

## 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. 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 making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 1. RULES AND THE RULEMAKING PROCESS

##### CHAPTER 1. SECRETARY OF STATE RULES AND RULEMAKING

###### PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R1-1-101	Amend
R1-1-103	Amend
R1-1-104	Amend
R1-1-105	Amend
R1-1-106	Amend
R1-1-107	Amend
R1-1-108	Amend
R1-1-109	Amend
R1-1-110	Amend
R1-1-111	Repeal
R1-1-112	Amend
R1-1-113	Amend
R1-1-114	Amend
R1-1-201	Amend
R1-1-202	Amend
R1-1-203	Repeal
R1-1-204	Repeal
R1-1-205	Amend
R1-1-207	Repeal
R1-1-208	Amend
R1-1-209	Amend
R1-1-210	Amend
R1-1-211	Amend
R1-1-212	Amend
R1-1-301	Amend
R1-1-302	Amend
R1-1-401	Amend
R1-1-402	Amend
R1-1-403	Amend
R1-1-404	Amend
R1-1-406	Amend
R1-1-407	Amend
R1-1-408	Amend
R1-1-409	Amend
R1-1-410	Repeal

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R1-1-411	Amend
R1-1-412	Amend
R1-1-413	Amend
R1-1-414	Amend
R1-1-415	New Section
R1-1-501	Amend
R1-1-502	Amend
R1-1-504	Amend
R1-1-506	Amend
R1-1-507	Amend
R1-1-601	Amend
R1-1-602	New Section
R1-1-701	Amend
R1-1-801	Amend
R1-1-901	Amend
R1-1-902	New Section
Article 10	New Article
R1-1-1001	New Section

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

Authorizing statute: A.R.S. § 41-1011

Implementing statutes: A.R.S. §§ 41-1001 through 41-1036

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 1022, April 9, 1999

Notice of Proposed Rulemaking: 5 A.A.R. 1474, May 21, 1999

Notice of Rulemaking Docket Opening: 7 A.A.R. 1679, April 20, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 5306, November 30, 2001

Notice of Termination of Rulemaking: 8 A.A.R. 2168, May 17, 2002

Notice of Rulemaking Docket Opening: 8 A.A.R. 2170, May 17, 2002

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

Name: Scott Cancelosi  
Assistant Director, Public Services Division

or

John Kyl  
Editor, *Arizona Administrative Code*

Address: Office of the Secretary of State  
1700 W. Washington, 7th Floor  
Phoenix, AZ 85007

Telephone: (602) 542-4751

Fax: (602) 542-4366

E-mail: scancelosi@sos.state.az.us or jkyl@sos.state.az.us

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

The purpose of this rulemaking is to update the Secretary of State's rules on the rulemaking process. The changes are necessary to make the rules uniform and consistent, improve clarity, comply with changes in the Administrative Procedure Act (APA), and respond to requests for updates by agency rulewriting personnel. A new Article will require agencies to file a Notice of Recodification when recodifying rules. Some of the fees for the *Register* and *Code* will increase slightly.

Laws 2002, Ch. 334 (SB 1339) made numerous changes to the APA. Those changes are reflected in this rulemaking.

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

The proposed changes to the rulemaking rules will have minimal economic impact on state agencies and the Secretary of State's Office in the preparation and filing of rules. Because the proposed rules lower the required number of copies for filing, some printing costs will decrease for state agencies. In addition, SB 1339 removed the requirement for filing the Concise Explanatory Statement as a separate document.

The Office will begin to sell the *Register* on electronic media. Because technology is changing rapidly, the Office is not specifying the medium or media involved. This will change as technology changes. The cost of the medium will always reflect the cost of the medium to the Office. *Register* prices were last changed January 1, 1995.

Certain fee changes are proposed in these rules. Commercial fees for the *Register* are introduced that will cover costs of production and distribution. Fees for electronic versions of the *Register* and *Code* are introduced that will cover costs of production and distribution. The commercial fee for the entire *Code* will decrease almost \$3,000. Prices for paper copies of the *Code* and *Register* remain unchanged. The Office receives very few requests for electronic versions of the *Code* and *Register*, as they are available on the Secretary of State's web site. The Office has only two commercial subscribers to the *Code*, one of which has requested a commercial subscription to the *Register*. Because of this request, the Office needed to propose a commercial fee for the *Register*.

**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: Scott Cancelosi  
Assistant Director, Public Services

or

John Kyl  
Editor, *Arizona Administrative Code*

Address: Office of the Secretary of State  
1700 W. Washington, 7th Floor  
Phoenix, AZ 85007

Telephone: (602) 542-4751

Fax: (602) 542-4336

E-mail: scancelosi@sos.state.az.us or jkyl@sos.state.az.us

**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 proceeding is scheduled for this rulemaking. Oral and written comments will be accepted at the location listed in item #4 between 8:00 a.m. and 5:00 p.m., Monday through Friday. If no oral proceeding is requested, the public record for this rulemaking will close at 5:00 p.m. on December 2, 2002.

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

None

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

None

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

**TITLE 1. RULES AND THE RULEMAKING PROCESS**

**CHAPTER 1. SECRETARY OF STATE  
RULES AND RULEMAKING**

**ARTICLE 1. GENERAL PROVISIONS**

Section	
R1-1-101.	Definitions
R1-1-103.	Submission Requirements for Publication and Filing
R1-1-104.	Submitting Material for Publication
R1-1-105.	<del>Forms for Publication or Filing</del> <u>Certificates</u>
R1-1-106.	Receipts
R1-1-107.	Filing Location
R1-1-108.	Editing and Relabeling by the Office
R1-1-109.	Correction of Errors
R1-1-110.	Effective <del>Dates</del> <u>Date</u>
R1-1-111.	<del>Agency Liaisons and Rule Specialists</del> <u>Repealed</u>
R1-1-112.	Public Inspection of Documents; Copies
R1-1-113.	Fees
R1-1-114.	Official Distribution of the <del>Register</del> <u>Register</u> and the <del>Code</del> <u>Code</u> at No Charge

**ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER**

Section	
R1-1-201.	Publication Schedule and Deadlines
R1-1-202.	Contents
R1-1-203.	<del>Publication Requirements</del> <u>Repealed</u>
R1-1-204.	<del>Indices to the Register</del> <u>Repealed</u>
R1-1-205.	Notice of Rulemaking Docket <del>Openings</del> <u>Opening</u>
R1-1-207.	<del>Supplemental Notices on Proposed Rules</del> <u>Repealed</u>
R1-1-208.	Notice of Proposed Delegation <del>Agreements</del> <u>Agreement</u> ; Notice of Final Delegation <u>Agreement</u>
R1-1-209.	<del>Notices of Public Hearings</del> <u>Notice of Oral Proceeding</u> , Public <del>Workshops</del> <u>Workshop</u> , or Other <del>Meetings</del> <u>Meeting</u>
R1-1-210.	<del>Notices</del> <u>Notice</u> of Agency Guidance <del>Documents and</del> <u>Document</u> ; Notice of Substantive Policy <del>Statements</del> <u>Statement</u>
R1-1-211.	Summary of Council Action
R1-1-212.	Agency Ombudsman

**ARTICLE 3. THE ARIZONA ADMINISTRATIVE CODE**

Section	
R1-1-301.	Development of the <del>Code</del> <u>Code</u>
R1-1-302.	Publication of the <del>Code</del> <u>Code</u> and its Supplements

**ARTICLE 4. RULE DRAFTING**

Section	
R1-1-401.	Drafting Rules
R1-1-402.	Assignment of <del>Titles, Chapters, Articles, and Sections</del> <u>Code Divisions</u> ; Headings
R1-1-403.	Numbering System
R1-1-404.	Renumbering Sections within a Chapter
R1-1-406.	<del>Re-using Chapter, Subchapter, Article, Part, or Section Numbers</del> <u>Repeal and Re-use of a Chapter</u>
R1-1-407.	Authority Notes
R1-1-408.	Text of the Rules; Subsections
R1-1-409.	Citations to the <del>Code</del> <u>Code</u> , <del>Register</del> <u>Register</u> , Statutes, and <del>Incorporated-by-reference Materials</del> <u>Federal Laws and Rules</u>
R1-1-410.	<del>Standard Abbreviations</del> <u>Repealed</u>
R1-1-411.	Automatic Repeal of Rules
R1-1-412.	Supplementary Material; <del>Camera-ready Material</del>
R1-1-413.	Statutory Language; <u>Italics</u>

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- R1-1-414. Incorporation by Reference; Citation of Referenced Material  
R1-1-415. Repeal of a Section; New Text

**ARTICLE 5. PROPOSED RULEMAKING**

- Section  
R1-1-501. Assignment of Chapters  
R1-1-502. Notice of Proposed Rulemaking  
R1-1-504. ~~Public Hearings (Oral Proceedings)~~ Oral Proceedings on Proposed Rulemaking  
R1-1-506. Notice of Termination of Rulemaking  
R1-1-507. ~~Supplemental Notices~~ Notice of Supplemental Proposed Rulemaking

**ARTICLE 6. FINAL RULEMAKING**

- Section  
R1-1-601. Preparation and Filing of a Final Rulemaking Package  
R1-1-602. Notice of Final Rulemaking

**ARTICLE 7. EMERGENCY RULEMAKING**

- Section  
R1-1-701. Preparation and Filing of an Emergency Rulemaking Package

**ARTICLE 8. SUMMARY RULEMAKING**

- Section  
R1-1-801. Summary Rulemaking

**ARTICLE 9. EXEMPT RULEMAKING**

- Section  
R1-1-901. Exempt Rulemaking  
R1-1-902. Notice of Exempt Rulemaking

**ARTICLE 10. RECODIFICATION**

- Section  
R1-1-1001. Notice of Recodification

**ARTICLE 1. GENERAL PROVISIONS**

**R1-1-101. Definitions**

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

- 1- "Act" means A.R.S. §§ 41-1001 et seq., (the Administrative Procedure Act).  
"Agency" has the same meaning as in A.R.S. § 41-1001.
- 2- "Amendment" means a change to:
  - a- A Section, including added language, deleted language, or renumbering;
  - b- A Part, by the addition, repeal, or renumbering ~~of~~ of one or more Sections;
  - c- An Article, by the addition, repeal, or renumbering of one or more Sections or Parts;
  - d- A Subchapter, by the addition, repeal, or renumbering of one or more Articles, Parts, or Sections; or
  - e- A Chapter, by the addition, repeal, or renumbering of one or more Subchapters, Articles, Parts, or Sections.
- 3- "Appendix" means supplementary material to a set of rules, written in prose format.  
"Arizona Rulemaking Manual" means the manual prepared by and available from the Office as a guide for agencies to follow when engaged in rulemaking.
- 4- "A.R.S." means the Arizona Revised Statutes, the laws of the state of Arizona.
- 5- "Article" means a division of an agency's rules under a Chapter containing a unified set of rules.
- 6- "Authority" means the statutory right or power to ~~adopt~~ make, amend, or repeal rules.
- 7- "Authority ~~Note~~ note" means the information, not a part of the rule, appearing at the beginning of a Chapter, ~~(or~~ Subchapter, Article, or Part) ~~which~~ that cites the implementing and authorizing statutes for the rules appearing in that Chapter, Subchapter, Article, or Part.
- 8- ~~"Camera ready" material means items which meet the requirements of R1-1-412(D).~~
- 9- "Chapter" means a division in the codification ~~scheme~~ for of the Code ~~Code~~ designating a state agency or, for a large agency, a major program.  
"Close of record" means the last date on which an agency accepts comments, either written or oral, on a rulemaking package.

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10. “Code” means the *Arizona Administrative Code* published pursuant to under A.R.S. § 41-1011.
11. “Codification” means the labeling and numbering scheme for the rules contained in the ~~Code~~ *Code*.  
“Commercial purpose” has the same meaning as under A.R.S. § 39-121.03.
12. “Council” means the Governor’s Regulatory Review Council established pursuant to under A.R.S. § 41-1051.
13. “Economic, Small Business, and Consumer Impact Statement” means the ~~statement which document that~~ an agency ~~shall make~~ makes to show that the agency has studied the rule’s economic impact on the regulated community as well as the impact on small businesses and consumers.  
“Electronic media” or “electronic medium” means any type of material for data storage used by a computer.
14. “*Emergency Rule*” means a rule (or amendment or repeal of a rule) adopted pursuant to A.R.S. § 41-1026. “Emergency rule” means the same as defined in A.R.S. § 41-1001.  
“Exempt rule” means a rule that is exempt from the provisions of the Act. “Exempt rule” does not include a rule that is exempt only from Council review.
15. “Exhibit” means a ~~form of~~ supplementary material used for items ~~which that~~ do not fit the definition of an Appendix, Table, or Illustration.
16. “Heading” means the caption for any level of division within the ~~Code~~ *Code*.
17. “Historical Note note” means the note appearing after each Section of a Chapter, or after each separate Appendix, Exhibit, Illustration, or Table, in the published edition of the Code which Code that gives the history of that particular Section, Appendix, Exhibit, Illustration, or Table, including the action, the Register citation, the effective date, and the ~~Code~~ *Code* Supplement number in which the ~~rules were~~ Section, Appendix, Exhibit, Illustration, or Table was published.
18. “Illustration” means a ~~form of~~ supplementary material used for diagrams, pictures, and other ~~similar items~~ graphics.
19. “Label” means the number or letter ~~which that~~ is assigned to ~~the divisions~~ a division of the ~~Code~~ *Code* and to ~~their its~~ subsections and ~~which that~~ identifies the particular ~~Code~~ *Code* division or subsection.
20. “Office” means the Office of the Secretary of State, Public Services ~~Department~~ Division.
21. “Part” means a division of the ~~Code~~ *Code* between Article and Section.  
“Public record,” for purposes of this Chapter, means the rulemaking documents as filed by state agencies with the Secretary of State, the rules as published by the Secretary of State in either the *Code* or the *Register*, or the rules as generated in any electronic format by the Secretary of State.
22. “Register” means the *Arizona Administrative Register*, published under A.R.S. § 41-1013 ~~the publication which contains the rulemaking activity of the state’s agencies, agency and Council notices, the Governor’s Executive Orders and proclamations of general applicability, summaries of Attorney General opinions, and Governor’s appointments to the state’s boards and commissions.~~
23. “Renumbering” means changing the numbers of one or more whole Sections. Renumbering involves only entire Sections or Articles. Renumbering does not include changing the labels of subsections within a Section.
24. “Repeal” means ~~the process of rescinding, revoking, or cancelling to rescind, revoke, or cancel~~ a rule.
25. “Rule” means *an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intra-agency memoranda that are not delegation agreements.* (A.R.S. § 41-1001(17))
26. “Rulemaking” or “rulemaking activity” ~~refers to~~ means the process a state ~~agencies use~~ agency uses to ~~adopt~~ make, amend, or repeal a rule.
27. “Rulemaking package” or “rulemaking documents” means all material filed as a unit with the Office as part of a rule-making ~~action~~.
28. “Section” means an individual rule. ~~A Section that~~ is a unit of an Article or Part.
29. “Section number” means the number ~~which that~~ identifies ~~the a~~ Section.
30. “Style Manual” means the manual prepared by and available from the Office as a guideline giving examples for agencies to follow when promulgating rules in codified format, as specified in this Chapter.
31. “Subchapter” means a division of the ~~Code~~ *Code* between Chapter and Article.
32. “Subsection” means a division of a Section of the ~~Code~~ *Code*.
33. “*Summary Rule*” means a rule adopted pursuant to A.R.S. § 41-1027. “Summary rule” means a rule made under A.R.S. § 41-1027.
34. “Supplement” means a quarterly update to the ~~Code~~ *Code*.
35. “Table” means a ~~form of~~ supplementary material containing tabular information.
36. “Title” means a subject area in the codification ~~scheme for of~~ the ~~Code~~ *Code*.

**R1-1-103. Submission Requirements for Publication and Filing**

- A. Each An agency submitting ~~materials~~ material for filing or publication in the ~~Register~~ *Register* or ~~Code~~ *Code* shall send ~~an~~ one original and ~~four~~ two copies to the Office.

