	Repeal
R12-5-1704.	Repeal
R12-5-1705.	Repeal
R12-5-1706.	Repeal
R12-5-1708.	Repeal
R12-5-1709.	Repeal
R12-5-1710.	Repeal
R12-5-1711.	Repeal
R12-5-1712.	Repeal
R12-5-1713.	Repeal
R12-5-1714.	Repeal
R12-5-1715.	Repeal

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R12-5-1716.	Repeal
R12-5-1717.	Repeal
R12-5-1718.	Repeal
R12-5-1719.	Repeal
R12-5-1720.	Repeal
R12-5-1721.	Repeal
R12-5-1722.	Repeal
R12-5-1723.	Repeal
R12-5-1724.	Repeal

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

Authorizing statute: A.R.S. § 37-132(A)(1)

Implementing statute: A.R.S. §§ 37-1001, 37-1002; 37-1011 through 37-1014; 37-1031 through 37-1040; 37-1051 through 37-1057; and 16-101.

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 4582, December 10, 1999

Notice of Rulemaking Docket Opening, 5 A.A.R. 4661, December 17, 1999

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

Name: Richard B. Oxford, Director
Operations Division

Address: Arizona State Land Department
1616 W. Adams
Phoenix, AZ 85007

Telephone: (602) 542-4602

Fax: (602) 542-5223

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

The Arizona State Land Department ("the Department") manages approximately 9.3 million acres of State Trust land. The Trust lands were granted to the State of Arizona under the provisions of the federal Enabling Act (Sections 24-30), (Act of June 20, 1910, Ch. 310, 36 U.S. Stat. 557, 568-579) that provided for Arizona's statehood in 1912. The Trust lands and their natural resources are managed to earn revenues for 14 public institutional beneficiaries of which the common schools receive the greatest benefit.

In addition to managing the State's Trust land, the State Land Commissioner serves as the State's Natural Resource Conservation Commissioner and is responsible for administration of the State's Natural Resource Conservation District program. The purpose of the program is to provide for the restoration and conservation of land, soil and natural resources through the State's 31 Natural Resource Conservation Districts.

Natural Resource Conservation Districts, formerly known as Soil Conservation Districts, were created to provide for the restoration and conservation of agricultural lands and soil resources damaged during the prolonged drought conditions that persisted during the "Dust Bowl" era of the 1930s. In 1941, the Arizona legislature established the State's Soil Conservation District program (Laws 1941, Ch. 43, § 16) which was renamed "Natural Resource Conservation District" program in 1972 (Laws 1972, Ch. 28 § 16, March 24, 1972). The Districts are political subdivisions of the state and serve in partnership with the U.S. Department of Agriculture, Natural Resources Conservation Service to provide federal and technical assistance to private landowners for various natural resource conservation practices. Most of the 31 Districts were formed in the 1940s and 1950s.

Each District serves a geographically defined area, is governed by a Board of Supervisors, three of which are elected to staggered six-year terms and two of which are appointed by biennially by the Commissioner. and provides technical and financial assistance to its District Cooperators. A District Cooperator is any person who has entered into a Cooperative Agreement with a Conservation District for the purpose of protecting, conserving and practicing wise use of natural resources.

District activities include:

Working in unity as the Arizona Association of Conservation Districts to focus state and federal means on local and statewide natural resource concerns.

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Collaborate with citizens and state and federal agencies to prioritize the delivery of U.S. Department of Agriculture and other natural resource conservation programs to District Cooperators.

Providing education and technical advice regarding soil, water and natural resource conservation.

Promoting watershed management programs that address flood control, proper grazing management, and the conservation, enhancement and restoration of riparian areas.

Protection of open space and farmland.

Promoting responsible use of natural resources in outdoor recreation.

Promoting integrated land use planning which improves water and air quality, enhances wildlife habitat, and minimizes impacts on threatened and endangered species and on historical and cultural resources.

Providing conservation and environmental education to local school children and adults.

The Department proposes to repeal rules associated with the State's Natural Resource Conservation District program that are nonfunctional, confusing, incorrect, and for the most part are repetitive of statute. The rules are burdensome to the Natural Resource Conservation District program and impossible for the Department to enforce. The proposed action is deregulatory in nature by eliminating unnecessary rules.

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

None.

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

Not applicable.

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

An economic, small business, and consumer impact statement is not required under A.R.S. § 41-1055(D)(3).

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

Not applicable.

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

No oral proceedings or hearings are scheduled. A person may submit written comments or request that an oral proceeding be held on the rules proposed for repeal by submitting comments or a written request for hearing no later than 5:00 p.m., March 6, 2000, to:

Name:	Richard B. Oxford, Director Operations Division
Address:	Arizona State Land Department 1616 W. Adams Phoenix, AZ 85007
Telephone:	(602) 542-4602
Fax:	(602) 542-5223

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

Not applicable.

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

None.

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 5. LAND DEPARTMENT

ARTICLE 17. NATURAL RESOURCE CONSERVATION DISTRICTS

Section

R12-5-1701.	Scope of Rules and Regulations Governing Natural Resource Conservation Districts
R12-5-1702.	General Policy of Rules and Regulations for Natural Resource Conservation Districts
R12-5-1703.	Petition for Natural Resource Conservation District
R12-5-1704.	Contents of Petition
R12-5-1705.	Qualifications for Acceptable Petition
R12-5-1706.	Hearing on Petition; Notice
R12-5-1708.	Determination by Commissioner
R12-5-1709.	Referendum; Election of Supervisors
R12-5-1710.	Proclamation of Result of Referendum
R12-5-1711.	Powers of District
R12-5-1712.	Limitation of Powers
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R12-5-1714.	Certificate of Organization
R12-5-1715.	Certificate as Evidence of Legal Establishment
R12-5-1716.	State Financial Assistance to Natural Resource Conservation Districts; Application; Criteria.
R12-5-1717.	Yearly Requirements for Districts
R12-5-1718.	Change in Boundaries; Combination or Division of Districts; Change in Name of District
R12-5-1719.	Dissolution of District
R12-5-1720.	District Supervisor; Terms of Office; Biennial Election
R12-5-1721.	Power of the Commissioner to Remove District Supervisor
R12-5-1722.	Organization of Supervisors; Vacancies
R12-5-1723.	Powers and Duties of Supervisor
R12-5-1724.	Cooperation with State Agencies

ARTICLE 17. NATURAL RESOURCE CONSERVATION DISTRICTS

~~R12-5-1701. Scope of Rules and Regulations Governing Natural Resource Conservation Districts~~

~~These rules and regulations shall supplement and implement Title 45, Chapter 8 of the Arizona Revised Statutes relating to natural resource conservation districts and they shall prevail over and supersede any existing policy or procedure of the Department to the extent that the policy rules or procedure are in conflict.~~

~~R12-5-1702. General Policy of Rules and Regulations for Natural Resource Conservation Districts~~

~~It is declared policy of the Legislature and the State Land Department to provide for the restoration and conservation of lands and soil resources of the state and the control and prevention of soil erosion and thereby to conserve natural resources, conserve wildlife, protect the tax base, protect public lands and in such manner to provide and promote the public health, safety and general welfare of the people.~~

~~R12-5-1703. Petition for Natural Resource Conservation District~~

~~Applications for natural resource conservation districts shall be made on petition forms which are, from time to time, prescribed by the state Natural Resource Conservation Commissioner. Forms for application shall be furnished by the Department.~~

~~R12-5-1704. Contents of Petition~~

~~Each petition for a natural resource conservation district shall contain:~~

- ~~1. The proposed name of the district.~~
- ~~2. A declaration that there is need, in the interest of preservation of property, health, safety and public welfare, for a district in the territory described.~~
- ~~3. A description of the exterior boundaries of the territory proposed to be organized.~~
- ~~4. A request that the Commissioner:~~
 - ~~a. Determine that the district be created.~~
 - ~~b. Define the boundaries of the proposed district.~~
 - ~~c. Direct that a referendum be held within the territory so defined on the question of the creation of a district.~~

~~R12-5-1705. Qualifications for Acceptable Petition~~

~~Twenty five or more owners of land but not less than 25 percent of the owners of land lying within the limits of a proposed district, or if there are fewer than 25 owners of land in the proposed district, not less than 25 percent of all such owners may petition requesting that a district be organized.~~

~~R12-5-1706. Hearing on Petition; Notice~~

~~A. Within 90 days after a petition has been accepted by the Commissioner, notice shall be given by publication in at least two issues at intervals of not less than six days, of a newspaper of general circulation within the area affected, or if there is not such newspaper, a newspaper of general circulation within the county, of a hearing upon:~~

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1. The desirability and necessity, in the interest of preservation of property, health, safety and public welfare, of the creation of such district.
 2. The appropriate boundaries to be assigned to the district.
 3. The property of the petition and other proceedings taken.
 4. All related questions.
- B.** All owners of land within the limits of the territory described in the petition and of lands within any territory considered for addition to the described territory, and all other interested parties, may attend and be heard at such hearing.
- C.** If it appears on the hearing that it is desirable to include within the proposed district territory outside the area described in the petition, the hearing shall be adjourned and notice of further hearing given, in the manner provided by this Section, in the entire area considered for inclusion in the district.

R12-5-1708. Determination by Commissioner

- A.** If, after final hearing upon a petition, the Commissioner determines upon the facts presented and other relevant information that a district within the territory considered is in the public interest, he shall record such determination and define the boundaries of the district. In defining the boundaries, he shall consider:
1. The topography of the area.
 2. The character of soils.
 3. The distribution of erosion.
 4. Prevailing land use practices.
 5. The desirability and necessity of including within the boundaries of the district the particular lands under consideration and the benefits to be received by such inclusion.
 6. The relation of the proposed area to existing watersheds and agricultural regions, and to other districts already organized or proposed for organization.
 7. Such other physical, geographical and economic factors as are relevant.
- B.** In defining the boundaries of the district, the Commissioner shall not include therein any area, land or property of any person or persons who do not desire to have such area, land, or property included in such district. Notwithstanding any provision of this Chapter to the contrary, lands held under Certificate of Purchase or lease from the state shall not be included in any district if the holder or holders of Certificates of Purchase or the leases therefor do not desire such lands included.
- C.** If the Commissioner determines that it is not in the public interest for a district to function in the territory considered, he shall record such determination and deny the petition.
- D.** After expiration of 18 months from the date of entry of a determination by the Commissioner that operation of a proposed district is not administratively and economically feasible, a denial of a petition pursuant to that determination, petitions may again be filed and action taken in accordance with the provisions of this Chapter.