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- B.** All pages of the original document and all copies, including all receipts and certificates accompanying the package, shall be printed on only one side. ~~Each page~~ All pages shall have a one-inch margin ~~margins of one inch~~ on all edges of the page. All pages of the original document shall be double-spaced or spaced space-and-a-half. The following may be single-spaced:
1. The Economic, Small Business, and Consumer Impact Statement; and
  2. Incorporated-by-reference material.
- C.** ~~The original and each copy shall be~~ The text and images on all original pages and copies shall appear clear and legible; ~~all Appendices, Exhibits, Tables, and Illustrations~~ All pages of an Appendix, Exhibit, Table, or Illustration shall be camera-ready ~~when and~~ submitted ~~in with~~ the original copy. Any rule package ~~The Office shall return to the agency a rulemaking package which that~~ does not contain an original of both the text and all supplementary material ~~will be returned to the agency~~. An agency shall not use no a text font size in the text smaller than 9 point or larger than 12 point; corresponding typewriter sizes are Pica (10 pitch) and Elite (12 pitch).
- D.** ~~The~~ An agency shall file only one Chapter per notice for any rulemaking activity. If an agency ~~submits files~~ more than one Chapter per notice, the Office shall return the ~~package~~ notice to the agency ~~to be split into separate rulemaking packages, one per Chapter.~~
- E.** ~~If an agency wishes to file with the Office more than one rulemaking package on a single Chapter for publication in the single issue of the Register, the agency shall first apply to the Office for the designation of a Subchapter or a Part or both to allow for further division of its Chapter. An agency using Subchapters may amend its rules by Subchapter; an agency using Parts may amend its rules by Article.~~
- E.** All rulemaking packages submitted for publication shall meet the following requirements:
1. The original shall not be stapled, nor shall it or any of the copies be hole punched. The Office shall not accept pleading paper, with numbers and vertical lines along the right- or left-hand margins.
  2. Each document containing rules or relating to the rulemaking process submitted for publication shall specify on the notice or on the Preamble, as applicable, the Code citation, Code divisions, and the specific Sections involved. Subsections shall not be specified in the column headed "Sections Affected". Articles, Parts, and Subchapters shall be specified if their labels or headings are being changed or if the Articles, Parts, and Subchapters are being added to the Chapter or repealed in their entirety.
  3. Underlining shall be used for text and images being added to rules. This includes new language for a Chapter, Article, or existing Section, the addition of an entire Section, the addition of new language in existing supplementary material, or the addition of new supplementary material. Underlining shall not be used in the text of rules for any other purpose.
  4. A rulemaking package shall not contain footnotes or endnotes. This subsection does not apply to the Economic, Small Business, and Consumer Impact Statement and material that is incorporated by reference.
  5. A table of contents listing all Sections and other divisions of the Chapter on which rulemaking is taking place shall be included in the rulemaking package after the last item in the Preamble and before the text of the first Section. Sections, Articles, or Parts, if applicable, not having rulemaking action taken in a particular rulemaking package shall not be included. The table of contents shall not include page numbers to the various Sections in the rulemaking, nor shall it be labeled "Table of Contents."
  6. Pages in the package shall be consecutively numbered, from the first page of the Preamble through the last page of the text of the rules or supplementary material appearing at the end of the rulemaking package. Material, such as incorporated-by-reference material, included with the rulemaking package but not published in the Register or Code as part of the rulemaking, shall be numbered separately.
  7. An agency shall compile a rulemaking package before submitting it to the Office. An agency shall place the receipts on top of the entire submission and place the original package and each copy of the items listed below in the following order:
    - a. The Council certificate of approval or the Attorney General certificate of approval, if applicable;
    - b. The agency certificate;
    - c. The notice, including the Preamble;
    - d. The table of contents;
    - e. The text of the rule including supplementary material within the rules.
    - f. The Economic, Small Business, and Consumer Impact Statement, if applicable; and
    - g. Incorporated-by-reference material and other information required to be filed with the rules.

**R1-1-104. Submitting Material for Publication**

- A.** ~~Each~~ An agency submitting a rulemaking package or other notice, as specified in the Act and this Chapter, to the Office for publication in the ~~Register~~ Register shall follow ~~the~~ deadlines established by the Office and published in the ~~Register~~ Register.
- B.** An agency shall submit its rulemaking package in paper copy and in an electronic medium. All electronic media submissions shall be compatible with the Office's computer system and software. An agency shall not save electronic format

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rules as templates, and may also submit the material on computer disk that is compatible with the Office's computer system and software.

1. ~~An agency submitting materials for publication in the Register either on computer disk only or in both paper copy and on computer disk, shall comply with the deadline date for paper and disk and~~
2. ~~An agency submitting materials for publication in the Register in paper copy only shall comply with the deadline for paper only.~~

~~**B.C.** Information other than rulemaking notices required by law to be published in the Register *Register* but not required to be filed in the Office may~~ shall be submitted to the Office ~~on either computer disk or in an electronic medium and~~ in paper copy. This information includes agency ombudsmen names and addresses, notices of substantive policy statements, ~~and~~ notices of guidance documents, ~~rulemaking docket openings, notices of proposed and final~~ delegation agreements, and ~~notices of~~ formal rulemaking advisory committees.

~~**C.** An agency shall contact the Office before submitting material on computer disk to ensure that the disk is compatible with the Office's computer system and software.~~

~~**D.** An agency shall use the correct notice form when submitting material to the Office for publication or filing. If an agency uses an incorrect notice form, the agency shall prepare and file a notice of public information for publication in the *Register* to correct the error.~~

**R1-1-105. Forms for Publication or Filing Certificates**

~~**A.** Each agency submitting a rule for filing and publication shall attach the appropriate notice form.~~

~~**B.A.** An agency certificate shall accompany each rulemaking package subject to Council or Attorney General review. This certificate shall specify the following in the same numbered order: The Office shall not consider a package submitted to the Office without an agency certificate to be formally filed. The receipt shall be printed on one side and shall state the following:~~

1. ~~The heading "AGENCY CERTIFICATE" in capital letters centered on a line at least one inch from the top of the page; and~~
2. ~~The type of notice being submitted, in capital letters centered on a line below "AGENCY CERTIFICATE";~~
3. ~~The following numbered items:~~
  - 1-a. ~~The agency name;~~
  - 2-b. ~~The Chapter heading;~~
  - 3-c. ~~The Code *Code* citation for the Chapter;~~
  - 4-d. ~~The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, in numerical order;~~
  - 5-e. ~~The signature, in ink, of the agency chief executive officer or designee, attesting that the material being submitted is a true and correct version of the rule adopted made by the agency. The certificate shall include the printed or typed name of the person signing the form, the person's title, and the date of signing; and~~
  - 6-f. ~~A For a final rule, a statement that no changes have been made since the Council approved the rule, if applicable. since the Council approved the rule if the rule is subject to Council review.~~

~~**C.B.** A Council certificate of approval shall accompany all final rules subject to Council review. If When the Council submits the rules to the Office for the agency, the certificate shall be attached to the rules as approved by the Council. If the agency submits the rule to the Office, the certificate shall be attached to a sealed container or envelope containing the rules as approved by Council. The Office shall not accept any final rulemaking package subject to Council review and approval from an agency if the Council certificate of approval is missing or altered in any way or if the seal on the envelope or container is broken.~~

~~**D.C.** An Attorney General certificate of approval or disapproval shall accompany all rules subject to Attorney General review. The certificate shall be attached to the original rulemaking document within the rulemaking package. The Office shall not accept a rulemaking package subject to Attorney General review and approval if the Attorney General certificate of approval or disapproval is missing or altered. If the Attorney General does not approve one or more Sections in the rulemaking, the Attorney General shall prepare a Certificate of Disapproval listing all Sections not approved and attach it to the package.~~

~~**E.D.** An agency certificate accompanying each a rulemaking package containing rules exempt from both Council and Attorney General review shall include the information specified in subsection subsections (B)(1) (A)(1) through (6)(3) and shall include a statement specifying why the rules are exempt from review along with a citation to the statutory or constitutional provision or a citation to the court decision specifying the exemption.~~

~~**F.E.** The Office shall not file but shall return to the agency any rule a rulemaking package that does not meet the requirements of this Chapter. with incorrect or incomplete notice forms.~~

~~**G.F.** On all certificate forms, the agency chief executive officer's name and title shall be typed under the signature and the date of signing shall be indicated. If a designee signs the form, the designee's typed name and title shall be typed under the signature and the date of signing shall be indicated. Certificate forms which contain The Office shall not accept a certificate form that contains one person's signature and another person's typed name will not be accepted.~~

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**R1-1-106. Receipts**

An agency submitting a rulemaking package or other document to the Office for publication or filing pursuant to under the Act shall attach at least two copies of a receipt. The Office will shall time- and date-stamp both copies all receipts, keep one receipt for its files, and will return one the other receipts to the agency. The receipt shall be printed on one side and shall state the following:

1. The heading "AGENCY RECEIPT" in capital letters centered on a line at least one inch from the top of the page; and
2. The type of notice being submitted, in capital letters centered on a line below "AGENCY RECEIPT";
3. The following numbered items:
  - 1-a. The agency's name; and
  - 2-b. The Title, Chapter, Subchapter (if applicable), the Article, the Part (if applicable), and the Sections that are contained in the rulemaking package and the rulemaking action occurring on each.

**R1-1-107. Filing Location**

An agency shall either file its rules in person with the Office at the State Capitol Executive Tower, 1700 West Washington, Suite 403 7th Floor, Phoenix, Arizona 85007, or mail the rules to: Secretary of State, Public Services Department Division, 1700 West Washington, Seventh 7th Floor, Phoenix, Arizona 85007-2888. The Office shall accept a document for filing or publication only if it meets the requirements specified in the Act and this Chapter.

**R1-1-108. Editing and Relabeling by the Office**

The Office may edit and relabel the text of rules pursuant to under A.R.S. § 41-1011(C) 41-1011.

**R1-1-109. Correction of Errors**

- A. After a proposed rulemaking package has been is filed with the Office, an agency may make a substantial substantive change in the text may be corrected only by the filing of a supplemental rulemaking package showing the change, as specified in R1-1-507 and A.R.S. § 41-1022(D) 41-1022(E).
- B. After a final, proposed summary, final summary, exempt, or emergency rulemaking package has been is filed with the Office, an agency may request that the Office correct a manifest typographical or clerical error in the text may be corrected only by the filing of the corrected pages, accompanied by a letter signed by the agency's chief executive officer requesting the Office to make the corrections correct the error and specifying why the agency considers the error a manifest typographical or clerical error. The corrected pages and the letter shall both indicate the specific changes to be made. Both the original rulemaking package and the corrected pages shall remain on file. Errors considered An error that the Office considers substantive in nature shall not be corrected except through the regular rulemaking process.
- C. If, upon review, an issuing agency discovers errors an error in its rules as published in the Code Code or Register Register, the agency shall notify the Office in writing about the printing errors error.
  1. If an the error is substantive and was in the document as submitted by the agency, the agency shall go through the regular rulemaking process to correct the error.
  2. If the error is a manifest typographical or clerical error, the agency shall follow the procedure in subsection (B), and the Office shall follow the procedure in subsection (D) below for printing to print the correction.
- D. If the Office makes finds an error in the printing of rules a rulemaking package in the Register Register or Code Code or the an agency has notified notifies the Office about a manifest typographical or clerical error and followed follows the procedures specified in this Section, the error shall be corrected the Office shall correct the error in the next available issue of the Register Register or supplement to the Code Code if the Office determines that the error would tend to confuse or mislead the reader. If the error would not confuse or mislead the reader or is in a note or heading not considered part of the rule, the Office shall correct the error will be corrected by the Office and published and publish the correction in the next supplement to the Code Code containing other amendments to the Chapter adopted by the agency.

**R1-1-110. Effective Dates Date**

If a final, summary, or emergency rulemaking package does not specify an effective date, the date of filing in the Office is the effective date. If an agency submitting a final, summary, or emergency rulemaking package indicates a specific effective date for the rules which is later than the date filed in the Office, pursuant to A.R.S. § 41-1032, the agency shall also specify the reason for the delayed date. Rules filed in the Office shall not be retroactively effective.

- A. For a final or emergency rule, the effective date is 60 days after the date of filing in the Office, unless:
  1. The Council or the Attorney General approves an effective date earlier than 60 days after the date of filing in the Office, or
  2. The Council or the Attorney General approves an effective date later than 60 days after the date of filing in the Office.
- B. For a summary rule, the interim effective date is the date the rule is published in the Register. If the Council approves the summary rule and files it in the Office, the interim effective date becomes the permanent effective date 60 days after the date of filing in the Office.
- C. For a Notice of Recodification, the effective date is the date of filing in the Office.

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**R1-1-111. Agency Liaisons and Rule Specialists Repealed**

- ~~A.~~ Each agency shall designate a liaison who shall represent the agency in the submission of rulemaking documents to the Office and shall work with the Office should problems arise with that agency's rules. Each agency shall send the name, title, address, and telephone number of the liaison to the Office in January of each year and shall notify the Office immediately when changes occur. If an agency with multiple divisions wishes to appoint a liaison for each division promulgating rules, the agency shall notify the Office to that effect.
- ~~B.~~ If an agency selects a specialist to represent the agency on a particular rule or set of rules, the agency shall indicate the specialist's name, address, and telephone number on the document filed as the person to whom comments or questions may be addressed.

**R1-1-112. Public Inspection of Documents; Copies**

- ~~A.~~ Documents filed with the Office pursuant to under the Act shall be are available for public inspection in the Office during regular office hours. Office Regular office hours are ~~8 a.m. to 5 p.m.~~ 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays.
- ~~B.~~ A person may request, during regular office hours, a copy of a rulemaking document on file in the Office. The Office shall charge the per-page statutory copy fee specified in A.R.S. § 41-126(A)(1) for all copy requests.
- ~~C.~~ Copies of documents filed in the Office are available at the statutory per-page copy fee specified in A.R.S. § 41-126(A)(1). A governmental agency requesting a copy of materials that it has filed with the Office shall also pay the statutory per-page copy fee.
- ~~C.~~ The Office shall make available for review incorporated-by-reference material under R1-1-414.
- ~~D.~~ A person requesting a certified copy of a document filed in the Office shall pay the statutory certification fee plus the per-page statutory copy fee as specified by A.R.S. § 41-126(A).
- ~~E.~~ The Office shall collect the fees listed in R1-1-113 for individual issues of the Register or rules published in the Code in both print and electronic media.
- ~~E.F.~~ The Office requires advance payment of fees for any materials bought from the Office.

**R1-1-113. Fees**

- ~~A.~~ The fees for the Register Register, covering publication and distribution costs, are as follows:
- ~~1.~~ For a one-year subscription to the Register Register in print format:
    - ~~a.~~ For noncommercial use: \$276.
    - ~~b.~~ For commercial use: \$5,500.
  - ~~2.~~ For a single issue of the Register Register, which includes the Semi-annual Index:
    - ~~a.~~ In print format for noncommercial use: \$7;
    - ~~b.~~ In print format for commercial use: \$125;
    - ~~c.~~ On electronic medium for noncommercial use: the cost of computer time at \$35 per hour or portion of an hour;
    - ~~d.~~ On electronic medium for commercial use: \$125 plus the cost of computer time at \$35 per hour or portion of an hour.
  - ~~3.~~ For the Semi-Annual Index listing all items except rules: \$5.
  - ~~4.~~ For the Semi-Annual Index containing only rulemaking activity: \$5.
- ~~B.~~ The fees for the printed Code Code, covering publication and distribution costs, are as follows:
- ~~1.~~ For noncommercial use:
    - ~~1-a.~~ For a full set of the Code Code, including binders: \$450.
    - ~~2-b.~~ For an annual subscription for quarterly updates to the complete set of the Code Code: \$125.
    - ~~3-c.~~ For individual Chapters and Titles:
      - ~~a-i.~~ For an entire Title: the sum of the charges for all Chapters within the Title as specified in subsection (B)(1)(c)(ii).
      - ~~b-ii.~~ For each a Chapter: \$1 for one to four pages and \$1 for each additional 10 pages or portion thereof of the 10 pages.
  - ~~2.~~ For commercial use:
    - ~~a.~~ For a full set of the Code, including binders: \$15,000.
    - ~~b.~~ For individual Chapters and Titles:
      - ~~i.~~ For a Chapter: \$84.
      - ~~ii.~~ For an entire Title: the sum of the charges for all Chapters within the Title, as specified in subsection (B)(2)(b)(i).
    - ~~c.~~ For an individual Code supplement: the sum of the charges of all Chapters within the supplement, as specified in subsection (B)(2)(b)(i).

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- C. The fees for rules on electronic media available to the Office ~~computer disk, with each disk containing either one Title table of contents or one Chapter, or portion of a Chapter if the Chapter takes two or more disks,~~ are as follows:
1. For a person, company, organization, business, or governmental agency buying ~~the rules a Chapter on disk~~ electronic medium for noncommercial use: the cost of computer time at \$35 per hour or portion of an hour.
  2. For a person, company, organization, business, or governmental agency buying ~~the rules a Chapter on disk~~ electronic medium for a commercial purpose as stated in A.R.S. § 39-121.03: \$84 per disk or \$17,950 for the entire Code on disk \$85 and computer time at \$35 per hour or portion of an hour.
  3. For a person, company, organization, business, or governmental agency downloading a Chapter from the internet for a commercial purpose as stated in A.R.S. § 39-121.03: \$84.
- D. The fee for each ~~a~~ binder for the Code Code: \$5.
- E. The fee for a copy of the Style Manual, developed by the Office as a guideline for agencies: \$5 for members of the public; free of charge for state agency personnel involved in rulemaking.
- F. For the Office rulemaking newsletter (*Ruling Arizona The Rule(write)r's Edge*): no charge.
- ~~G.E.~~ The Office requires advance payment for any materials purchased Materials bought from the Office shall be paid for in advance. Payment shall be made by cash, check, or money order only, unless the order is from a governmental agency, in which case a government purchase order or fund transfer form may be used. ~~Do not send cash through the mail. A government agency may use a purchase order or fund transfer form.~~

**R1-1-114. Official Distribution of the Register Register and the Code Code at No Charge**

- A. ~~Copies~~ The Office shall distribute copies of the Register Register and the Code Code shall be distributed to the following, upon request, without charge:
1. Governor: one copy;
  2. Legislature:
    - a. The Senate: six copies;
    - b. The House of Representatives: six copies;
    - c. The Department of Library, Archives, and Public Records: three copies;
  3. Attorney General: 15 copies;
  4. Supreme Court: one copy;
  5. Counties. Each county law library (or one major public or university library per county if the county does not have a law library); one copy. The County Board of Supervisors shall specify to the Office the library to which the subscription shall be sent when there is no county law library;
  6. Governor's Regulatory Review Council: one copy of the Register and one copy of the Code.
    - a. The members of the Council: one copy of the Register each;
    - b. The Council office: two copies of the Register and two copies of the Code.
- B. ~~One~~ The Office may distribute one copy of individual Chapters as printed in a Code supplement shall be distributed free of charge to the agency ~~adopting the filing the final, summary, emergency, or exempt rule. The Office shall send the Chapters to the agency's chief executive officer unless the Office receives other instructions from the agency. An agency may purchase additional a copy of its Chapters.~~

**ARTICLE 2. THE ARIZONA ADMINISTRATIVE REGISTER**

**R1-1-201. Publication Schedule and Deadlines**

- A. The Secretary of State shall publish the Register Register pursuant to ~~under~~ A.R.S. § 41-1013, ~~the Office shall mail the Register and make available copies for sale on the date of publication.~~ The Office shall include the schedule of publication dates and deadlines in each issue of the Register Register and shall make copies of the schedule available in the Office. The Office shall publish each document filed and approved for publication in the Register Register according to the published schedule.
- B. ~~Once an agency has filed a proposed rulemaking package with the Office for publication or filing, the agency may only withdraw the rulemaking package as specified in R1-1-507.~~
- ~~C.B.~~ Deadlines The Office shall not waive a deadline for submission of documents ~~shall not be waived for any agency.~~

**R1-1-202. Contents**

Each issue of the Register Register shall contain only the categories specified by A.R.S. §§ 41-1013 and 49-112 and any other items required by state statute to be published in the Register Register, provided material is submitted for publication in each category. Only documents pertaining to rulemaking or documents that are specifically authorized by statute to be published in the Register shall be accepted for Register publication.