R12-5-1709. Referendum; Election of Supervisors

- A.** Within a reasonable time after the Commissioner has recorded his determination that it is in the public interest that a district be organized and has defined the boundaries thereof, he shall hold a referendum within the proposed district upon the question of the creation of the district, and an election to elect three supervisors. He shall promulgate regulations for the conduct of such referendum and election and prescribe a procedure for the determination of persons eligible to vote. The referendum and election of supervisors shall be conducted by separate ballots.
- B.** The ballot for the referendum shall:
1. Describe the boundaries of the proposed district as determined by the Commissioner.
 2. Contain the propositions: "For the creation of a district" and "against the creation of a district", with a square after each proposition.
 3. An instruction to mark an X in the square after the proposition for which the voter wishes to vote.
- C.** Only owners of land lying within the boundaries of the territory described shall be eligible to vote on the referendum, but any such owner who is not a qualified elector of the district, or any owner who is a qualified elector but is unable because of illness or absence from the district to appear at the polls, may appoint, in writing on a form prescribed by the Commissioner, a qualified elector of the district as his agent or proxy. The appointment of agent or proxy shall be presented to the board of election, and if it is found to be bona fide and in proper form, the holder thereof shall be allowed to vote in behalf of the owner executing the appointment on the question of creation of the district only. The appointment shall be filed with the ballots and other election returns.
- D.** Candidates for supervisor shall file nomination petitions with the Commissioner in the manner prescribed by the Commissioner. Any qualified elector of the proposed district may sign the petitions of not more than three candidates. The names of candidates shall appear on the election ballot in alphabetical order by surnames, with a square opposite each name, and an instruction to mark an X in the squares opposite the names of not more than three candidates for whom the voter wishes to vote.
- E.** No informality in the conduct of any referendum or election held under the provisions of this Chapter, or in any manner relating thereto, shall invalidate the result thereof if notice has been given substantially as prescribed in 45-2032, and the referendum and election has been fairly conducted. All expenses of a referendum and election shall be paid by the Commissioner.

R12-5-1710. Proclamation of Result of Referendum

If not less than 65 percent of the land owners voting at the referendum and the owners of not less than 50 percent of the land, other than publicly owned, lying within the proposed district, vote in favor of the creation thereof, the Commissioner shall declare the district organized, otherwise he shall declare the proposal defeated.

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R12-5-1711. Powers of District

A. A district is empowered to:

1. Conduct surveys, investigations and research relating to the character of the soil, soil erosion prevention within a farm or ranch, methods of cultivation, farm and range practices, seeding, eradication of noxious growths and such other measures as will aid farm and range operations, disseminate information pertaining thereto, and carry on research programs with or without the cooperation of the state, the United States or agencies thereof.
2. Conduct demonstration projects within the district on lands owned or controlled by the state or any of its agencies with the consent and cooperation of the agency having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner thereof or the necessary rights or interests therein, in order to demonstrate by example the means, methods and measures by which soil and soil resources may be conserved, and soil erosion and soil washing prevented and controlled.
3. Cooperate and enter into agreements with a landowner, operator or any agency or subdivision of the state or Federal Government to carry on programs of soil erosion prevention, methods of cultivation, cropping practices, land leveling and improvement on agricultural lands, and programs limited to methods of proper range use, reseeding and the eradication of noxious growth on grazing lands, all within the limits of an individual farm or ranch and subject to such conditions as the supervisors deem necessary.
4. Acquire by purchase, exchange, lease or otherwise, any property, real or personal, or rights or interest therein, maintain, administer and improve any properties acquired, receive income therefrom and expend it in carrying out the purposes of this Chapter, and sell, lease or otherwise dispose of any property or interest therein in furtherance of the purposes of this Chapter.
5. Make available on such terms as it prescribes to landowners within the district, agricultural and engineering machinery and equipment, fertilizer, seed and such other material or equipment as will assist the landowners to carry on operations upon their lands for the purposes and programs authorized by this Chapter.
6. Develop, publish and bring to the attention of owners of lands within the district, comprehensive plans for the conservation of soil resources within the district which shall specify in such detail as may be feasible the acts, procedures, performances and avoidances necessary or desirable for the effectuation of the plans.
7. Sue and be sued in the name of the district, have a seal, which shall be judicially noticed, have perpetual succession unless terminated as provided in this Chapter, make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and make, amend and repeal rules and regulations not inconsistent with this Chapter to carry into effect its purposes and powers.
8. Accept donations, gifts and contributions in money, services, materials or otherwise, and use or expend them in carrying on its operations.

B. No provision of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized under this Chapter unless specifically stated therein.

C. After the formation of any district under the provisions of this Chapter, all participation thereunder shall be voluntary, notwithstanding any provision of this Chapter to the contrary.

R12-5-1712. Limitation of Powers

A. Nothing in this Chapter shall affect existing water rights or in any manner contravene the provisions of this Title.

B. No district or public body shall undertake or cooperate in the planning, construction, improvement or maintenance of any structure, dike or channel for the storage, spreading, diversion or conveyance of water resulting in the consumptive use of water, on any watershed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district or for the irrigation of other lands having established rights in such water, without first submitting the plans therefor to the governing body of such irrigation district or districts. Such governing body shall, within 45 days after receipt of such plans, either approve or reject them. The approval may be given for range lands soil conservation practices by agreement on an annual or continuing basis between the governing bodies of the affected irrigation districts and the supervisors of such natural resource conservation districts. If the governing body fails to approve or reject the plans within 45 days, it shall be deemed to have approved them. If the governing body rejects the plans, the district or public body proposing such plans may appeal to the Commissioner. The appeal shall be taken within 45 days after such decision. The Commissioner shall review the decision, and may approve the plans only if after investigation and hearing he finds that the work proposed to be done will not result in the consumptive use of water. An appeal from the decision of the Commissioner may be taken by either party pursuant to the provisions of § 37-214. The provisions of this subsection shall not preclude the use of any other legal remedy otherwise available to any person or interested party.

C. The diversion, application or use of water by means of any improvement constructed, maintained or operated under the provisions of this Chapter shall not be construed to be an appropriation of or vest any right to the use of public water.

R12-5-1713. Proceedings to Organize Districts

A district shall be organized and be a body corporate upon taking the following steps:

1. The supervisors elected as provided in § 45-2035 shall present to the Secretary of State an application, signed and acknowledged by each supervisor, setting forth:
 - a. That a petition for the creation of the district was approved by the Commissioner pursuant to the provisions of this Chapter.
 - b. The name and official residence of each supervisor, and a certified copy of their notification of election.
 - c. The name proposed for the district.
 - d. The location of the proposed office of the supervisors of the district.

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2. The application shall be accompanied by a certificate of the Commissioner which shall set forth:
 - a. The boundaries of the district as determined by him.
 - b. That a petition was filed, notice issued and a hearing held as prescribed by law.
 - c. That for a district to function in the proposed territory was determined by the Commissioner to be in the public interest.
 - d. That notice was given and a referendum on the question of the creation of the district and an election of supervisors was held.
 - e. That the results of the referendum showed not less than 65 percent of the votes cast, representing not less than 50 percent of the owners of land, to be in favor of the creation of the district.
 - f. That the supervisors signing the application are the duly elected supervisors of the district.
3. The Secretary of State shall examine the application and statement and, if he finds that the name proposed for the district is not identical with or so similar to that of any other district as to lead to confusion, he shall record them. If the name proposed is identical with or so similar to another district as to lead to confusion, he shall certify that fact to the Commissioner who shall submit another name. Upon receipt of a new name, free from defects, the Secretary of State shall record the application and the statement.
4. The Commissioner shall appoint two supervisors from a panel of candidates compiled by the elected supervisors and presented to the temporary chairman of the elected supervisors. Candidates for the office of appointed supervisors shall be qualified electors of the state. Appointed supervisors shall continue to serve until May 31 next even numbered year or until their successors are otherwise appointed.

R12-5-1714. Certificate of Organization

The Secretary of State shall issue to the supervisors a certificate, under the seal of the state, certifying the organization of the district, and record the certificate with the application and statement. The district shall include the territory as determined by the Commissioner, but it shall not include any area within the boundaries of another district, nor shall it include any area, land or property of or lands held under Certificate of Purchase or lease from the state by any person or persons, which area, land, property or leaseholds lie within the geographical limits of such district but the owners or holders of Certificates of Purchase or leases of which do not desire to come within the district.

R12-5-1715. Certificate as Evidence of Legal Establishment

In any action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of this Chapter upon proof of the issuance of the certificate of organization by the Secretary of State. A copy of the certificate certified by the Secretary of State shall be admissible in evidence in any action or proceeding, and shall be proof of the filing and contents thereof. In like manner, any district combined and consolidated with an adjacent district or districts and reorganized and renamed prior to the date of this Section shall be deemed to have been established upon proof of certifications and official maps filed with the Secretary of State by the division of natural resource conservation of the State Land Department.

R12-5-1716. State Financial Assistance to Natural Resource Conservation Districts; Application; Criteria

- A. The Commissioner shall include in his annual State Land Department budget request a sum not to exceed the total of \$3,000.00 each for distribution by the Commissioner of natural resource conservation to those natural resource conservation districts which have applied for, have met the criteria for and have been approved for receiving state financial assistance for the next ensuing fiscal year, as provided in this Section.
- B. Any natural resource conservation district desiring to receive state financial assistance for the next ensuing fiscal year shall make application therefor to the Commissioner not later than July 20, on a form supplied by the division of natural resource conservation. Each application shall include, but not be limited to:
 1. The number of acres of land lying within the district.
 2. The extent of conservation programs proposed to be undertaken during the fiscal year for which the financial assistance is being requested.
- C. Upon receipt of the application, the Commissioner shall determine whether or not such funds for the district will be included in the budget request for the State Land Department for the next ensuing fiscal year and shall promptly notify the district of his determination.

R12-5-1717. Yearly Requirement for Districts

The Commissioner, after a district is formed, shall require the supervisors of each district to file with the Department annually, the records of operation of the district for the preceding year in such form and detail as he prescribes.

R12-5-1718. Change in Boundaries; Combination or Division of Districts; Change in Name of Districts

- A. Petitions for a change in the boundaries of existing districts, or the combination of two or more existing districts may be filed with the Commissioner by a majority of supervisors of the board or boards of supervisors of the district or districts to be affected. In the case of a proposed combination of two or more existing districts, the petition shall state the proposed boundaries of the new combined district, the proposed name, and shall propose a method, which has been mutually agreed upon by all boards of supervisors of affected districts, as to the future terms of office of existing district supervisors, and how such terms will be determined. The Commissioner may require such hearings as he deems appropriate to enable him to make a determination as to the desirability of the proposed changes. If the Commissioner makes a determination in favor of the changes, he shall certify the fact of such change to the Secretary of State and shall notify the board of supervisors of the district, or districts, setting out in such notice the new boundaries and the name of the district and confirmation

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of terms of the supervisors. The Secretary of State shall make and issue a corrected certificate of organization upon receipt of such certification from the Commissioner.