**R1-1-203. Publication Requirements Repealed**

All rulemaking packages submitted for publication shall meet the following requirements:

1. ~~Each package shall be typewritten or produced on word processing or computer equipment, on 8 1/2 x 11 inch white paper (20-24 lb. weight) and shall be double-spaced. Only one side of the paper shall be used. The original shall not~~

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be stapled nor shall it or any of the copies be hole-punched. Pleading paper (with numbers and vertical lines along the right- or left-hand margins) shall not be accepted.

2. There shall be a one-inch margin on all edges of the paper.
3. Each document containing rules or relating to the rulemaking process submitted for publication shall specify on the notice form the Code citation, Code divisions, and the specific Sections involved. Subsections shall not be specified on the notice form. Articles shall be specified if their labels or headings are being changed or if the Articles are being added to the Chapter or repealed in their entirety.
4. Underlining shall be used for language being added to rules, except as noted in Section R1-1-502(B)(5)(b). This includes new language in an existing Section, the addition of an entire Section, the addition of new language in existing supplementary material, or the addition of new supplementary material. Underlining shall not be used in the text of rules for any other purpose.
5. A table of contents listing all Sections and other divisions of the Chapter shall be included in the rulemaking package except that Sections, Articles, or Parts, if applicable, not having rulemaking action taken in a particular rulemaking package shall not be included.
6. Pages in the package shall be consecutively numbered, from the first page of the notice through the last page of the text of the rules or supplementary material appearing at the end of the rulemaking package.
7. Rulemaking packages shall be compiled by the agency before submission to the Office. The original and all copies shall be in the following order:
  - a. The notice form, including the preamble which is part of the notice;
  - b. The table of contents;
  - c. The text of the rule including supplementary material in its proper location within the rules.
  - d. Incorporated by reference material and other information required to be filed with the rules.

**R1-1-204. Indices to the Register Repealed**

Twice each year, the Office shall publish a rulemaking index and a miscellaneous index to the Register:

1. The rulemaking index shall contain the rulemaking activity occurring from January through June or from July through December;
2. The miscellaneous index shall contain everything except rulemaking appearing in the Register during the same two six-month periods.

**R1-1-205. Notice of Rulemaking Docket Openings Opening**

**A.** Upon establishment of When a rulemaking docket is established, an agency shall submit a notice of rulemaking docket opening to the Office.

**B.** ~~This~~ The Notice of Rulemaking Docket Opening shall contain the heading NOTICE OF RULEMAKING DOCKET OPENING in all capital letters centered on a line approximately one inch from the top of the page; followed by the name of the agency appearing one double space (two lines) below the notice heading; and each shall be centered on the line. The remainder of the notice shall contain the following information in the same numbered order:

1. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; the Part and its heading, if applicable; and the appropriate Section numbers;
  - a. If an agency does not know specific Sections at the time of docket opening, the agency may specify "Sections to be determined."
  - b. If an agency knows specific Sections but may want to add Sections to the rulemaking as the rulemaking is drafted, the agency shall specify the particular Sections and add the language "Sections may be added, deleted, or modified as necessary."
2. The subject matter of the proposed rule and the agency docket number, if applicable;
3. A citation to all published notices relating to the proceeding, including the type of published notice, the Register Register volume number; the abbreviation "A.A.R."; the page number on which the notice began; and the issue date including month, day, and year;
4. The name and address of agency personnel with whom persons may communicate regarding the proposed rule (this may include a telephone number, fax number, and e-mail address);
5. The time during which the agency will accept written comments and the time and place where oral comments may be made; and
6. A timetable for agency decisions or other action on the proceeding, if known.

**R1-1-207. Supplemental Notices on Proposed Rules Repealed**

~~When an agency decides that a proposed rule requires substantial change due to public comment or internal review, the agency shall submit to the Office a supplemental notice of proposed rules for Register publication as specified in R1-1-507.~~

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**R1-1-208. Notice of Proposed Delegation Agreements ~~Agreement~~; Notice of Final Delegation Agreement**

- A. An agency seeking to delegate functions, powers, or duties shall submit to the Office a Notice of Proposed Delegation Agreement ~~which shall contain~~ that contains the heading NOTICE OF PROPOSED DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page, followed by the items listed below in the same numbered order:
1. Name of the agency proposing the delegation agreement;
  2. Name of the political subdivision to which functions, powers, or duties of the agency are proposed to be delegated;
  3. Name, and address, ~~and telephone number~~ of agency personnel to whom persons may direct questions or comments;
  4. A summary of the delegation agreement and the subjects and issues involved;
  5. A statement that copies of the proposed delegation agreement may be obtained from the agency and any pertinent information on how persons may obtain the copies; and
  6. Schedule of public hearings on the proposed delegation agreement.
- B. An agency proposing a delegation agreement shall follow the procedures specified in A.R.S. § 41-1081.
- C. After an agency considers any comments received and determines to enter into the delegation agreement, the agency shall issue a final decision. The delegation agreement is effective 30 days after written notice of the agency's final decision is given unless an appeal is filed and pending before the Council.
- D. If no appeal is pending, at the end of the 30-day period following the agency's issuance of its final decision, the agency may submit to the Office for publication a Notice of Final Delegation Agreement that shall contain the heading NOTICE OF FINAL DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page, followed by the items listed below in the same numbered order:
1. Name of the agency entering into the final delegation agreement;
  2. Name of the political subdivision to which functions, powers, or duties of the agency are being delegated;
  3. A citation to the Notice of Proposed Delegation Agreement;
  4. Name and address of agency personnel to whom persons may direct questions or comments;
  5. A summary of the delegation agreement and the subjects and issues involved;
  6. A statement that copies of the final delegation agreement may be obtained from the agency and any pertinent information on how persons may obtain the copies;
  7. Date of issuance of agency's final decision to enter into the delegation agreement; and
  8. The date the delegation agreement becomes effective.

**R1-1-209. ~~Notices of Public Hearings~~ Notice of Oral Proceeding, Public Workshops ~~Workshop~~, or Other ~~Meetings~~ Meeting**

- A. If an agency schedules ~~a public hearing~~ an oral proceeding, public workshop, or other meeting on a proposed rulemaking or ~~a public hearing~~ an oral proceeding on a proposed delegation agreement after the Notice of Proposed Rulemaking or Notice of Proposed Delegation Agreement ~~has been~~ is submitted to the Office for publication in the ~~Register~~ Register, the agency shall send to the Office one original and ~~three~~ two copies of a notice of ~~public hearing~~ oral proceeding, public workshop, or other meeting on proposed rules or a notice of ~~public hearing~~ oral proceeding, public workshop, or other meeting on proposed delegation agreement, whichever is appropriate.
- B. A notice of ~~public hearing~~ oral proceeding, on proposed rules, a public workshop, or other meeting on proposed rules, a public meeting on rules after an agency has submitted the notice of docket opening ~~has been published for publication~~ but before the Office publishes the rules ~~are published~~ as proposed rules in the ~~Register~~ Register, a notice of ~~public hearing~~ oral proceeding on a proposed delegation agreement, or a notice of ~~public hearing~~ oral proceeding on a proposed rule, ordinance, or other regulation ~~pursuant to~~ under A.R.S. § 49-112 shall be as specified below:
1. For ~~a hearing~~ an oral proceeding on a proposed rulemaking, the heading NOTICE OF ~~PUBLIC HEARING~~ ORAL PROCEEDING ON PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below;:
    - a. The name of the agency;
    - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
    - c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column;
    - d. ~~The Register citation to the original notice and any supplemental~~ Register citations to all notices published in the ~~Register~~ Register concerning the proposed rulemaking;
    - e. The date, time, and location of the ~~public hearings~~ oral proceeding; and
    - f. The name, and address, ~~and telephone number~~ of agency personnel to whom questions and comments on the proposed rules may be addressed.
  2. For a public workshop on a proposed rulemaking, the heading NOTICE OF PUBLIC WORKSHOP ON PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below; :

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- a. The name of the agency;
  - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable;
  - c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column;
  - d. ~~The Register citation and the date of the original notice and any supplemental notices published in the Register;~~  
d. The Register citations to all notices published in the Register concerning the proposed rulemaking;
  - e. The date, time, and location of the public ~~workshop~~ workshops; ~~and~~
  - f. The name; ~~and~~ address; ~~and~~ telephone number of agency personnel to whom questions and comments on the proposed rules may be addressed.
3. For a public meeting on an open rulemaking docket, the heading NOTICE OF PUBLIC MEETING ON OPEN RULEMAKING DOCKET in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below; :
- a. The name of the agency;
  - b. The Title and its heading; the Chapter and its heading; the Subchapter and its heading, if applicable; the Article and its heading; and the Part and its heading, if applicable; ~~if each of these items are known;~~
  - c. The Sections being proposed in numerical order in one column with the specific action being taken on each Section in the second column, if known;
  - d. The ~~Register~~ Register citation and the date of the notice of docket opening and all supplemental notices published in the ~~Register~~ Register;
  - e. The date, time, and location of the public meeting; ~~and~~
  - f. The name; ~~and~~ address; ~~and~~ telephone number of agency personnel to whom questions and comments on the subject matter of the rules may be addressed.
4. For a ~~public hearing~~ an oral proceeding on a proposed delegation agreement, the heading NOTICE OF PUBLIC HEARING ORAL PROCEEDING ON PROPOSED DELEGATION AGREEMENT in all capital letters, centered on a line approximately one inch from the top of the page and followed by the items listed below;
- a. The name of the agency proposing the delegation agreement; :
  - b. The name of the political subdivision to which the agency is proposing to delegate functions, powers, or duties;
  - c. A summary of the proposed delegation agreement;
  - d. The ~~Register~~ Register citation and date of the notice of proposed delegation agreement and all supplemental notices published in the ~~Register~~ Register;
  - e. The date, time, and location of the ~~public hearing~~ oral proceeding; ~~and~~
  - f. The name; ~~and~~ address; ~~and~~ telephone number of agency personnel to whom questions and comments on the rules proposed delegation agreement may be addressed.

**R1-1-210. ~~Notices~~ Notice of Agency Guidance Documents and Document; Notice of Substantive Policy Statements ~~Statement~~**

- A.** An agency shall submit to the Office a ~~notice of guidance documents/substantive policy statements, pursuant to Notice of Agency Guidance Document under A.R.S. § 41-1013(B)(14) for publication in the Register~~ Register. This notice shall contain the heading NOTICE OF AGENCY GUIDANCE DOCUMENTS ~~DOCUMENT~~, ~~or the heading NOTICE OF AGENCY SUBSTANTIVE POLICY STATEMENTS~~, in all capital letters, centered on a line approximately one inch from the top of the page; followed by the name of the agency ~~one double space~~ below the notice heading and also centered on the line; followed by the items listed below in the same numbered order; :
1. Title of the guidance document ~~or subject of the substantive policy statement~~ and the guidance document number ~~or substantive policy statement number~~ by which the document ~~or policy statement~~ is referenced;
  2. Date of the publication of the guidance document ~~or date the substantive policy statement was issued~~ and the effective date of the document ~~or policy statement~~ if different from the publication ~~or issuance~~ date;
  3. Summary of the contents of the guidance document ~~or the substantive policy statement~~;
  4. A statement as to whether the guidance document ~~or substantive policy statement~~ is a new document ~~or statement~~ or a revision;
  5. The name; ~~and~~ address; ~~and~~ telephone number of the person to whom questions and comments about the guidance document ~~or substantive policy statement~~ may be directed; ~~and~~
  6. Information about where a person may obtain a copy of the guidance document ~~or the substantive policy statement~~ and the costs for obtaining the document ~~or policy statement~~.
- B.** An agency shall submit to the Office a Notice of Substantive Policy Statement, under A.R.S. § 41-1013(B)(14), for publication in the Register. This notice shall contain the heading NOTICE OF SUBSTANTIVE POLICY STATEMENT, in all capital letters, centered on a line approximately one inch from the top of the page; followed by the name of the agency below the notice heading and also centered on the line; followed by the items listed below in the same numbered order;

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1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced;
2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date;
3. Summary of the contents of the substantive policy statement;
4. The federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement;
5. A statement as to whether the substantive policy statement is a new statement or a revision;
6. The name and address of the person to whom questions and comments about the substantive policy statement may be directed; and
7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement.

**C.** A notice shall concern only one agency guidance document or substantive policy statement.

**R1-1-211. Summary of Council Action**

The Council shall submit to the Office for ~~Register~~ Register publication a summary of Council action on each ~~adopted~~ final rule or summary rule. Rules of one Chapter, one Subchapter (if applicable), or one Article if the Article has Parts, grouped together into one rulemaking package, may be summarized together ~~so long as~~ if the specific Sections affected are listed.

**R1-1-212. Agency Ombudsman**

An agency designating an ombudsman ~~pursuant to~~ under A.R.S. § 41-1006 shall submit the name of ~~their~~ its ombudsman annually no later than February ~~1st~~ 1 of each year to the Office for publication in the ~~Register~~ Register. The notice shall contain the heading NOTICE OF AGENCY OMBUDSMAN in all capital letters, centered on a line approximately one inch from the top of the page followed by the following items in the same numbered order:

1. The agency's name;<sub>;</sub>
2. The ombudsman's name;<sub>;</sub>
3. The ombudsman's title;<sub>;</sub>
4. The ombudsman's office address including zip code;<sub>;</sub> and
5. The ombudsman's office telephone number and ~~facsimile~~ fax number, if available.

**ARTICLE 3. THE ARIZONA ADMINISTRATIVE CODE**

**R1-1-301. Development of the ~~Code~~ Code**

- A. The Office may establish new Titles in the ~~Code~~ Code and rearrange existing Titles and Chapters to ~~assure~~ ensure orderly development of the ~~Code~~ Code. The Office shall notify each agency whose rules are affected by any rearrangement.
- B. The first volume of the ~~Code~~ Code shall contain a Table of Contents for the multi-volume ~~Code~~ Code, a Table of Titles and Chapter Headings, the Administrative Procedure Act, and other material to ~~assist agencies in developing their rules and to assist help~~ help the public ~~in locating~~ find specific rules. A ~~Title~~ Table of Contents listing the Chapters, Subchapters, Articles, and Parts appearing in ~~that~~ a Title shall appear at the beginning of each Title.

**R1-1-302. Publication of the ~~Code~~ Code and its Supplements**

- A. The Office shall publish the ~~Code~~ Code in loose-leaf form as specified in the Act.
- B. The ~~Code~~ Code shall be updated by quarterly supplements containing all final, summary, emergency, and exempt rules filed in the Office during each calendar quarter.
- C. Supplements shall be dated with the last day of the calendar quarter. Supplements shall be numbered according to the calendar year of publication and the number of the quarter. A supplement calendar shall be published in the Register.
- D. Supplements shall be printed in complete Chapters.
- E. Each time the Office publishes a supplement to the ~~Code~~ Code, the Office shall issue a new price list showing all Chapters in the ~~Code~~ Code in numerical order and indicating the last supplement in which each Chapter was printed along with the price for each Chapter.
- F. Persons may ~~purchase~~ buy individual Chapters or Titles of the ~~Code~~ Code, or they may ~~subscribe to the full~~ buy an entire set. ~~If they subscribe to the full set, they shall first purchase the entire set and then pay the annual subscription fee.~~ Persons who buy an entire set are eligible to buy an annual subscription, which contains quarterly supplements.

**ARTICLE 4. RULE DRAFTING**

**R1-1-401. Drafting Rules**

~~Each~~ An agency preparing a rulemaking package for filing ~~or publication~~ with the Office shall draft it in accordance with this Chapter.