- B.** The board of supervisors of any one or more districts organized under the provisions of this Section may submit to the Commissioner a petition signed by a majority of the members of the board of supervisors of each district affected requesting a division of a district, a combination of two or more districts, or a transfer of land from one district to another. The Commissioner shall make a determination as to the practicability and feasibility of the proposed change, giving due regard to the same considerations as provided in this Section for changes in district boundaries by other methods. If the Commissioner determines that the proposed change of district boundaries is not administratively practicable and feasible, he shall record such determination and proceed with the reorganization of the district or districts affected in the same manner as provided in this Section for changes in district boundaries by other methods.
- C.** Petitions for a change in the name of a district may be submitted to the Commissioner by a majority of supervisors of the board of supervisors of a district. If the Commissioner approves the change of name, he shall certify the fact of such change of name to the Secretary of State and shall notify the board of supervisors of the district of such change, setting out in such notice the new name of the district. The Secretary of State shall make and issue a corrected certificate of organization upon receipt of such certification from the Commissioner.

R12-5-1719: Dissolution of District

- A.** At any time after five years following the organization of a district, any 25 owners of land or not less than 20 percent of the owners of land lying within the boundaries of the district may file a petition with the Commissioner praying that the operations of the district be terminated and its existence discontinued. The Commissioner shall conduct such public meetings and hearings upon the petition as may be necessary to assist in the consideration thereof.
- B.** Within 60 days after filing of the petition, the Commissioner shall give notice of the holding of a referendum and shall supervise the referendum and issue appropriate regulations governing the conduct thereof. The question shall be submitted by ballots upon which the propositions, "For terminating the existence of the (name of district)" and "Against terminating the existence of the (name of district)", shall be printed, with a square after each proposition and an instruction to mark an X in the square following the proposition for which the voter desires to vote. Only owners of lands lying within the boundaries of the district shall be eligible to vote on the referendum. No informality in the conduct of the referendum or in any matter relating thereto shall invalidate the referendum or the result thereof, if due notice thereof has been given substantially as provided in this Chapter and the referendum has been fairly conducted.
- C.** If 65 percent of the landowners voting thereon vote to terminate the existence of a district, the Commissioner shall advise the supervisors to conclude the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay the proceeds of the sale to the state treasury.
- D.** The supervisors shall thereupon file a verified application with the Secretary of State for discontinuance of the district, together with the certificate of the Commissioner setting forth the determination of the Commissioner that the continued operation of the district is not administratively feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as provided in this Section, and shall include a full accounting of the properties and the proceeds of the sale. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record the certificate in his office.
- E.** The Commissioner shall not entertain a petition for the discontinuance of any district, nor conduct a referendum thereon, nor make any determination pursuant thereto, more than once in five years.

R12-5-1720: District Supervisors; Term of Office; Biennial Election

- A.** The governing body of a district shall consist of five supervisors, three of whom are to be elected and two appointed by the Commissioner. Except as to the first supervisors, whose election and terms are prescribed in § 45-2035, the term of each elected supervisor shall be six years, beginning on June 1 following his election. As prescribed in § 45-2036, the terms of the two supervisors appointed by the Commissioner shall be until May 31 of the next even-numbered year or until their successors are otherwise appointed.
- B.** An election shall be held on the first Saturday in May of each even-numbered year, at which one supervisor of the district shall be elected. Any person desiring to be a candidate shall file with the Commissioner a nomination petition in such form as the Commissioner prescribes, at least ten days prior to the election, containing the signatures of not less than 25 qualified electors of the district. No person shall be eligible to be a candidate for supervisor unless he is a qualified elector of the district. The names of candidates shall appear on the ballot in alphabetical order by surnames, with a square after each name and an instruction to mark an X in the square after the name of the voter's choice. The governing body of a district may provide a mail ballot to a qualified district elector for which the district governing body has a first class mailing address. Qualified electors of a district who wish to vote by mail ballot shall file a first class mailing address with the district governing body at least 30 days prior to the date of the election. Qualified district electors who receive ballots in proper form from the district governing body may cast their votes by mail. Mail ballots to be counted shall be received at the place designated and within the time prescribed by the district supervisors and clearly specified in the notice of election. Only qualified electors of the district shall have the right to vote. The district governing body shall provide at least one polling place in the district for qualified voters who wish to vote in person. If two or more candidates receive the same number of votes, the successful candidate shall be determined by lot.

R12-5-1721: Power of the Commissioner to Remove District Supervisor

The Commissioner may remove a district supervisor from such office if the Commissioner determines, after reasonable notice and impartial hearing, that the supervisor is guilty of misfeasance, malfeasance or nonfeasance in office. For purposes of this

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subsection, nonfeasance includes the failure to attend three consecutive meetings of district supervisors without reasonable excuse.

R12-5-1722. Organization of Supervisors; Vacancies

- A.** At the first meeting of the supervisors following an election, they shall organize by electing a chairman and a vice chairman and such other officers as are deemed necessary from among their number to serve for the ensuing two years.
- B.** If a vacancy occurs in the office of an elected supervisor otherwise than by expiration of term, the Commissioner may appoint a qualified elector of the district to serve until June 1 of the next even-numbered year, when a successor shall be elected for the remainder of the term.
- C.** District supervisors may employ a secretary and such other agents, employees and technical or professional experts as they may from time to time require, and may determine qualifications, compensations and duties applicable to any agent, employee or expert engaged.