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**R1-1-402. Assignment of Titles, Chapters, Articles, and Sections Code Divisions; Headings**

- A. The Office shall arrange and classify the subject matter of the Code ~~Code~~ shall be arranged and classified according to a system of Titles. The Titles shall be divided into Chapters. ~~A The heading of a Chapter~~ containing rules of one major program or subject shall also specify both the name of the agency and the program or subject. ~~The~~ Chapters shall be divided into Articles. Articles that cover several subjects or regulate different groups of people shall be divided into several ~~Articles~~ Parts. ~~Parts and~~ Articles without Parts shall be divided into Sections. Some Chapters may also contain a two or more ~~Subchapter~~ Subchapters or a Part or both. An agency shall request and receive approval from the Office for Subchapter and Part divisions before using these divisions.
- B. All Titles, Chapters, Subchapters (if applicable), Articles, Parts (if applicable), and Sections shall have a heading which ~~that~~ describes the subject of that division of the Code Code. Headings shall not contain the words "Rule" or "Regulation."

**R1-1-403. Numbering System**

- A. ~~Each~~ A Section number shall be preceded by the letter "R".
- B. A hyphenated numbering system shall be ~~is~~ used in the Code Code.
1. A Section number shall ~~include~~ includes the "R", the Title number, the Chapter number, the Subchapter label (if applicable), and the Section number indicating the Article number and the Part label (if applicable).
  2. The one or two numbers to the far left shall indicate the number of the Title in which the Section appears.
  3. The one or two numbers between the two hyphens shall indicate the Chapter number. If the Chapter has been assigned a Subchapter, the Subchapter letter label shall ~~appear~~ appears immediately after the Chapter number before the hyphen.
  4. The numbers to the far right shall indicate the Section number. A Section number shall ~~have~~ has at least three digits. The last two digits shall indicate the Section and the number or numbers to the left of these two digits shall indicate the Article number. If an Article has been assigned a Part, the Part's letter label shall ~~appear~~ appears immediately after the second hyphen before the Section number.
- C. The first Section in each Article shall be numbered 101, 201, 301, and so on, as applicable. Sections shall run consecutively through the ~~Chapter~~ Article except where space is left Section numbers are reserved for future expansion. Any Section number not used when the rules are originally ~~adopted~~ made is automatically reserved for future use. An agency shall specify "Reserved" for a Section when a ~~the~~ Section falls before a Section with text in the same Article or Part; Sections that are reserved shall be shown ~~also~~ when the rules are published in the Code Code. Sections that ~~have been~~ are renumbered or repealed so that no text remains shall be headed with the appropriate term; "Reserved" shall not be used for these Section headings.
- ~~D.~~ A Section number is not complete unless it contains all portions specified in subsection (B). An agency shall use only complete Section numbers in its rules, on a notice of rulemaking activity, or in any material submitted to the Office for either publication or filing.
- ~~D.E.~~ Titles, Chapters, Articles, and Sections shall be designated by Arabic numbers; Subchapters and Parts shall be designated by capital letters.

**R1-1-404. Renumbering Sections within a Chapter**

- A. ~~When~~ If an agency renumbers one or more Sections at the time the agency amends other existing rules:
1. The table of contents for the rulemaking package shall show the old number with strike-outs and the new number with underlining.
    - a. If an agency is ~~adopting~~ making a new Section at ~~that~~ the old number, the agency shall show the old heading with strike-outs and the new heading with underlining; ~~or~~
    - b. If an agency renumbers another existing Section to ~~that~~ the old Section number, the agency shall show the new heading and text of the moved Section at the location of the old ~~its~~ new number with and strike-outs through the old Section number and underlining under the new number; ~~or~~
    - c. If an agency is not ~~adopting~~ making new text or moving text to the location of a renumbered Section, the agency shall show the old Section heading with strike-outs and the term "Renumbered" added with underlining.
  2. The table of contents shall show Sections and Articles in the order ~~that~~ the rules are being ~~adopted~~ made.
  3. The rules shall appear in numerical order as renumbered.
- B. If an agency is renumbering ~~some one or more~~ rules within a Chapter but is making no other changes ~~to the rules~~, the agency may either shall do one of the following:
1. Send a letter, signed by the agency head or designee, to the Office with instructions for the renumbering in which case the Office will make the changes and will publish both a notice in the Register and the renumbered rules in the next quarterly supplement to the Code; or
  1. Prepare a Notice of Recodification as specified under R1-1-1001, or
  2. Go through ~~Make the numbering change using~~ the regular rulemaking process ~~to make the numbering change~~.
- C. Only entire Sections may be renumbered or recodified in this manner ~~the matter described in this Section~~. If an agency splits an existing Section into two or more Sections, or moves a portion of one Section to another Section, or combines

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two or more Sections into one Section, the agency shall follow the regular rulemaking process to ~~do the renumbering~~ make the changes.

**R1-1-406. ~~Re-using Chapter, Subchapter, Article, Part, or Section Numbers~~ Repeal and Re-use of a Chapter**

~~After an agency has filed a rule with the Office and the agency repeals or renumbers the Chapter, Subchapter, Article, or Part in its entirety, the agency shall not use that Chapter, Subchapter, Article, or Part number or letter for one year if the subject matter totally changes. If an agency repeals or renumbers a Section, the agency may re-use the Section number immediately. If an agency repeals or renumbers a Chapter in its entirety, the agency shall not use the Chapter for one year.~~

**R1-1-407. Authority Notes**

If an agency ~~wishes~~ requests the specific or general authority for a Chapter, Subchapter, Article, or Part to ~~appear~~ be published in its rules as ~~published~~ in the Code Code, the agency shall include an authority note under which the rules in that Chapter, Subchapter, Article, or Part were ~~adopted~~ made. This note shall appear immediately below the Chapter ~~heading, the Subchapter heading, the Article heading, or the Part heading,~~ as applicable, in the Chapter's table of contents and shall specify the statutes ~~which that~~ the rules are implementing (the specific authority) and the statutes ~~which that~~ authorize the agency to do rulemaking (the general authority). An agency's failure to include a statute or portion of a statute in the authority note ~~shall does~~ not negate the agency's authority to ~~promulgate~~ make the rule.

**R1-1-408. Text of the Rules; Subsections**

- A. ~~Each agency shall double-space the text of each Section submitted for publication or filing. The divisions of the Chapter (Title, Chapter, Subchapter (if applicable), first Article, and first Part (if applicable)) and their labels and headings shall appear above the Section number and heading of the first Section in the rulemaking package. Each An agency shall also double-space center on each line these divisions and their labels and headings and center them on each line.~~
- B. If a Section has only one ~~paragraph subsection~~, an agency shall leave that ~~paragraph subsection~~ unlabeled.
- C. ~~When If~~ a Section has an opening ~~paragraph subsection~~ followed by labeled subsections, the Office shall treat the opening ~~paragraph to be subsection as~~ an implied subsection (A). An agency shall label and indent appropriately the subsections following the opening ~~paragraph subsection~~ as second-level subsections.
- D. If a Section has two or more ~~paragraphs subsections~~ at any level, an agency shall label the ~~paragraphs subsections~~ separately. An agency shall label subsections as indicated below.
1. First-level subsections are designated by a capital letter, ~~i.e., (A., B., or C., and so on).~~
  2. Second-level subsections are designated by an Arabic numeral, ~~i.e., (1., 2., or 3., and so on).~~
  3. Third-level subsections are designated by a lower case letter, ~~i.e., (a., b., or c., and so on).~~
  4. Fourth-level subsections are designated by a lower case Roman numeral, ~~i.e., (i., ii., or iii., and so on).~~
- ~~E.~~ If an agency uses the entire alphabet for subsections at the first or third level, additional subsections shall be labeled with double letters (aa., bb., cc., and so on).
- ~~E.E.~~ Within the text of a subsection, an agency referring to the same subsection shall use the term "this subsection." An agency referring to a different subsection shall use the term "subsection" and the labels of all appropriate levels, each within its own set of parentheses. If an agency refers to a different Section, the agency shall specify the correct Section number along with all subsection labels but shall not use the term "Section".
- ~~F.G.~~ An agency shall not subdivide its rules into more than four levels of subsections unless the agency ~~has obtained~~ obtains permission ~~to do so~~ from the Office.
- ~~G.H.~~ An agency ~~need not may choose not to~~ label definitions that are listed in alphabetical order or other lists of items in some specific order, although the agency shall indent the definitions or items in the list as if they were labeled at the appropriate level of subsection, ~~unless the agency wishes to refer to the items more specifically. If an agency chooses not to label definitions that are listed in alphabetical order or other lists in a specific order, additional levels of subsection under those definitions or lists also shall not be labeled. If an agency quotes statutory language verbatim that contains labeling, the agency shall retain the labeling in the statutory language.~~
- ~~H.I.~~ When dividing a Section into subsections, an agency shall not:
1. Leave an unlabeled ~~paragraph subsection~~ at any level after a labeled subsection at the same level;
  2. Use ~~an A<sub>1</sub> without a B<sub>1</sub>; a 1<sub>1</sub> without a 2<sub>1</sub>; an a<sub>1</sub> without a b<sub>1</sub>; or a i<sub>1</sub> without a ii.~~
- ~~I.J.~~ When referring to one or more subsections within the text of a subsection, an agency shall enclose the label for each subsection in its own set of parentheses. When referring to second-, third-, and fourth-level subsections, an agency shall specify the labels of each preceding level of subsection. For example, an agency referring to a third-level subsection would state "subsection (A)(2)(c)"; an agency referring to a fourth-level subsection would state "subsection (B)(1)(d)(iii)".
- ~~K.~~ When referring to multiple subsections, an agency shall enclose the label for each subsection in its own set of parentheses, followed by a conjunction and the last subsection label enclosed in parentheses. For example, an agency would state "(A)(1) through (9)"; "(B)(4)(b) and (c)"; or "(C)(1)(a)(i) and (ii)."
- ~~L.~~ When referring to a Section in another Chapter, an agency shall cite the Section number with "A.A.C." preceding the number. For example, an agency would state "A.A.C. R2-12-201."

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~~J.M.~~ **Numbered** An agency shall not include numbered or lettered phrases within the text of a subsection ~~are not allowed~~. These shall be labeled properly and indented at the appropriate level of subsection.

~~K.N.~~ An agency wishing to use shall contact the Office when using special symbols, fonts, or formats in the text of a rule. within their rules shall contact the Office for permission to do so. The Office shall grant permission if the Office's computer software can produce the same symbols, fonts, or formats. The symbols may not appear in the text on computer disks prepared for sale by the Office.

~~L.O.~~ An agency shall define all ~~ALL~~ acronyms; and abbreviations; initialisms; and shortened forms not defined in the A.R.S. which ~~that the an~~ agency uses in the text of its rules shall be defined in a definitions Section at the beginning of the Chapter.

**R1-1-409. Citations to the Code ~~Code~~, Register ~~Register~~, Statutes, and Incorporated by reference Materials ~~Federal Laws and Rules~~**

A. Citations to the Register ~~Register~~ shall include the volume and page number and shall contain, the short form abbreviation "A.A.R." for the "Arizona Administrative Register", and the issue date. For example, 7 A.A.R. 1325, March 23, 2001.

B. Citations to the Code ~~Code~~ shall include the Title, Chapter, Subchapter, Article, Part, and Section, as applicable, and the short form "A.A.C." for "Arizona Administrative Code". For example, 17 A.A.C. 4 and A.A.C. R17-4-301.

C. Citations to state laws:

1. A citation to a law contained in a published edition of the Arizona Revised Statutes shall include the abbreviation "A.R.S." and either the specific Section number or the Title number, Chapter number, and Article number in that order. For example, A.R.S. Title 41, Chapter 6, Article 5.

2. A citation to a law which ~~that~~ has not yet been published in the Arizona Revised Statutes shall include the following:

a. If the reference is to a new Section of the statutes and the codified Section number is known, the citation shall include the Section number followed by the phrase "as added by Laws" and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section of the new law. For example, A.R.S. § 41-1008 as added by Laws 1998, Ch. 57, § 22.

b. If the reference is to an amendment of an existing Section of the Arizona Revised Statutes, the citation shall include the Section number followed by the phrase "as amended by Laws" and the year the law was passed along with the Chapter number as assigned by the Office and the specific Section of the new law which ~~that~~ amended this Section of an existing law. For example, A.R.S. § 41-1021 as amended by Laws 1998, Ch. 57, § 27.

c. Citations to new laws that do not indicate a statutory citation shall include the word "Laws" and the year the law was enacted by the legislature and the Section number within that law. For example, Laws 1998, Ch. 196, § 4.

3. When an agency uses a statutory citation and also refers to that law by a commonly used heading, the agency shall enclose the commonly used heading within parentheses.

D. Citations to federal laws and rules:

1. Citations to the United States Code (U.S.C.) and the United States Code Annotated (U.S.C.A.) shall include the Title number first, followed by the appropriate abbreviation, followed by the Part number or the Section number. Neither the word "Part" or "Section" nor the Section symbol shall appear in the citation. For example, 10 U.S.C. 1. Citations to laws not yet codified into the U.S.C. or the U.S.C.A. shall be referenced by the words "Public Law" or the abbreviation "P.L." and the number of the law. For example, P.L. 100-20191.

2. Citations to the Code of Federal Regulations (CFR) shall list the Title number first, followed by the appropriate abbreviation, followed by the Part number or the Section number. Neither the word "Part" or "Section" nor the Section symbol shall appear in the citation. Citations to the Federal Register (FR ~~or Fed. Reg.~~) shall include the volume number first, followed by the abbreviation, followed by the page number. FR citations shall also include the date of the publication. Examples of federal statutory citations appear in the Style Manual. For example, 49 CFR 201; 42 FR 10109, July 1, 1997.

E. Citations to items incorporated by reference shall state the publication information (publisher name and address), date of publication, and a location where the item is available if different from the publisher.

**R1-1-410. Standard Abbreviations ~~Repealed~~**

When drafting rules, an agency shall either write out in full or use the standard abbreviations below for any of the listed terms. If an agency uses one of these abbreviations but attaches a different meaning to it, the agency shall place this abbreviation in its definitions Section.

1. All two-letter abbreviations for the 50 states and the territories of the United States as designated by the United States Postal Service;

2. All chemical abbreviations for the elements;

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3. The following terms:

Abbreviation	Definition
A.C.	Alternating Current
a.m.	ante meridiem, morning
Ave.	Avenue
Bldg.	Boulevard
Btu.	British thermal unit
C.	Centigrade, Celsius
CFR	Code of Federal Regulations
Ch.	Chapter (statutory citation only)
cm.	centimeter
cu.	cubic
Dr.	Drive
Pl.	Place
E.	East
et seq.	and those that follow
F.	Fahrenheit
FR	Federal Register
ft.	foot, feet
ID.	Identification
A.A.C.	Arizona Administrative Code
A.A.R.	Arizona Administrative Register
A.R.S.	Arizona Revised Statutes
in.	inch
IRS	Internal Revenue Service
k.	kilogram
km.	kilometer
l.	liter
lb.	pound
Ln.	Lane
M.D.T.	Mountain Daylight Time
M.S.T.	Mountain Standard Time
mg.	milligram
ml.	milliliter
mm.	millimeter
mph	miles per hour
Mt.	Mount
N.	North
n/a	not applicable, not available
oz.	ounce
p.	page
p.m.	post meridiem, afternoon
qt.	quart
Rd.	Road
S.	South
sq.	square
St.	Saint, Street
U.S.	United States
U.S.C.	United States Code
U.S.C.A.	United States Code Annotated
W.	West
yd.	yard

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**R1-1-411. Automatic Repeal of Rules**

- A. An agency may provide for the automatic repeal of a Section, in the Section being automatically repealed, by specifying in the text of that Section the date (including day, month, and year) by including the day, month, and year of the automatic repeal. This automatic repeal shall only be used to repeal an entire Sections Section. The information specifying the automatic repeal date shall appear in a first-level subsection by itself at the end of the Section.
- B. An agency shall notify the Office, orally or by letter, when the automatic repeal date has passed so ~~that~~ the Office can ~~ensure that the rules are deleted~~ remove the rule from the Code Code. Chapters from which automatically repealed rules ~~have been deleted~~ are removed shall appear in the next quarterly supplement to the Code Code.

**R1-1-412. Supplementary Material; ~~Camera-ready Material~~**

- A. An agency including tabular materials, illustrations, diagrams, figures, and other supplementary material in ~~a set of rules which do not fit within the column margins of the published Code (3 3/8 inches by 9 1/4 inches) shall place them at the end of an Article and~~ shall label them as Appendices, Exhibits, Illustrations, or Tables. An agency shall use supplementary ~~materials~~ material to make the a rule understandable by persons affected by the rule. An agency shall consider all supplementary ~~materials~~ material included in ~~a set of rules as part of the rules and shall refer to them~~ the supplementary material within the text of one or more Sections. An agency shall list Appendices, Exhibits, Tables, and Illustrations in the table of contents for the Chapter.
- B. An agency shall ~~number~~ label all Appendices, Exhibits, Illustrations, and Tables with either capital letters or Arabic numbers using a consistent ~~numbering~~ labeling scheme. The specific term the agency uses (Appendix, Exhibit, Illustration, or Table) and its label shall appear in the text along with a heading in the same format that a Section number and heading appear at the beginning of a Section.
- C. ~~All supplementary material appearing sideways on the page shall appear at the end of the Article. Supplementary material appearing within the text of a Section shall not appear in the table of contents. When referencing supplementary material appearing within the text of a Section, an agency shall use the appropriate subsection label.~~
- D. An agency shall submit only camera-ready supplementary material to the Office for publication or filing. Camera-ready means that the material must be clear and legible when the text is reproduced at 9-point size or the illustration are is reproduced to fit within the one-inch margin requirements of an 8 1/2 inch by 11 inch sheet of paper. ~~Material is camera-ready when it is clearly typed (or produced on word-processing or computer equipment) in solid black ink on one side of an 8 1/2 x 11 inch sheet of white paper (uncoded stock) with one-inch margins on all edges of the page. Dot-matrix type, photocopies, or facsimile copies are not camera ready. Uncoded stock means paper (20-24 lb. weight) with no visible watermark when held up to the light. Bond paper with watermarks shall not be used.~~
- E. An agency shall create tabular material in a rulemaking package using a spreadsheet program or the table function of a word processing program. This subsection does not apply to an Economic, Small Business, and Consumer Impact Statement and material incorporated by reference.