R12-5-1723. Powers and Duties of Supervisor

- A.** The supervisor shall:
 - 1. Provide for the keeping of a record of all proceedings, resolutions, regulations and orders issued or adopted.
 - 2. Furnish to the Commissioner copies of such ordinances, rules, regulations, orders, contracts, forms or other documents adopted or employed, and such information concerning their activities as the Commissioner requests.
- B.** The supervisors may appoint additional advisory members to the district governing body and delegate to the chairman or any member, or to any agent or employee, such powers and duties as they deem proper.
- C.** District supervisors shall require and provide for the execution of a corporate surety bond in suitable penal sum for, and to cover, any person entrusted with the care or disposition of district funds or property.
- D.** The compensation of the district supervisors shall be determined by such supervisors meeting as the governing body of such district, but shall not exceed \$20.00 per day and mileage at the rate of 10¢ per mile and actual and necessary expenses of attending district meetings, and a similar per diem and actual and necessary expenses while engaged in official business by order of such supervisors.

R12-5-1724. Cooperation with State Agencies

Agencies of this state which have jurisdiction over or are charged with the administration of state-owned lands, and of any county or other governmental subdivision of the state which have jurisdiction over, or are charged with the administration of, any county-owned or other publicly-owned lands lying within the boundaries of any natural resource conservation district, may cooperate fully with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this Chapter. The supervisors of any district organized under the provisions of this Chapter may cooperate with any municipality within the boundaries of the district on matters relating to soil conservation or land-use planning.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

PREAMBLE

- | | |
|---|--|
| <u>1. Sections Affected</u>
R18-2-1003
R18-2-1006
Table 3 | <u>Rulemaking Action</u>
Amend
Amend
Amend |
| <u>2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u>
Authorizing statutes: A.R.S. §§ 49-104(A)(11), 49-447, and 49-542
Implementing statutes: A.R.S. §§ 49-104(A)(11), 49-541, 49-542, and 49-543 | |
| <u>3. List of all previous notices appearing in the Register addressing the final rule:</u>
Notice of Docket Opening, 6 A.A.R. 480, January 28, 2000 | |
| <u>4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u>
Name: Mark Lewandowski or Martha Seaman, Rule Development Section
Address: ADEQ, 3033 N. Central, Phoenix, AZ 85012-2809 | |

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Telephone Number: (602) 207-2230 or (602) 207-2222
(Any extension may be reached in-state by dialing 1-800-234-5677
and asking for that extension.)

Fax Number: (602) 207-2251

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

Summary. The Arizona Department of Environmental Quality (ADEQ) is proposing to revise Table 3 (Emission Standards-Biennial Tests) in the rules that implement the vehicle emissions testing program for area A (Phoenix metropolitan area). ADEQ is also proposing to make two clarifications to existing language covering exempt vehicles in areas A and B and gas cap inspections in area A.

Explanation. Table 3 was recently revised by ADEQ in a rulemaking in which the IM240 test was modified to an IM147 test. (6 A.A.R. 382, January 14, 2000) That rule was effective December 20, 1999, and implementation of the new test and standards began January 3, 2000. The revisions to the pass-fail standards in Table 3 in this proposed rule are necessary to implement recent final findings by an ADEQ-EPA contractor (Sierra Research). By using a larger vehicle database than was available for the first rule, Sierra Research determined that further revisions of the pass-fail standards (in most cases slightly more stringent, though some are less stringent) would provide optimal emissions reductions without negatively affecting the majority of those who must have their vehicles tested. Many factors were analyzed by Sierra Research, including average test times, false failures, waits at the test station, correlation to the IM240 test, and expected emission reductions. For a fuller explanation of the factors and how they were analyzed, see the Notice of Proposed Rulemaking at 5 A.A.R. 2670, August 13, 1999, and the reports referenced in part 6 of this NPRM.

Though initial pass-fail standards for IM147 were available when the earlier rulemaking was proposed, the final revisions to those standards, based on a larger vehicle database were not available before the rule was finalized. Thus, it is necessary to publish a second Notice of Proposed Rulemaking for this set of revisions to Table 3. The Sierra Research report that developed these latest standards is referenced in part 6 of this rulemaking and available at ADEQ's library.

The rule language change covering exempt vehicles is at R18-2-1003(B)(11). ADEQ is proposing to clarify that although vehicles with the current and prior four model years are exempt from the emission inspection for registration purposes, if the owner voluntarily chooses to have the vehicle inspected and it fails, the owner is required to have the vehicle retested and pass, or receive a waiver, prior to registration. As a result of this change, emission related repairs for many failing vehicles will be covered under the federal emissions warranty and paid for by the vehicle manufacturer. Under § 207(b)(2)(C) of the Clean Air Act, an emission failure only triggers warranty liability for the manufacturer if the failure results in the owner "of such vehicle or engine having to bear any penalty or other sanction (including the denial of the right to use such vehicle or engine) under State or Federal law. . .". The vehicle manufacturer is not liable for repairs if the warranty period has expired or the vehicle has not been maintained and operated according to the manufacturer's instructions.

The rule language change covering gas cap inspections is at R18-2-1006(E)(6)(a). The current language treats vehicles with "non-sealing gas caps" and those with "non-pressurized systems" as if they were the same. In fact, many "non-pressurized, vented systems" use "sealing gas caps". The proposed change makes the subsection refer only to non-pressurized systems; there is no functional gas cap test for non-pressurized systems, only a visual check for the presence of a properly fitting cap.