**R1-1-413. Statutory Language; Italics**

- A. ~~Summary rules~~ Rules may contain statutory language ~~that repeats verbatim existing statutory authority granted to the agency that repeats verbatim existing statutory authority granted to the agency.~~
- B. ~~Whenever~~ If an agency ~~finds it necessary to repeat~~ repeats statutory language within the text of a rule, the statutory language shall appear in italics, and the statutory citation shall appear after the statutory language, ~~distinguishing type. Italics are reserved for statutory language. Whenever an agency does not have the capability for producing italic type, it shall use another form of distinguishing type, specifying to the Office in a letter accompanying the rules package the distinguishing type used. Underlining shall not be used as distinguishing type.~~
- C. Rules may contain the following language in italics:
  - 1. Titles of books, periodicals, and reports;
  - 2. Scientific names; and
  - 3. Court cases (for example, *Marbury v. Madison*).

**R1-1-414. Incorporation by Reference; Citation of Referenced Material**

- A. Items that may be incorporated by reference within an agency's rules are specified in A.R.S. § 41-1028.
- B. ~~Each~~ An agency shall keep in the agency's principal office one copy of any item incorporated by reference.
- C. ~~Each~~ An agency shall file one copy of any item incorporated by reference in its rules when the agency files its final, emergency, or exempt rules with the Office.
- D. Any item incorporated by reference shall be cited as specified in ~~R1-1-410~~ R1-1-409. Following the citation of ~~incorporated by referencee~~ incorporated-by-reference material in the text of the rules shall be a statement specifying that the incorporated material contains no later editions or amendments.
- E. A citation to an item incorporated by reference shall state the publisher's name and address, date of publication, and a location where the item is available if different from the publisher. If a physical address for the publisher is not available, a web site address may be substituted.

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~~E.F. Any~~ An item incorporated by reference and filed with an agency's final rules may be viewed in the Office. The Office shall not photocopy any copyrighted material ~~or federal code or regulation provisions~~ incorporated by reference.

**R1-1-415. Repeal of a Section; New Text**

If an agency deletes the language in an existing Section and simultaneously inserts new language at the same Section number, the rulemaking action of the change listed in item #1 of the Preamble shall be one of the following:

1. A "Repeal" and "New Section" if both the text of the Section and the Section heading are completely changed; or
2. An "Amend" if the entire existing text is repealed, but the Section heading is not completely changed.

**ARTICLE 5. PROPOSED RULEMAKING**

**R1-1-501. Assignment of Chapters**

An agency preparing to ~~promulgate~~ make rules for the first time shall contact the Office, orally or by letter, for assignment of a Title and Chapter number within the codification system. An agency that already has at least one Chapter on file shall contact, orally or by letter, the Office when ~~adding new Articles or when~~ the agency needs a new Chapter assignment.

**R1-1-502. Notice of Proposed Rulemaking**

- A. ~~Each~~ A proposed new Section, amendment or repeal of an existing Section, or renumbering of a Section when other changes are also being made, submitted for publication in the ~~Register~~ Register shall be part of a Notice of Proposed Rulemaking. ~~The Notice of Proposed Rulemaking may consist of multiple pages. Questions, answers, and other information required to appear in the Preamble of~~ on the Notice of Proposed Rulemaking, ~~and the Preamble which is part of this Notice,~~ shall appear in the proper ~~location on the Notice~~ order. No question on the notice may be answered "See attached." Supplemental pages shall not be used.
- B. The notice shall contain the heading NOTICE OF PROPOSED RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number, and heading centered on the line ~~one double space~~ under the notice heading; followed by the Subchapter, its label and heading (if applicable) centered on the line ~~one double space~~ under the Title; followed by the Chapter, its number and heading centered on the line ~~one double space~~ under the Title; followed by the word PREAMBLE in all capital letters, on a line ~~one double space~~ under the Chapter; followed by the following items in the same numbered order:
1. Sections Affected and the Rulemaking Action in two columns;
    - a. In the first column, each Section upon which rulemaking activity is being proposed shall appear in numerical order under the heading "Sections Affected".
      - i. ~~If an Article or Part is also~~ If an existing Section is being repealed and new text is being ~~adopted~~ made at that number or ~~where if~~ where the text of an existing Section is being renumbered and new text, (either totally new language or text renumbered from another Section), is being placed at that number, the Section number ~~could~~ will appear ~~in the list three~~ multiple times with the appropriate individual actions appearing in the second column. ~~Sections without text because they were previously reserved, repealed, or renumbered cannot be amended. Previously repealed Sections cannot be repealed again unless new text has subsequently been adopted at that number. Previously repealed, reserved, or renumbered Sections where no text appears shall not be renumbered;~~
      - ii. Sections, Parts, and Articles shall not be grouped together in this column; each Section, Part, or Article shall appear individually.
      - iii. ~~In cases where~~ If an existing Section is being repealed and new text is being ~~adopted~~ made at that number or ~~where if~~ where the text of an existing Section is being renumbered and new text, (either totally new language or text renumbered from another Section), is being placed at that number, the Section number ~~will~~ shall appear twice in the first column and each specific individual action ~~will~~ shall appear in the second column. ~~Text of one Section shall be repealed or renumbered first before any other action can happen on that Section.~~
      - i. A Section that contains no text because it was previously reserved, repealed, or renumbered cannot be amended, renumbered, or recodified. A previously repealed Section cannot be repealed again unless new text has subsequently been made at the Section number.
      - ii. If a Section has more than one action on it in a rulemaking, the listing order in the second column shall be as follows: repeal, renumber, and new Section or amend.
    - b. In the second column, the rulemaking activity occurring on each Section shall be specified directly across from and on the same line as the Section number under the heading "Rulemaking Action." In cases where an existing Section is being repealed and new text ~~adopted~~ made at that number, the Section number ~~will~~ shall appear twice in the first column and each specific individual action ~~will~~ shall appear in the second column. ~~Text of one Section shall be repealed or renumbered first before any other action can happen on that Section.~~
  2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes ~~the rules are~~ rule is implementing (specific);
  3. A list of all previous notices appearing in the Register addressing the proposed rule;

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- ~~3-4.~~ The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
- ~~4-5.~~ An explanation of the rule, including the agency's reasons for initiating the ~~rule~~ rulemaking;
- ~~6.~~ A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
- ~~5-7.~~ 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;
- ~~6-8.~~ The preliminary summary of the economic, small business, and consumer impact;
- ~~7-9.~~ The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement;
- ~~8-10.~~ The time, place, and nature of the proceedings for the ~~adoption making~~, amendment, or repeal of the ~~rules~~ rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule, and the close of record date;
- ~~9-11.~~ Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
- ~~10-12.~~ Incorporations Material incorporated by reference and ~~their~~ the location in the rules.
- ~~11-13.~~ The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble. An agency amending some but not all of the subsections in a Section may list ~~those~~ the subsections not being amended by subsection label only and the words "No Change." Each level of subsection having no change shall be individually noted ~~as such~~. Subsections shall not be grouped together.
- a. The first item in the text shall be a table of contents for the Chapter showing the label and heading for each Article and each Section involved in the proposed rulemaking.
  - b. The full text of the Sections on which rulemaking is taking place shall begin on the next page after the table of contents. Articles and their headings, and Parts and their headings if applicable, shall appear in their proper place in the text even when the entire Article or Part is not involved in ~~this~~ the rulemaking package. The text shall appear as follows:
    - i. If the rulemaking package consists of all new rules, the text of the rules shall be properly labeled, in numerical order by Section number, and shall indicate Articles and Parts and their labels and headings. ~~If the rulemaking consists entirely of new Sections with no proposed amendments to or repeals of existing rules, the text need not be underlined.~~ New Section numbers, headings, and text shall be underlined. If the Section number currently exists in the Code, it shall not be underlined.
    - ii. If the rulemaking package consists of only repeals of existing complete Sections, the full text of the Sections being repealed shall appear in numerical order by Section number and shall indicate Articles and Parts including their labels and headings. ~~If the only action being taken on the Sections in the proposed rule package is to repeal existing complete Sections and no other changes to any other rule in the package are being proposed, the old rules need not have strike-outs through the text.~~ Repealed Section headings and text shall be stricken. Section numbers shall not be stricken.
    - iii. If the rulemaking package consists of amended Sections or a combination of amended Sections, new Sections, and repealed Sections, the full text of all Sections on which rulemaking action is occurring shall appear with underlining indicating new language and strike-outs indicating repealed language. Within a Section, stricken text shall appear before new, underlined text.
  - ~~c.~~ If an agency is changing an existing Section number, the agency shall show that Section number with strike-outs and the new ~~rule~~ Section number underlined immediately beside the old number. Renumbered rules shall appear in the text at the location of their new numbers. If the only action being taken on a Section is to renumber it, immediately under the Section number and its heading shall appear the words "No Change" to indicate that the text is not changing. If no new text is added at the old Section number, the Section number shall still appear in its proper numerical order with strike-outs through the old heading but not through the Section number, and a new heading "Renumbered" shall be added with underlining.

**R1-1-504. Public Hearings (Oral Proceedings) Oral Proceedings on Proposed Rulemaking**

- A. An agency ~~shall~~ may refer to the publication schedule of the ~~Register~~ Register when scheduling an oral proceeding ~~a public hearing (oral proceeding)~~. ~~The An agency shall hold the oral proceeding public hearing shall be held~~ no earlier than 30 days after the Office publishes the notice of proposed rulemaking is published in the ~~Register~~ Register, pursuant to under A.R.S. § 41-1023. The Office shall include oral proceedings Public hearings shown in the notice of proposed rulemaking ~~preamble shall be included~~ Preamble in the proposed rules portion of the ~~Register~~ Register. The Office shall list in a different section of the Register oral proceedings Public hearings on rulemaking packages not scheduled by the agency until after the agency has submitted the proposed rulemaking package ~~has been submitted~~ to the Office ~~shall be submitted~~ as specified in R1-1-209(B)(1) ~~and will appear in a different section of the Register.~~

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- B.** If an agency submits a proposed rulemaking package to the Office and indicates in the Preamble that an oral proceeding is scheduled to take place before 30 days after the anticipated publication date in the Register, the Office shall return the package to the agency.
- ~~**B.C.** If a public hearing an oral proceeding is not scheduled; and if an agency receives a written request for a public hearing an oral proceeding from five one or more persons, the agency shall file a notice of public hearing oral proceeding on proposed rules with the Office in accordance with the Register publication schedule in the Register, scheduling a public hearing the oral proceeding to be held no earlier than 30 days after the notice of public hearing oral proceeding is published in the Register Register, pursuant to under A.R.S. § 41-1023. The agency shall file with the Office one original and four two copies of the Notice of Public Hearing Oral Proceeding on Proposed Rulemaking. This notice shall be as stated in R1-1-209(B)(1).~~
- ~~**C.D.** If a public hearing an oral proceeding has commenced begins and the hearing proceeding officer publicly announces a time and place for a continuation of the public hearing oral proceeding at the time of the original public hearing, the agency need not is not required to submit a notice of public hearing oral proceeding to the Office for publication in the Register Register.~~

**R1-1-506. Notice of Termination of Rulemaking**

- A.** To terminate a proposed rulemaking at any stage of the rulemaking process before the final rules are filed with the Office, ~~the an~~ agency shall file with the Office one original and ~~four two~~ copies of ~~the a~~ Notice of Termination of Rulemaking; The agency shall attach the original and two copies of the Notice of Termination of Rulemaking to a copy of the original Notice of Proposed Rulemaking if the agency has filed a Notice of Proposed Rulemaking with the Office.
- B.** The Notice of Termination of Rulemaking shall contain the heading NOTICE OF TERMINATION OF RULEMAKING in all capital letters, centered on the line approximately one inch from the top of the page; followed by the Title, its number, and heading, centered on a line ~~one double space~~ below the notice heading; followed by the Chapter, its number and heading, centered on a line ~~one double space~~ below the Title; and the following items in the same numerical order:
1. The Register citation and the date of the Notice of Rulemaking Docket Opening;
  - ~~1-2.~~ 2. The Register Register citation and the date of the Notice of Proposed Rulemaking; and
  - ~~2-3.~~ 3. The Section numbers (and Article and Part numbers or labels) in numerical order in one column and the action that had been proposed in the second column.
- ~~**B.C.** Both the original Notice of Proposed Rulemaking and the Notice of Termination of Rulemaking shall remain on file with the Office.~~
- ~~**C.D.** A The Office shall publish a listing of the rules terminated shall be published in the Register Register. The Office shall not publish the full text of rules being terminated shall not appear in the Register Register.~~

~~**R1-1-507. Supplemental Notices**~~ **Notice of Supplemental Proposed Rulemaking**

- A.** If an agency determines that a proposed rule requires substantial change due either to internal review or public comments, the agency shall prepare a supplemental notice for publication in the Register Register.
- B.** The supplemental notice shall contain the heading NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING in all capital letters, located one inch from the top of the page; followed by the Title, its number, and heading, ~~one double space~~ under the notice heading; followed by the Chapter, its number, and heading; ~~one double space~~ below the Title; followed by the Subchapter, its label, and heading ~~one double space~~ below the Chapter, if applicable; followed by the word PREAMBLE in all capital letters, ~~one double space~~ below the Chapter or Subchapter, all of which shall be centered on their respective lines, followed by the items listed below in the same numbered order:
- ~~1. Register citation~~ 1. Register citations and date dates for the original Notice of Rulemaking Docket Opening and the Notice of Proposed Rulemaking;
  2. The Sections Affected and the Rulemaking Action in two columns as specified in ~~R1-1-502(B)(4)(a)~~ R1-1-502(B)(1);
  3. The specific statutory authority for the rulemaking including both the authorizing statute (general) and the statutes the rule is implementing (specific);
  4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
  5. An explanation of the rule, including the agency's reasons for initiating the rule rulemaking;
  6. An explanation of the substantial change which that resulted in this the supplemental notice;
  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;
  8. The preliminary summary of the economic, small business, and consumer impact;
  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;
  10. The time, place, and nature of the oral proceedings for the adoption making, amendment, or repeal of the rule;
  11. Any other matters prescribed by statute and applicable to the specific agency or to any specific rule or class of rules; and

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12. Whether the rulemaking contains any incorporations Materials incorporated by reference and their locations in the text.
13. The full text of the changes shall begin on the page after the last page of the ~~preamble~~ Preamble.

**ARTICLE 6. FINAL RULEMAKING**

**R1-1-601. Preparation and Filing of a Final Rulemaking Package**

- A. If an agency's rules are subject to review by the Council, the agency shall submit its ~~adopted rules~~ final rulemaking package to the Council within 120 days after the close of the rulemaking record. After approval by the Council approves the final rulemaking package, the agency Council shall submit its the agency's final rules rulemaking package to the Office for filing and publication and filing. The final rulemaking package shall be as specified in ~~subsection (D)~~ R1-1-602.
- B. If an agency's rules are exempt from the rulemaking process ~~pursuant to~~ under A.R.S. § 41-1005 or another state statute, the agency shall follow the procedures in Article 9 and submit its final ~~rules~~ rulemaking package to the Office within 120 days after the close of the record.
- C. If an agency's rules are ~~exempt from Council review pursuant to A.R.S. § 41-1057~~ subject to review by the Attorney General, the agency shall submit its ~~adopted rules~~ final rulemaking package to the Attorney General for approval within 120 days after the close of the record. After approval, the Attorney General shall submit the final rule package to the Office for filing and publication.
- ~~D.~~ If an agency adopts an emergency rule, the agency shall follow the procedures in Article 7.
- ~~E.~~ The Notice of Final Rulemaking shall contain the heading NOTICE OF FINAL RULEMAKING in all capital letters, approximately one inch from the top of the page followed by the Title, its number and heading appearing one double-space under the notice heading; followed by the Chapter, its number and heading centered on the line immediately below the Title, followed by the Subchapter, its label and heading one double-space below the Chapter, if applicable; followed by the term PREAMBLE in all capital letters, one double-space below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
  1. Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(4)(a);
  2. The specific statutory authority for the rulemaking including both the authorizing statute (general) and the statutes the rule is implementing (specific);
  3. The effective date for the rules (if different from the date the rules are filed with the Office);
  4. A list of all previous notices appearing in the Register addressing the final rule;
  5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
  6. An explanation of the rule, including the agency's reasons for initiating the rule;
  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;
  8. The summary of the economic, small business, and consumer impact;
  9. A description of the changes between the proposed rules, including supplemental notices, and final rules;
  10. A summary of the principal comments and the agency response to them;
  11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
  12. Incorporations by reference and their location in the text;
  13. Whether the rule was previously adopted as an emergency rule and, if so, whether the text was changed between adoption as an emergency and the adoption of these final rules;
  14. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble and contain the text as specified in R1-1-502(B)(11)(a), (b)(i), and (d). However, if the rules are complete Sections being repealed only, the text shall not appear but the Section number and its heading shall appear with strike-outs through the heading only.
- ~~F.~~ Each original final rulemaking package submitted to the Office for filing and publication shall include the following with the copies of the rulemaking package including copies of these same documents:
  1. An agency certification as specified in R1-1-105(B);
  2. A certificate of approval of the rules by Council if the rules are subject to Council review.
  3. A certificate of approval from the Attorney General if the rules are subject to Attorney General review.
  4. A concise explanatory statement as required by A.R.S. § 41-1036.
- G. An agency incorporating materials by reference shall include one copy of the material with each original final rulemaking package filed with the Office.

**R1-1-602. Notice of Final Rulemaking**

- A. A Notice of Final Rulemaking shall contain the heading NOTICE OF FINAL RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number, and heading centered on a line under the notice heading; followed by the Chapter, its number, and heading centered on a line below the Title; followed by the Subchapter, its label, and heading centered on a line below the Chapter, if applicable; followed by the

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term PREAMBLE in all capital letters, centered on a line below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:

1. Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(1);
  2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific);
  3. The effective date of the rule:
    - a. If the effective date is earlier than 60 days after the date the final rule is filed with the Office, an agency shall specify the date in the answer, along with the reason for the effective date;
    - b. If the effective date is later than 60 days after the date the final rule is filed with the Office, an agency shall specify the date in the answer, along with the reason for the effective date;
  4. A list of all previous notices appearing in the Register addressing the final rule;
  5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
  6. An explanation of the rule, including the agency's reasons for initiating the rulemaking;
  7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
  8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
  9. The summary of the economic, small business, and consumer impact;
  10. A description of the changes between the proposed rule, including supplemental notices, and final rule;
  11. A summary of the comments made regarding the rule and the agency response to them;
  12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
  13. Materials incorporated by reference and their locations in the text;
  14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule;
  15. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble. If the rules are complete Sections being repealed only, the text shall not appear but the Section number and heading shall appear with strike-outs through the heading but not through the Section number.
- B.** An original final rulemaking package submitted to the Office for filing and publication shall include two copies of the agency receipt, one copy of incorporated-by-reference material, and the original and two copies of the rulemaking package, including copies of the following documents:
1. An agency certificate as specified in R1-1-105;
  2. A certificate of Approval of the rules by Council if the rules are subject to Council review;
  3. A certificate of Approval from the Attorney General if the rules are subject to Attorney General review;
  4. The economic, small business, and consumer impact statement required by A.R.S. § 41-1055, if applicable.

**ARTICLE 7. EMERGENCY RULEMAKING**

**R1-1-701. Preparation and Filing of an Emergency Rulemaking Package**

- A.** ~~When~~ If an agency determines that ~~the a~~ proposed new Section, an amendment to a Section, or a repeal of an existing Section falls within the emergency provisions of A.R.S. § 41-1026, the agency shall prepare a Notice of Emergency Rulemaking ~~which~~. The Notice shall contain the heading NOTICE OF EMERGENCY RULEMAKING in all capital letters, centered on the line approximately one inch from the top of the page; followed by the Title, its number, and heading, centered on a line one double space below the notice heading; followed by the Chapter, its number, and heading, centered on a line one double space below the Title; followed by the Subchapter, its label, and heading, if applicable; followed by the term PREAMBLE in all capital letters centered on the a line one double space below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
1. The list of Sections Affected and the Rulemaking Action in two columns, as specified in ~~R1-1-502(B)(1)(a)~~ R1-1-502(B)(1);
  2. The specific statutory authority for the rulemaking including both the authorizing statute (general) and the statutes the rule is implementing (specific);
  3. The effective date of the rule; ~~rules, if different from the date filed with the Office;~~
  - a. If the effective date is earlier than 60 days after the date the final rule is filed with the Office, an agency shall specify the date in the answer, along with the reason for the effective date;
  - b. If the effective date is later than 60 days after the date the final rule is filed with the Office, an agency shall specify the date in the answer, along with the reason for the effective date;

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4. Whether the rulemaking is a renewal of a previous emergency rulemaking and, if so, the ~~Register~~ Register citation to the previous ~~notices~~ notice of emergency rulemaking and the ~~Register~~ Register issue ~~dates~~ date;
  5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
  6. An explanation of the rule, including the agency's reasons for initiating the ~~rule~~ rulemaking;
  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;
  8. The economic, small business, and consumer impact summary;
  9. Any other matters prescribed by statute and applicable to the specific agency or to any specific rule or class of rules;
  10. ~~Incorporations~~ Materials incorporated by reference and their locations in the text;
  11. An explanation of the situation justifying the rule's ~~adoption~~ making as an emergency rule;
  12. The date of the Attorney General's approval of the rule.
  13. The full text shall begin on the page after the last page of the ~~preamble~~ Preamble and contain the text as specified in ~~R1-1-502(B)(11)~~ R1-1-502(B)(13).
- B.** ~~The An~~ agency shall submit the emergency rulemaking package to the Attorney General for approval, ~~if the agency's rules are subject to Attorney General review.~~ The package shall contain an agency ~~certification~~ certificate as specified in R1-1-105(B) before filing the rules with the Office and two copies of a receipt form as specified in R1-1-106.
- C.** The Attorney General shall indicate ~~his~~ approval of the emergency rulemaking package by signing ~~an approval form~~ a Certificate of Approval, which shall be attached to the first page of the original of the notice, and shall forward the original and two copies of the rules to the Office. If the Attorney General does not approve one or more Sections in the rulemaking, the Attorney General shall prepare a Certificate of Disapproval and attach it to the package. If the rulemaking contains more than one Section, and the Attorney General approves at least one Section and disapproves at least one Section, the Attorney General shall attach a Certificate of Approval and a Certificate of Disapproval to the rules.
- D.** ~~Emergency rules are effective from the date the rules are filed with the Office unless a later date is specified.~~ Emergency rules are effective for 180 days and may be renewed for ~~a maximum of two an~~ an additional 180-day ~~periods~~ period, pursuant to under the provisions of A.R.S. § 41-1026.
- E.** If the text of a renewed emergency rule differs from the text of the previous emergency rule, the agency shall submit to the Office, at the time of filing the renewed emergency rule, a list of every change made to the ~~latest~~ renewed emergency rule since the previous emergency rule was ~~adopted~~ made.
- F.** ~~Each~~ An agency shall prepare a notice of renewal of an emergency rule ~~shall be prepared~~ in the manner prescribed in this Section.

**ARTICLE 8. SUMMARY RULEMAKING**

**R1-1-801. Summary Rulemaking**

~~A.~~ The summary rulemaking process may be used as specified in A.R.S. § 41-1027(A).

~~B.~~ A. When submitting summary rules to the Office for filing and for publication in the ~~Register~~ Register, the ~~an~~ agency shall prepare a Notice of Proposed Summary Rulemaking ~~which.~~ The Notice shall include the heading NOTICE OF PROPOSED SUMMARY RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number and heading centered on the line ~~and appearing one double space~~ under the notice heading; followed by the Chapter, its number, and heading centered ~~one double space~~ below the Title; followed by the Subchapter, its label and heading centered ~~one double space~~ below the Chapter, if applicable; followed by the term PREAMBLE in all capital letters ~~one double space~~ centered on a line below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:

1. Sections Affected and the Rulemaking Action in two columns as specified in ~~R1-1-502(B)(1)(a)~~ R1-1-502(B)(1);
2. The ~~specific~~ statutory authority for the rulemaking, including both the authorizing statute (general) and the ~~statutes~~ rules ~~are~~ implementing statute (specific);
3. The interim effective date of the summary ~~rules~~ rulemaking;
4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
5. An explanation of the ~~rule~~ rulemaking, including the agency's reasons for initiating the ~~rule~~ rulemaking;
6. A showing of good cause why the ~~rule~~ rulemaking is necessary to promote a statewide interest if the ~~rule~~ rulemaking will diminish a previous grant of authority of a political subdivision of this state;
7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
- ~~7.~~8. The preliminary summary of the economic, small business, and consumer impact;
- ~~8.~~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;
- ~~9.~~10. The time, place, and nature of the proceedings for the ~~adoption~~ making, amendment, or repeal of the ~~rules~~ rule;

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- ~~10-11.~~ An explanation of why summary proceedings are justified;
- ~~11-12.~~ Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
- ~~12-13.~~ Any ~~incorporations~~ materials incorporated by reference and their locations in the text.
- ~~13-14.~~ The full text shall begin on the page after the last page of the Preamble and contain the text as specified in ~~R1-1-502(B)(11)~~ R1-1-502(B)(13).
- ~~C.B.~~ Within 90 days after publication in the ~~Register~~ Register and after consideration of any comments, ~~the an~~ agency shall submit to the Council its ~~adopted final~~ summary rule, along with the ~~preamble, Preamble~~ concise explanatory statement, and economic, small business, and consumer impact statement.
- ~~D.C.~~ After submitting the summary rule to the Council as specified in subsection (C), the agency shall submit to the Office a Notice of Adopted Summary Rulemaking which includes An agency shall submit a summary rulemaking package to the Council as specified in subsection (B). The Notice shall include the heading NOTICE OF ADOPTED FINAL SUMMARY RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number and heading centered one double space under the notice heading; followed by the Chapter, its number, and heading centered one double space below the Title; followed by the Subchapter, its label and heading, if applicable, centered on a line below the Chapter; followed by the term PREAMBLE in all capital letters, centered one double space below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
1. Sections Affected and the Rulemaking Action in two columns as specified in ~~R1-1-502(B)(4)(a)~~ R1-1-502(B)(1);
  2. The ~~specific~~ statutory authority for the rulemaking, including both the authorizing statute (general) and the ~~statutes~~ rules ~~are implementing~~ statute (specific);
  3. The effective date of the summary ~~rules~~ rule;
  4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
  5. The concise explanatory statement, including an explanation of the rule and the agency's reasons for initiating the rule;
  6. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
  7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
  - ~~7-8.~~ The economic, small business, and consumer impact;
  - ~~8-9.~~ The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement;
  - ~~9-10.~~ The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules;
  - ~~10-11.~~ An explanation of why summary proceedings are justified;
  - ~~11-12.~~ Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
  - ~~12-13.~~ Any ~~incorporations~~ materials incorporated by reference and their ~~locations in the text~~ locations in the text;
  - ~~13.~~ The full text shall begin on the page after the last page of the Preamble and contain the text as specified in R1-1-502(B)(11).
  - ~~14.~~ The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble. If the rules are complete Sections being repealed only, the text shall not appear but the Section number and heading shall appear with strike-outs through the heading but not through the Section number.
- ~~D.~~ After the Council approves the final summary rule, the Council shall attach its approval form to the original of the final summary rulemaking package and submit one original and two copies of the final summary rulemaking package to the Office.

**ARTICLE 9. EXEMPT RULEMAKING**

**R1-1-901. Exempt Rulemaking**

- A. ~~Any~~ An agency shall not file with the Office an exempt rule ~~initiated made by an~~ initiated made by ~~an~~ the agency before September 30, 1992, is not filed with the Office and is not contained in the Code. Any person wishing a copy of these exempt rules shall contact the specific agency involved for copies of any rules adopted under an exemption before this date.
- B. The Office shall publish in the Code any ~~Any~~ exempt rule ~~initiated made~~ initiated made after September 30, 1992, ~~shall be published in the Code if the agency involved submits the rulemaking package to the Office. These rulemaking packages shall be submitted as final rules;~~ An exempt rule shall be submitted following the procedures outlined in Article 6, using the notice

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heading NOTICE OF EXEMPT RULEMAKING in all capital letters, of this Chapter, except that an agency shall use the notice specified in R1-1-902.

- C. The Office shall identify in the *Code* each a Chapter containing rules which were exempted that are exempt from the Act and which were initiated made after September 30, 1992, by an introductory a statement specifying the exemption at the beginning of the Chapter and before each a Section or Article adopted made under an exemption and by specifying the exemption in the Section's historical note. ~~When publishing the Code, the Office shall print any filed Chapter containing a rule exempted by any Arizona statute on blue paper and any filed Chapter containing a rule exempted by other reasons on green paper. The reason for the exemption shall be stated on the notice.~~
- D. If a statute authorizes an agency to develop and publish in the *Register* a type of rulemaking not specified in this Chapter, the agency shall contact the Office orally or by letter, specifying the exact statutory citation.

**R1-1-902. Notice of Exempt Rulemaking**

- A. A Notice of Exempt Rulemaking shall contain the heading NOTICE OF EXEMPT RULEMAKING in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its label, and heading centered on a line below the notice heading; followed by the Chapter, its label, and heading centered on a line below the Title; followed by the Subchapter, its label, and heading centered on a line below the Chapter, if applicable; followed by the term PREAMBLE in all capital letters, centered on a line below the Chapter or Subchapter, whichever is applicable; followed by the items listed below in the same numbered order:
1. Sections Affected and the Rulemaking Action in two columns as specified in R1-1-502(B)(1);
  2. The specific statutory authority for the rulemaking including both the authorizing statute (general), the statutes the rule is implementing (specific), and the statute authorizing the exemption;
  3. The effective date for the rule;
  4. A list of all previous notices published in the *Register* addressing the exempt rule;
  5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking;
  6. An explanation of the rule, including the agency's reasons for initiating the rulemaking;
  7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material;
  8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state;
  9. The summary of the economic, small business, and consumer impact, if applicable;
  10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable);
  11. A summary of the comments made regarding the rule and the agency response to them;
  12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules;
  13. Materials incorporated by reference and their locations in the text;
  14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between making as an emergency and the making of the exempt rules;
  15. The full text of the rules in the rulemaking package shall begin on the next page after the last item in the Preamble. If the rules are complete Sections being repealed only, the text shall not appear but the Section number and its heading shall appear with strike-outs through the heading but not through the Section number.
- B. An original exempt rulemaking package submitted to the Office for filing and publication shall include an agency certificate as specified in R1-1-105;
- C. An agency incorporating materials by reference shall include one copy of the material with the original exempt rulemaking package filed with the Office.

**ARTICLE 10. RECODIFICATION**

**R1-1-1001. Notice of Recodification**

- A. An agency renumbering one or more Sections from one Chapter to another Chapter, or within a Chapter under R1-1-404(B)(1), shall submit to the Office one original and two copies of a Notice of Recodification for filing and publication.
- B. A Notice of Recodification shall contain the heading NOTICE OF RECODIFICATION in all capital letters, centered on a line approximately one inch from the top of the page; followed by the Title, its number, and heading centered under the notice heading; followed by the Chapter, its number, and heading centered below the Title; followed by the Subchapter, its label, and heading, if applicable, centered below the Chapter; followed by the items listed below in the same numbered order:
1. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections being recodified along with their respective headings;

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Notices of Proposed Rulemaking

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2. A list of the Subchapters (if applicable), Articles, Parts (if applicable), and Sections as recodified along with their respective headings;
  3. A conversion table between the two numbering schemes; and
  4. The name and address of agency personnel with whom persons may communicate regarding the recodification.
- C.** If an agency renumbers or recodifies a Section, it shall make no other changes to the Section other than corrections to Section references within the text of the Section or its heading.
- D.** A Notice of Recodification is effective on the date the notice is filed with the Office.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 3. AGRICULTURE**

**CHAPTER 2. DEPARTMENT OF AGRICULTURE**

**ANIMAL SERVICES DIVISION**

**PREAMBLE**

- | <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R3-2-701                           | Amend                           |
| R3-2-702                           | Amend                           |
| R3-2-703                           | Amend                           |
| R3-2-704                           | Repeal                          |
| R3-2-705                           | Repeal                          |
| R3-2-706                           | 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. § 3-1203  
Implementing statutes: A.R.S. §§ 3-1236, 3-1291, 3-1332, 3-1334, 3-1335, 3-1336, 3-1337, and 3-1446
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 8 A.A.R. 619, February 8, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Sherry D. Blatner, Rules Specialist  
Address: Arizona Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007  
Telephone: (602) 542-0962  
Fax: (602) 542-5420  
E-mail: sherry.blatner@agric.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
This rulemaking creates a mandatory program for livestock self-inspection, as prescribed under A.R.S. § 3-1203(D), effective August 22, 2002. Previously, participation in self-inspection was voluntary. The rulemaking modifies the circumstances in which a Division employee will inspect livestock, based on the transfer of responsibility to dairies, feedlots, and producers through the mandatory self-inspection program.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, any analysis of each 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

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

A. *The Arizona Department of Agriculture.*

The Department will incur modest expenses related to educating staff and the regulated community on the amendments and new sections. The Department will also incur the cost of creating, printing, and providing new application and certificate forms.

The release of Division staff from routine or duplicative livestock inspections will provide additional time for the Department to focus its efforts more significantly on the issues of animal health instead of livestock ownership.

B. *Political Subdivision.*

Other than the Department, no political subdivision is affected by this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.*

Dairies, feedlots, and producers will be able to move or sell their livestock under the mandatory self-inspection program more quickly than under a departmental inspection for those animals that will remain in-state. In-state private treaty sales are permitted under the mandatory program, they were not previously allowed under the voluntary program.

D. *Public.*

Seasonal self-inspection certificates for cattle, sheep, and goats will be issued directly by the Department. Previously, members of 4-H and FFA were required to transport their cattle, sheep, and goats to a location where a Department livestock inspector would issue the certificate. The 4-H and FFA holder of a certificate will now be required to forward the completed certificate to the Department at the end of the show season or upon sale or slaughter of the animal. This new practice will assist the Department with any necessary trace back or trace forward operation that could be necessitated by a disease outbreak.