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

Analysis of Alternate IM240 Cutpoints, Phase 2 Testing, and Exempting New Vehicle Models on Test Duration and Projected I/M Benefits, Report No. SR98-05-01, May 12, 1998, prepared by Sierra research, Inc., Sacramento, California, for ADEQ, available through ADEQ's Library.

Draft Final Report, *Determination of Emissions Credit and Average Test Times for IM147 Testing*, November 9, 1998, prepared by Sierra Research, Inc., Sacramento, California, for the U.S. Environmental Protection Agency, available through ADEQ's Library.

Failure Rate Analyses and Development of Fast-Pass, Retest, and CPP Algorithms for IM147 Max CO Cutpoints, draft final report, December 14, 1999, prepared by Sierra Research, Inc., Sacramento, California, for the U.S. Environmental Protection Agency, available through ADEQ's Library.

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

Not applicable.

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

The proposed rule imposes an administrative burden on the Arizona Department of Environmental Quality (ADEQ), the department charged with implementing and enforcing the rule. This will result from a slight increase in administration procedures associated with additional failing vehicles, but will not increase the cost to the State. The revision to Table 3 in the proposed rule would result in an additional 10,546 area A vehicles failing the IM147 vehicle emissions test in the year 2000 (if implemented on January 3, 2000). This number was derived by calculating the difference in the projected failure rate (18.6%) estimated by the previous Sierra Research study results using a sample of 336 tested vehicles, and the more recent study (cited above), using a much larger statistical sample. The more recent study yielded a failure rate of 20.5%. The total number of vehicles that would be required to take the proposed initial IM-147 test projected by Sierra Research for the year 2000 was 555,068. For 2001, total vehicles increase to 650,074; and in 2002, to 658,636. Vehicle owners registered in area A will be affected in different ways, depending on the ability of their vehicles to pass the emissions test. The cost to repair the additional failing vehicles will vary with their condition and age. 1998 data provided by state Contractor Gordon Darby, Inc. showed average repair costs per vehicle of about \$66 for 1968 to 1971 model year vehicles, \$64 for 1975-1980 vehicles, and \$83 for 1981 and newer vehicles.

Another potential impact of this rule will be on owners of exempt vehicles (those of the current model year plus four) who exercise their option to subject their vehicles to the IM147 test. Although exempt, if any of these vehicles fail, their owners will be required to repair their vehicles, take a re-test and pass or apply for a waiver. An estimated average of 350,000 vehicles annually during the years 2000 to 2002 will be exempt from emissions testing because they are of the newer model years. Only a small percentage (about 1.7%) of these newer vehicles fail. On the basis of their past experience, Gordon Darby has projected that only 3% of exempt vehicle owners will choose to take the test. Thus, only about 179 of the newer vehicles are projected to fail. The change clarifying that voluntarily tested and failing vehicles need to be repaired before they can be registered may affect a few owners of vehicles that fail, but that are no longer within the emissions warranty, because of high mileage (over 50,000) on the vehicle. Otherwise costs to repair these vehicles should be borne by the manufacturer.

The rule clarification concerning gas cap inspections is not expected to have any economic impact because procedures in the test lanes will not change.

As a result of this rule, the general public will receive cleaner air and health-related benefits because of reduced emissions of carbon monoxide, nitrogen oxides, volatile organic compounds, and PM 10. In addition, the state of Arizona is less likely to be subject to sanctions under the Clean Air Act. These sanctions carry the potential of large losses of federal highway funds, and further reductions in the ability of industry to locate in the nonattainment area.

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

Name: Mila Hill, Economist, Rule Development Section
Address: ADEQ, 3033 N. Central, Phoenix, AZ 85012-2809
Telephone Number: (602) 207-4435 (Any extension may be reached in-state by dialing 1-800-234-5677 and asking for that extension)
Fax Number: (602) 207-2251

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

Date: March 14, 2000
Time: 1:30 p.m.
Location: Arizona Department of Environmental Quality, Room 1710
3033 N. Central, Phoenix, AZ
Nature: Public hearings on the proposed rule
Close of comment: March 15, 2000

(Please call 602-207-4795 for special accommodations pursuant to the Americans with Disabilities Act.)

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

Not applicable.

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

Not applicable.

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

ARTICLE 10. MOTOR VEHICLES; INSPECTION AND MAINTENANCE

Section

R18-2-1003. Vehicles to be Inspected by the Mandatory Vehicle Emissions Inspection Program

R18-2-1006. Emissions Test Procedures

Table 3. Emission Standards - Biennial Tests

ARTICLE 10. MOTOR VEHICLES; INSPECTION AND MAINTENANCE

R18-2-1003. Vehicles to be Inspected by the Mandatory Vehicle Emissions Inspection Program

A. No change.

B. The following vehicles are exempt from the inspection requirements of this Article:

1. A vehicle manufactured in or before the 1966 model year;
2. A vehicle leased to a person residing outside area A and area B by a leasing company whose place of business is in area A or area B, except as provided in subsection (A)(3);
3. A vehicle sold between motor vehicle dealers;
4. An electrically-powered vehicle;
5. An apportioned vehicle;
6. A golf cart;
7. A vehicle with an engine displacement of less than 90 cubic centimeters;
8. A vehicle registered at the time of change of name of ownership except when:
 - a. The change in registration is accompanied by required fees for the year following expiration of the prior registration, or
 - b. The change results from the sale by a dealership whose place of business is located in area A or area B;
9. A vehicle for which a current certificate of exemption or Director's certificate has been issued;
10. A diesel-powered vehicle in area A applying for registration or reregistration 33 months or less after the date of initial registration as a new vehicle; and
11. Vehicles of a model year the same as, or newer than, the current calendar year and vehicles of the prior 4 model years, except:
 - a. Reconstructed vehicles; ~~and~~
 - b. Vehicles requiring emissions testing under R18-2-1015; and
 - c. Vehicles that fail an emissions inspection the owner chooses to have under A.R.S. § 49-543.

C. No change.

R18-2-1006. Emissions Test Procedures

A. No change.

B. No change.

C. No change.

D. No change.

E. In area A, the inspection test procedures for all vehicles other than diesel-powered vehicles and vehicles held for resale by fleet-licensed motor vehicle dealers shall conform to the following:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. A nondiesel vehicle required to take an annual emission test in area A shall, at the time of the test, undergo a tampering inspection based on the original configuration of the vehicle as manufactured. The applicable emission system requirements shall be verified by the "VEHICLE EMISSION CONTROL INFORMATION" label under the hood. Vehicles that fail any portion of the tampering inspection shall be repaired according to R18-2-1009 before reinspection or shall provide the written statement required in R18-2-1008(B). "Original configuration" for foreign manufac-

tered vehicles means the design and construction of a vehicle produced by the manufacturer for original entry and sale in the United States. The tampering inspection shall consist of the following:

- a. All nondiesel vehicles emission tested, except those ~~with non-sealing gas caps~~ non-pressurized, vented systems, shall have a functional test of the gas cap to determine that cap leakage does not exceed 60 cubic centimeters of air per minute at a pressure of 30 inches of water gauge. Nondiesel vehicles with non-pressurized, vented systems shall be checked for the presence of a properly fitting gas cap.
- b. No change.

F. No change.

G. No change.

H. No change.

I. No change.

J. No change.

K. No change.

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Table 3. EMISSION STANDARDS - BIENNIAL TESTS

FINAL STANDARDS (Standards are in grams per mile)						
(i) Light Duty Vehicles						
Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1982	3.0 <u>2.80</u>	2.5 <u>2.05</u>	25.0 <u>26.37</u>	21.8 <u>20.42</u>	3.5 <u>3.28</u>	3.4 <u>2.85</u>
1983-1985	2.4 <u>2.08</u>	2.0 <u>1.53</u>	20.0 <u>17.19</u>	17.3 <u>13.13</u>	3.5 <u>3.28</u>	3.4 <u>2.85</u>
1986-1989	1.6 <u>1.46</u>	1.4 <u>1.07</u>	15.0 <u>15.77</u>	12.8 <u>12.00</u>	2.5 <u>2.75</u>	2.4 <u>2.38</u>
1990-1993	1.0	0.8	12.0	10.1	2.0	2.4
<u>1990-1995</u>	<u>0.99</u>	<u>0.73</u>	<u>12.85</u>	<u>9.68</u>	<u>2.81</u>	<u>2.42</u>
1994+	0.8	0.7	12.0	10.1	2.0	1.9
<u>1996+</u>	<u>0.80</u>	<u>0.59</u>	<u>12.85</u>	<u>9.68</u>	<u>2.25</u>	<u>1.93</u>
(ii) Light Duty Trucks 1 (less than 6000 pounds GVWR)						
Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.0 <u>3.70</u>	3.4 <u>2.70</u>	40.0 <u>31.47</u>	35.3 <u>24.47</u>	5.5 <u>5.41</u>	5.4 <u>4.74</u>
1986-1989	3.0 <u>2.86</u>	2.5 <u>2.09</u>	25.0 <u>25.16</u>	21.8 <u>19.46</u>	4.5 <u>4.91</u>	4.4 <u>4.30</u>
1990-1993	2.0	1.7	20.0	17.3	4.0	3.9
<u>1990-1995</u>	<u>1.95</u>	<u>1.43</u>	<u>21.15</u>	<u>16.28</u>	<u>4.46</u>	<u>3.90</u>
1994+	1.6	1.4	20.0	17.3	3.0	2.9
<u>1996+</u>	<u>1.57</u>	<u>1.15</u>	<u>21.15</u>	<u>16.28</u>	<u>3.36</u>	<u>2.91</u>
(iii) Light Duty Trucks 2 (greater than 6000 pounds GVWR)						
Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.4 <u>4.06</u>	3.7 <u>2.96</u>	48.0 <u>51.88</u>	42.5 <u>40.67</u>	7.0 <u>6.48</u>	6.9 <u>5.69</u>
1986-1987	4.0 <u>3.79</u>	3.4 <u>2.77</u>	40.0 <u>39.24</u>	35.3 <u>30.64</u>	5.5 <u>5.99</u>	5.4 <u>5.26</u>
1988-1989	3.0	2.5	25.0	21.8	5.5	5.4
1990-1993	3.0	2.5	25.0	21.8	5.0	4.9
1994+	2.4	2.0	25.0	21.8	4.0	3.9
<u>1988-1995</u>	<u>2.92</u>	<u>2.13</u>	<u>26.34</u>	<u>20.39</u>	<u>6.11</u>	<u>5.37</u>
<u>1996+</u>	<u>2.34</u>	<u>1.71</u>	<u>26.34</u>	<u>20.39</u>	<u>4.46</u>	<u>3.90</u>