**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: Sherry D. Blatner, Rules Specialist  
Address: Arizona Department of Agriculture  
1688 W. Adams, Room 235  
Phoenix, AZ 85007  
Telephone: (602) 542-0962  
Fax: (602) 542-5420  
E-mail: sherry.blatner@agric.state.az.us

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

An oral hearing is scheduled for:

Date: December 4, 2002  
Time: 10:00 a.m. to 11:00 a.m.  
Location: 1688 W. Adams, Room 206  
Phoenix, AZ 85007

Comments may be written or presented orally.

The record will close at 4:00 p.m., December 4, 2002. Written comments may be mailed or delivered by 4:00 p.m., December 4, 2002, to the person named in item #4.

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

None

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

None

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

**TITLE 3. AGRICULTURE**

**CHAPTER 2. DEPARTMENT OF AGRICULTURE**

**ANIMAL SERVICES DIVISION**

**ARTICLE 7. LIVESTOCK INSPECTION**

Section

R3-2-701.	Department Livestock Inspection
R3-2-702.	Livestock Self-inspection
R3-2-703.	<del>Self inspection for Cattle Destination Movement</del> <u>Seasonal Self-inspection Certificate</u>
R3-2-704.	<del>Self inspection for Pasture to Pasture</del> <u>Repealed</u>
R3-2-705.	<del>Self inspection for Sheep</del> <u>Repealed</u>
R3-2-706.	<del>Self inspection for Dairy Cattle or Cattle in Feedlots</del> <u>Repealed</u>

**ARTICLE 7. LIVESTOCK INSPECTION**

**R3-2-701. Department Livestock Inspection**

- A. A livestock officer or inspector shall inspect cattle at a ranch or feedlot, if the owner or agent is:
1. ~~Requesting the inspection;~~
  2. ~~Moving cattle out of state and retaining ownership;~~
  3. ~~Transferring the cattle ownership, whether in state or out of state, except as provided in R3-2-706(D);~~
  4. ~~Moving fresh branded or unbranded cattle not found with their mothers;~~
  5. ~~Slaughtering cattle at the owner's ranch or shipping them for slaughter to a custom exempt facility;~~
  6. ~~Moving breeding stock out of the feedlot.~~

A Division employee shall inspect range cattle, as defined in Section R3-2-702(A), at a ranch if the owner or agent is moving cattle out-of-state or shipping cattle for custom slaughter.

- B. A livestock officer or inspector ~~Division employee~~ shall inspect cattle at a feedlot or dairy if:

1. ~~The livestock are breeding stock;~~
2. ~~The owner or agent is transferring the cattle ownership, whether in state or out of state;~~
3. ~~The the cattle are being shipped for custom slaughter to a custom exempt facility.~~

- C. The Department shall not issue a self-inspection certificate to an owner, agent, or operator of a ranch, dairy, or feedlot if that individual has been convicted of a felony under A.R.S. Title 3 within the three year period prior to the date on the self-inspection application. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.

**R3-2-702. Livestock Self-inspection**

- A. ~~Any owner or operator of a ranching operation producing at least 5 cattle or 10 sheep, an inventoried dairy operation using at least 5 dairy cattle, or an inventoried feedlot operation moving at least 5 cattle per year to a state or federally inspected slaughter establishment or to a recognized Arizona livestock auction, may apply for a self-inspection certificate book or eab card, or both, to move livestock.~~

Definitions.

1. "Description" means sex, breed, color, and markings, as applicable to the type of livestock.
2. "Exhibition" means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a youth livestock organization, including 4-H and FFA, to display an animal raised by the youth in a judged competition.
3. "Identification" means brand, back tag number, ear mark, tattoo, metal eartag, plastic eartag, and premises identification number, as applicable to the type of livestock.
4. "Livestock" means cattle, sheep, and goats.
5. "Range" means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7).
6. "Range cattle" means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8).

**B. Applications.**

1. An owner of five or fewer head of livestock shall call the Department at (602) 542-6407 to request a self-inspection certificate. The owner shall provide answers to the questions in subsections (B)(2)(a) through (B)(2)(f) to a Department employee before a certificate will be provided.

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2. An owner of six or more head of livestock and an owner or operator of a dairy or feedlot shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:
  - a. Name, mailing address, physical address, telephone number, and fax;
  - b. Name of ranch, dairy, or business and type of operation;
  - c. Social security or business tax identification number;
  - d. Whether the applicant has been convicted of a felony under A.R.S. Title 3 within the past three years, and if so, the case number, court, charge, and sentence;
  - e. Recorded brand and brand location;
  - f. Individual designated to sign self-inspection certificates, if applicable; and
  - g. Signature and date.
3. The holder of a self-inspection book shall advise the Department within 30 days of any change to the information provided on an application form.
4. The holder of a self-inspection book shall renew registration with the Department every two years from the date the initial or renewal application form is signed.

**B.C. General self-inspection requirements. Self-inspection Certificate.**

1. An owner or agent shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
  - a. Name, address, telephone number, and signature of the owner or agent;
  - b. Date of the shipment or transfer of ownership;
  - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
  - d. Name of transporter;
  - e. Number, description, and identification of each sheep or goat as prescribed in R3-2-413;
  - f. Number, description, and identification of each calf, cow, heifer, steer, or bull and back tag numbers of culled dairy cattle;
  - g. Brand number and expiration date, if available, and brand location;
  - h. Name, address, and telephone number of buyer or agent, and signature if present at sale;
  - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238; and
  - j. Number of head of livestock for which an inspection fee is payable under A.R.S. § 3-1337(D).
- 1-2. Except for pasture to pasture movement, when livestock are moved the The owner or operator owner's agent of livestock and the owner or operator of a dairy or feedlot shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute it as follows:
  - a. The original One copy and any fees that are owed under subsections (C)(1)(i) and (C)(1)(j) shall be sent to the Department within 10 days after the end of the month in which the livestock are moved or ownership is transferred;
  - b. One copy If shipped, the original shall accompany the livestock whenever they are in transit; and
  - e. One one copy shall be retained by the person transporting the livestock; and or
  - c. If ownership is transferred without shipment, two copies shall be provided to the new owner or agent; and
  - d. One copy shall be retained by the owner seller.
- 2-3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void, and the The owner, agent, or operator shall complete and send a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month it was issued or voided. The owner, agent, or operator shall use a self-inspection certificate only with a shipment of livestock bearing the brands matching the description for which the certificate is issued and only for the self-inspection issued date.
- 3-4. Any An altered, erased, or defaced self-inspection certificate is void. All A voided certificates certificate shall be returned to the Department within 10 days after the end of the month in which they are it is voided. Upon request, unused certificates shall be returned to the Department. If a recorded brand or dairy operation commercial operation licensed for self-inspection is sold, leased, or transferred, or otherwise disposed of, the owner, agent, or operator shall notify the Department and return all self-inspection certificates for that brand to the Department within 40 30 days of the transaction.

**D. Sale of Livestock.** The seller shall document the sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.

**E. Feedlot Receiving Form.**

1. The operator of a feedlot shall document receipt of in-coming cattle on a form obtained from the Department. The following information shall be included on the form:
  - a. Name of feedlot and location;
  - b. Month and year for which report is made;

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- c. Number of cattle received, date received, and name and address of owner;
  - d. Description of the cattle;
  - e. If not Arizona native cattle the import permit and health certificate numbers;
  - f. If native Arizona cattle, self-inspection form number or Department inspection certificate number; and
  - g. Pen number to which cattle are initially assigned.
2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F.** Quarantine. Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G.** Violations. The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).
- 4. If livestock are moved in violation of this Article, a Department officer may issue a written warning or citation to the shipper, or the owner or agent, and direct that the livestock be returned to their owner within 24 hours, or if ownership is questioned, the improperly moved livestock may be seized under A.R.S. § 3-1371 by a Department officer.
  - 5. Any person moving livestock under this Article shall comply with A.R.S. Title 3, Chapter 11 and all applicable rules. Any violation of these laws or rules, or any commission of a crime involving livestock, is violation of this Section.
  - 6. If, after a hearing, the Department determines that there has been a violation of this Article, the Department may impose upon the violator the sanctions established in A.R.S. § 3-1203(D). The hearing shall be conducted under A.R.S. Title 41, Chapter 6, Articles 6 and 10 and all applicable rules.

**R3-2-703. Self inspection for Cattle Destination Seasonal Self-inspection Certificate**

- A.** An owner or operator applying for a self-inspection certificate book for cattle movement shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:
- 1. The name, business or home address, telephone number, social security number, and signature of the applicant;
  - 2. The registered brand, brand location, ear marks, and brand number;
  - 3. The name of the registered brand owner;
  - 4. The date of the application; and
  - 5. The signature and badge number of the livestock officer or inspector assigned to the inspection area.
- B.** An owner or operator shall provide the following information on a self-inspection certificate whenever cattle are moved:
- 1. The name, address, telephone number, and signature of the owner;
  - 2. The date of the shipment;
  - 3. The location from which the cattle are being moved;
  - 4. The location to which the cattle are being moved, including the name of the auction, feedlot, or slaughter establishment;
  - 5. The number each of calves, cows, heifers, steers, and bulls being moved; and
  - 6. The brand number, expiration date, brand location, and ear marks.
- C.** Self-inspection procedures:
- 1. Except for cattle being moved to a feedlot, any person moving cattle shall move only cattle branded with the owner's recorded brand and the unweaned calves of cattle branded with the owner's recorded brand. Cattle without brands and cattle with unpeeled brands that are not with their mothers shall be moved only with Department inspection. Quarantined cattle, cattle held by order of the Department, or cattle restricted by the State Veterinarian shall not be moved.
  - 2. Cattle being moved shall not change ownership, shall be moved by a direct route to their destination, and shall be moved only as follows:
    - a. To an Arizona livestock auction bonded under the Federal Packers and Stockyards Act;
    - b. To a feedlot licensed and inventoried by the Department; or
    - c. To a state or federally licensed slaughter establishment.
- A.** Exhibition cattle, sheep, and goats.
- 1. An applicant for a seasonal self-inspection certificate as prescribed under A.R.S. § 3-1346 shall call the Department at (602) 542-6407 to request a seasonal self-inspection certificate. The applicant shall provide the answers to the following questions, as applicable:
    - a. Name, mailing address, physical address if different from mailing address, telephone number, and fax;
    - b. Name of 4-H or FFA group, and group leader;
    - c. Social security number;
    - d. Description and identification of the animal;
    - e. Permit number and health certificate number for an animal imported from another state; and
    - f. Name of seller and self-inspection certificate number for an animal purchased from an Arizona seller.
  - 2. The Department employee who records the information required in subsection (A)(1) shall advise the applicant of the required fee as prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.

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3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever an animal subject to seasonal self-inspection is moved or ownership is transferred:
    - a. Name, address, telephone number, and signature;
    - b. Date of movement;
    - c. Name of exhibition and location;
    - d. Final disposition of the animal (sale, death, or retention) and date of occurrence; and
    - e. If the animal is sold, name of purchaser (person or slaughter plant).
  4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the animal or at the end of the show season if the animal is retained.
- B.** Exhibition Swine. The requirements prescribed at R3-2-411 shall apply to exhibition swine.

**R3-2-704. Self-inspection for Pasture to Pasture Repealed**

- A.** ~~An owner or operator applying for a cab card for pasture to pasture movement shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:~~
1. ~~The name, business or home address, telephone number, social security number, and signature of the applicant;~~
  2. ~~The registered brand;~~
  3. ~~The name of the registered brand owner;~~
  4. ~~The date of the application; and~~
  5. ~~The signature and badge number of the livestock officer or inspector assigned in the inspection area.~~
- B.** ~~Self inspection procedures:~~
1. ~~Pasture to pasture movement within the ranching operation's inspection district. Any owner or operator moving cattle from noncontiguous pastures or allotments on the same ranching operation within the inspection district shall be issued a cab card authorizing the movement of cattle at the owner's or operator's discretion.~~
  2. ~~Pasture to pasture movement outside the inspection district.~~
    - a. ~~Any owner or operator moving cattle from noncontiguous pastures or allotments on the same ranching operation but outside the inspection district shall, on or before the date the cattle are being moved, call the Department dispatch office for an authorization number. The authorization number is valid only for the requested day of movement.~~
    - b. ~~The Department dispatch employee shall record the information on the Notice of Cattle Movement form and notify the livestock officer or inspector in both the district of origin and the destination district.~~

**R3-2-705. Self-inspection for Sheep Repealed**

- A.** ~~An owner or operator applying for a self-inspection certificate book for sheep movement shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:~~
1. ~~The name, business or home address, telephone number, social security number, and signature of the applicant;~~
  2. ~~The date of the application; and~~
  3. ~~The signature and badge number of the livestock officer or inspector assigned in the inspection area.~~
- B.** ~~An owner or operator shall provide the following information on a self-inspection certificate whenever sheep are being moved:~~
1. ~~The name, business or home address, telephone number, and signature of the owner;~~
  2. ~~The date of the shipment.~~
  3. ~~The name, address, and telephone number of the person purchasing the sheep, if applicable;~~
  4. ~~The location from which the sheep are being moved;~~
  5. ~~The name of the trucker;~~
  6. ~~The location to which the sheep are being moved, including the name of the pasture, auction, exhibit, or slaughter establishment;~~
  7. ~~The number of sheep being moved; and~~
  8. ~~The brand location and ear marks.~~

**R3-2-706. Self-inspection for Dairy Cattle or Cattle in Feedlots Repealed**

- A.** ~~An owner or operator applying for a self-inspection certificate book for the movement of dairy cattle or cattle in a feedlot shall obtain an application from the livestock officer or inspector and submit it with the following information to the Department:~~
1. ~~The corporate, business, or trade name and permit number of the applicant;~~
  2. ~~The date of the application;~~
  3. ~~The signature, social security number, and title of the owner.~~
- B.** ~~An owner or operator or a dairy shall provide the following information on a self-inspection certificate whenever dairy cattle or cattle in feedlots are moved:~~
1. ~~The name of the owner;~~
  2. ~~The date of the shipment;~~

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3. The back tag numbers, if applicable;
  4. The location from which the dairy cattle or cattle in feedlots are being moved;
  5. The name of the auction, feedlot, or slaughter establishment to which the dairy cattle or cattle in feedlots are being moved;
  6. The number of dairy cattle or cattle in feedlots being inspected, the cost of the inspection, and the beef council fees; and
  7. The signature of the dairy representative authorized by the owner.
- C.** ~~An owner or operator of a feedlot shall provide the following information on a self-inspection certificate whenever cattle in feedlots are moved:~~
1. The name of the seller or owner;
  2. The date of the shipment;
  3. The location, including the county, from which the cattle are being moved;
  4. The name of the trucker;
  5. The destination of the cattle, including the name of the feedlot or the slaughter establishment;
  6. The name of the consignee;
  7. The brand and number each of cows, heifers, steers, and bulls being moved;
  8. The number of cattle being inspected, the cost of the inspection, and the beef council fees; and
  9. The signature of the feedlot representative authorized by the owner.
- D.** ~~An owner or operator of a dairy may sell calves 30 days or younger on a self-inspection certificate by providing the following information:~~
1. The address and telephone number of the purchaser;
  2. The date and location of the sale;
  3. The number of calves being sold;
  4. The cost of the inspection and the beef council fees; and
  5. The signature of the dairy representative authorized by the owner.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 25. BOARD OF PODIATRY EXAMINERS**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R4-25-101	Amend
R4-25-102	Amend
R4-25-103	Amend
R4-25-104	Amend
Table 1	Amend
R4-25-201	Amend
R4-25-203	Amend
R4-25-305	Amend
R4-25-306	New Section
R4-25-401	Amend
R4-25-501	Amend
R4-25-502	Amend
R4-25-503	Amend
R4-25-504	Repeal
R4-25-505	Amend
Article 6	Amend
R4-25-602	Amend
R4-25-603	Amend
R4-25-604	Amend
R4-25-605	Amend

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**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. § 32-804

Implementing statutes: A.R.S. §§ 32-822, 32-823, 32-825, 32-826, 32-829, 32-830, and 32-871

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 2758, June 28, 2002

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

Name: Linda Wells, Executive Director

Address: 1400 W. Washington, Suite 230  
Phoenix, AZ 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

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

The Board is amending 4 A.A.C. 25 to update its rules and address issues identified in its 2000 Five-Year Review Report. Specifically, the rules are amended to accurately reflect podiatry standards and practices, reflect current Board policy, be consistent with state statutes, and conform to rulemaking format and style requirements.

Some definitions are amended and new definitions are added in R4-25-101 so that the rules may be used effectively and consistently by intended audiences. R4-25-102 is amended to specify training programs that are approved by the Board. R4-25-104 and Table 1 are amended to add time-frames for approving or denying continuing education and license renewal. R4-25-201 and R4-25-203 are amended to clarify examination requirements for applicants. R4-25-305 is amended to state the information required to be submitted to the Board by a provisional licensee. R4-25-306 is a new Section that states the information required of a licensee for a renewal application. R4-25-401 is amended to update the Board's rehearing requirements. The continuing education requirements in Article 5 are amended to include requirements for preapproval approval of continuing education. Finally, Article 6 for drugs and devices is being amended to clarify requirements for registration, prescribing, dispensing, and recordkeeping.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, any analysis of each study and other supporting material:**

None

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

Not applicable

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

Annual cost/revenue changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000.

The rulemaking impacts applicants, licensed podiatrists, consumers seeking treatment, patients of licensed podiatrists, continuing medical education providers, and the Board.

Most of the rulemaking clarifies the current rules. Thus, the rulemaking incorporates existing requirements already established in rule. A few new requirements for continuing education have been added. The overall economic impact of the rulemaking is expected to be minimal with the benefits outweighing the costs. The retention of requirements already in rule should have little or no direct impact. New requirements for approval of continuing education approval should have a minimal to moderate impact.

**Cost Bearers**

The approximately 315 podiatrists currently licensed in the state will be affected by the rules. A licensee will bear minimal costs of an application if the licensee chooses to submit a request for continuing education approval before submitting a renewal application.

There should be no additional costs to a licensee for a renewal application because the Board currently requires the licensee to complete and submit a renewal form that contains the requirements in R4-25-306.

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The Board will bear minimal to moderate costs for processing renewal applications within the time-frames specified in the rules. The costs are for sending out notices of incompleteness, notices of completeness, and for substantive reviews. The Board will experience similar costs for continuing education approvals. The Board will incur moderate costs to promulgate the rules and to notify interested parties of the new rules after the rules are approved.

**Beneficiaries**

A licensed podiatrist benefits from gaining approval for continuing education before submitting a renewal application. The time-frames for approving or denying an application for renewal also benefit a licensee, because the rules clarify application and request requirements and a licensee knows when to expect the approval or denial.

Rules that update the drug and dispensing requirements benefit individuals seeking treatment and patients because they protect the public health and safety.

**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: Linda Wells, Executive Director  
Address: 1400 W. Washington, Suite 230  
Phoenix, AZ 85007  
Telephone: (602) 542-3095  
Fax: (602) 542-3093

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

An oral proceeding will be conducted by the Board at the following location in the state for the purpose of taking oral and written testimony on the proposed rule from members of the public.

Date: December 11, 2002  
Time: 1:00 p.m.  
Location: 1400 W. Washington, Suite 230  
Phoenix, AZ 85007

The public record on the proposed rulemaking will close at 5:00 p.m. on December 11, 2002.

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

None

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

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 25. BOARD OF PODIATRY EXAMINERS**

**ARTICLE 1. GENERAL PROVISIONS**

Section	
R4-25-101.	Definitions
R4-25-102.	Postdoctoral, <u>Internship, and Residency</u> Training Program Approval
R4-25-103.	Fees
R4-25-104.	Time-frames for <del>Licensure and Certification</del> Approvals
Table 1.	Time-frames (in Days)

**ARTICLE 2. EXAMINATIONS**

Section	
R4-25-201.	Examination of Applicants
R4-25-203.	<del>Conducting Examinations</del> <u>Oral Examination Procedures</u>

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**ARTICLE 3. LICENSES**

Section  
R4-25-305. Supervision of a Provisional ~~License~~ Licensee  
R4-25-306. License Renewal

**ARTICLE 4. REHEARING OR REVIEW**

Section  
R4-25-401. ~~Rehearings~~ Rehearing or Review

**ARTICLE 5. CONTINUING EDUCATION**

Section  
R4-25-501. Continuing Education Hours Required  
R4-25-502. Approval of ~~Courses~~ Continuing Education  
R4-25-503. Documentation  
R4-25-504. ~~Credit Hours~~ Repealed  
R4-25-505. Waiver of Continuing Education ~~Requirement~~

**ARTICLE 6. DISPENSING OF DRUGS AND DEVICES**

Section  
R4-25-602. Registration ~~and Inventory~~ Requirement  
R4-25-603. Prescribing and Dispensing Requirements  
R4-25-604. Record Keeping and Reporting Shortages  
R4-25-605. ~~Renewals, Inspections, Penalties, and Fees~~ Registration Renewal

**ARTICLE 1. IN GENERAL**

**R4-25-101. Definitions**

The following definitions apply in this Chapter unless otherwise specified:

1. "Administer" ~~means has~~ the same meaning as ~~the definition~~ "Administer" in A.R.S. § 32-1901.
2. No change
3. "Applicant" means an individual requesting ~~license or registration by an approval from~~ the Board.
4. No change
5. No change
6. "Contested case" has the same meaning as in A.R.S. § 41-1001.
7. "Continuing education" means a workshop, seminar, lecture, conference, class, or instruction related to the practice of podiatry.
8. "Credit hour" means 60 minutes of participation in continuing education.
- ~~6-9.~~ "Days" "Day" means calendar ~~days~~ day.
- ~~7-10.~~ "Controlled substance" ~~means has~~ the same meaning as ~~the definition~~ in A.R.S. § 32-1901.
11. "Council" means the Council of Podiatric Medical Education, an organization approved by the American Podiatry Association to govern podiatric education.
- ~~8-12.~~ "Device" ~~means has~~ the same meaning as ~~the definition~~ in A.R.S. § 32-1901 and includes ~~the definition of a~~ prescription-only device defined in A.R.S. § 32-1901.
13. "Directly supervise" has the same meaning as "direct supervision" in A.R.S. § 32-871(D).
14. "Dispense" has the same meaning as in A.R.S. § 32-871(F).
15. "Distributor" has the same meaning as in A.R.S. § 32-1901.
- ~~9-16.~~ "Drug" ~~means has~~ the same meaning as ~~the definition~~ in A.R.S. § 32-1901 and includes a controlled substance, a narcotic drug defined in A.R.S. § 32-1901, a prescription medication, and a prescription-only drug.
10. "Equivalency to 1-year internship program" means a minimum of 5 years of continuous, active, clinical practice prior to filing an application and provided that no disciplinary action has been taken against the applicant in any other state during the 5-year period.
17. "Fiscal year" means the period beginning on July 1 and ending on the following June 30.
18. "Hospital" means a classification of health care institution that meets the requirements in A.R.S. Title 36, Chapter 4 and A.A.C. Title 9, Chapter 10, Article 2.
11. "Knee" means the site of articulation of the tibia and fibula and those structures or portions of structures that touch, attach, or articulate at the site with the tibia and fibula.

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19. “Informed consent” means a document signed by a patient or patient’s representative that authorizes treatment to the patient after the treating podiatrist informs the patient or the patient’s representative of the following:
  - a. A description of the treatment;
  - b. A description of the expected benefits of the treatment;
  - c. Alternatives to the treatment;
  - d. Associated risks of the treatment, including potential side effects and complications; and
  - e. The patient’s right to withdraw authorization for the treatment at any time.
12. “Lawfully practiced” means the full-time continuous and licensed practice of podiatry by the applicant. Where an applicant practices in more than one place, the practice consuming the greater portion of the applicant’s time is deemed the applicant’s place of lawful practice.
13. “Nursing care institution” means a health care institution providing inpatient beds or resident beds and nursing services to persons who need nursing services on continuing basis but who do not require hospital care or direct daily care from a physician.
14. One-year internship program” means the successful completion of either of the following:
  - a. American Podiatric Medical Association approved 1-year program, or
  - b. First-year post-graduate approved residency or preceptorship program in either a medical or surgical clinical science dealing directly with patients.
20. “Label” has the same meaning as in A.R.S. § 32-1901.
21. “Manufacturer” has the same meaning as in A.R.S. § 32-1901.
22. “Medical record” has the same meaning as in A.R.S. § 12-2291(4).
- ~~14-23.~~ No change
- ~~15-24.~~ No change
25. “Party” has the same meaning as in A.R.S. § 41-1001.
26. “Patient” means an individual receiving treatment from a podiatrist.
27. “PMLexis examination” means the test required by A.R.S. § 32-825(C)(2).
28. “Prescription order” has the same meaning as in A.R.S. § 32-1901.
- ~~16-29.~~ “Prescription medication” means has the same meaning as the definition in A.R.S. § 32-1901.
30. “Provisional licensee” means an individual licensed under A.R.S. § 32-826(B).
- ~~17-31.~~ “Prescription-only drug” means has the same meaning as the definition in A.R.S. § 32-1901.
- ~~18-32.~~ “Prescription-only device” means has the same meaning as the definition in A.R.S. § 32-1901.
- ~~19-33.~~ No change
34. “Representative” means a legal guardian, an individual acting on behalf of another individual under written authorization from the individual, or a surrogate according to A.R.S. § 36-3201.
- ~~20-35.~~ No change
36. “Treatment” means podiatric medical, surgical, mechanical, manipulative, or electrical treatment according to A.R.S. § 32-801.
37. “Visit” means to seek diagnosis or treatment of an ailment of the foot or leg from a podiatrist and be physically present for the diagnosis or treatment.

**R4-25-102. Postdoctoral, Internship, and Residency Training Program Approval**

~~A list of each official hospital-based internship and residency program approved by the American Podiatric Medical Association shall be retained by the Board.~~

~~Graduates of any podiatric college accredited by the Council of Podiatric Medical Education who are enrolled in any American Podiatric Medical Association approved programs may qualify for a license exemption pursuant to A.R.S. § 32-821(6).~~

**A.** For purposes of satisfying the requirements of A.R.S. § 32-826(A), a postdoctoral, internship, or residency training program approved by the Council is approved by the Board.

**B.** Any A postdoctoral, an internship or a residency training program provisionally approved or placed on probation by the American Podiatric Medical Association shall be Council is approved by the Board until the American Podiatric Medical Association Council makes a final adverse determination of the status of the postdoctoral, internship, or residency training program.

**R4-25-103. Fees**

The following fees shall be paid: The Board shall charge the following fees, which are not refundable unless A.R.S. § 41-1077 applies:

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

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- 6. No change
- 7. No change
- 8. No change

**R4-25-104. Time-frames for ~~Licensure and Certification~~ Approvals**

- A. No change
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Board is set forth in Table 1.
  - 1. No change
    - a. No change
    - b. No change
    - c. For approval of a registration to dispense drugs, when the Board receives the application packet required in R4-25-602; ~~or~~
    - d. For approval ~~or denial~~ of a regular podiatry license, when the applicant sits for both a written and an oral podiatry examination or only an oral examination;
    - e. For approval of an application for renewal of a license or dispensing registration, when a licensee submits an application packet to the Board; or
    - f. For approval of continuing education, when the Board receives a request for approval.
  - 2. No change
  - 3. If an application is complete, the ~~board~~ Board shall send a written notice of administrative completeness to the applicant.
  - 4. No change
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.
  - 1. During the substantive review time-frame, the Board may make ~~+~~ one comprehensive written request for additional information or documentation. The time-frame 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 ~~approving the applicant to take an examination or granting a license of approval~~ to an applicant who meets the qualifications and requirements in A.R.S. § ~~32-821 through 32-830~~ Title 4, Chapter 7 and this Chapter.
  - 3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications and requirements in A.R.S. § ~~32-821 through 32-830~~ Title 4, Chapter 7 and this Chapter.
- D. No change
- E. No change
- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Board considers the next business day ~~will be considered~~ the time-frame's last day.

**Table 1. Time-frames (in Days)**

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval to Take a Written and Oral Examination or Oral Examination Only (R4-25-301)	A.R.S. § 32-822 A.R.S. § 32-823 A.R.S. § 32-824	90	30	60
Regular Podiatry License (R4-25-301)	A.R.S. § 32-826	60	30	30
License by Comity (R4-25-302)	A.R.S. § 32-827	60	30	30
Provisional License (R4-25-304)	A.R.S. § 32-826	60	30	30
Dispensing Registration (R4-25-602)	A.R.S. § 32-871	60	30	30

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<u>License Renewal (R4-25-306)</u>	<u>A.R.S. § 32-829</u>	<u>60</u>	<u>15</u>	<u>45</u>
<u>Registration Renewal (R4-25-605)</u>	<u>A.R.S. § 32-871</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Continuing Education Approval (R4-25-502)</u>	<u>A.R.S. § 32-829</u>	<u>60</u>	<u>15</u>	<u>45</u>

**ARTICLE 2. EXAMINATIONS**

**R4-25-201. Examination of Applicants**

- ~~A. The state written and The Board administers the state oral examination shall be administered twice annually each year in June and December.~~
- ~~B. Applicants who do not meet all of the requirements of A.R.S. § 32-827 shall be required to pass the PMLexis examination approved by the Arizona State Board of Podiatry Examiners as the state written examination with a grade of not less than 75%. An applicant who meets the requirements in A.R.S. § 32-827 for licensure by comity shall pass the state oral examination with a grade of 75% or more.~~
- ~~C. Applicants who meet all of the requirements of A.R.S. § 32-827 shall pass the state oral examination with a grade of not less than 75%. An applicant who does not meet the requirements in A.R.S. § 32-827 for licensure by comity shall pass the PMLexis examination and state oral examination with a grade of 75% or more.~~
- ~~D. Applicants for licensure who have been licensed by examination in another state shall be required to pass the Arizona state approved examination. If the examination in another state is the PMLexis examination, and the applicant passed the PMLexis examination within five years preceding application for licensure in Arizona with a score of not less than 75%, the applicant shall be deemed to have passes the approved Arizona state examination. An applicant licensed to practice podiatry in a state other than Arizona who is applying to the Board for a license by comity and who:~~
- ~~1. Passed the PMLexis examination in a state other than Arizona with a score of 75% or more within five years of the application submission date meets the examination requirements of A.R.S. § 32-825, or~~
  - ~~2. Did not pass the PMLexis examination in any state with a score of 75% or more does not meet the examination requirements of A.R.S. § 32-825 and shall pass the PMLexis examination with a score of 75% or more to be licensed in this state.~~
- ~~E. Applicants shall be required to pass the state oral examination.~~
- ~~F. Applicants will be notified in writing, of their examination scores within 60 days after examination.~~

**R4-25-203. ~~Conducting Examinations~~ Oral Examination Procedures**

- ~~A. Licensing examinations shall be conducted in accordance with the following requirements: An applicant taking an oral examination shall:~~
- ~~1. In order to be admitted to the examination, the applicant shall bring the letter of admission from the Board advising the applicant of the time, date, and place of the examination.~~
  - ~~2.1. Applicants shall be Be present and ready to take the examination at the date, time, and place scheduled by the Board; Late arrival shall not justify an extension of the time scheduled for the examination.~~
  - ~~3.2. During the examination, an applicant shall not communicate with any other another applicant except with the permission of the examiner; and~~
  - ~~4.3. Applicants may, at the outset of the examination, question the examiner or proctor regarding the examination and, at the conclusion of the examination, submit in writing any comments regarding the examination. Except for a writing instrument, not bring examination assistance, such as books or equipment, into the examination room unless given permission by the Board.~~
- ~~B. An applicant may submit written comments to the Board about an oral examination after the examination concludes.~~
- ~~B.C. Violators of any requirement of subsection (A) shall be considered dismissed from the examination. An applicant who does not meet to the requirements in subsection (A):~~
- ~~1. May not be permitted by the Board to complete an oral examination,~~
  - ~~2. Forfeits the examination fee, and~~
  - ~~3. May submit a new application to take an examination and the examination fee.~~

**ARTICLE 3. LICENSES**

**R4-25-305. Supervision of a Provisional License Licensee**

- ~~A. No later than the 20th day of each month, A a provisional licensee shall, each month, personally submit to the Board a cumulative and detailed log of all podiatry activity in which the provisional licensee has been engaged over the previous~~

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month and shall be ready and available to discuss individual patient medical records, treatment, diagnosis and progress with the Board or a designated Board member. The log of podiatry activity shall be personally submitted at a time and place specified by the Board, which time shall be no later than the 20th day of the month following the most recent complete month of activity. The log shall include the following information: the following information about each patient's treatment for the previous 30 days:

1. The Initials, initials of the patient's first and last name, age, and gender of each patient;
  2. The Date date of initial each visit;
  3. The Patient's chief complaint reason for the patient's visit;
  4. Detailed working and supplemental The patient's diagnosis; of the patient's condition.
  5. The Detailed and specific type and manner of treatment provided including all medications prescription orders and drugs or devices prescribed, administered or dispensed;
  6. Copies of all A signed copy of an informed eonsents consent from patients prior to the performance of any before performing a surgical procedure on the patient; and
  7. Copies of pathology reports and operative reports described in detail. The location of the patient when treated.
  8. The facility in which patients are located including the hospital, nursing home, outpatient surgical facility, or office setting.
- B.** Prior to Before the expiration of the a regular license is issued to a provisional licensee licensee, the Board provisional licensee shall appear before meet with the Board provisional licensee, at the a time and place specified by the Board, for a conference and final disposition of future licensure status. to determine whether the provisional licensee obtained podiatry experience equal to experience in a one-year-internship program.
1. The Board shall send a written notice to the provisional licensee informing the provisional licensee of the location, date, and time of the Board meeting.
  - ~~C.2.~~ At this conference the Board meeting the Board will examine and shall review the eumulative log of podiatry activity of the provisional licensee information required by subsection (A) and consider to ascertain and determine whether the podiatry experience of the provisional licensee during the provisional period was of a quality and content to correspond to the experience acquired in an internship program. Such determination will be based upon the following considerations:
    - 1-a. The number of patients treated during the provisional period.
    - 2-b. The diversity and complexity of podiatry activity engaged in by the provisional licensee during the provisional period: treatment,
    - 3-c. The degree of expertise, judgement and sophistication of the provisional licensee in diagnosing, required of the provisional licensee while treating and operating on his or her each patient. , and
    - 4-d. Evaluation from The evaluation performed by the provisional licensee of the necessity for procedures and treatments being performed treatment.
- D.** Upon request of the Board, the provisional licensee shall be available to personally appear before the Board at a time and place specified to discuss and explain individual patient medical records, treatment, and progress and shall open his or her office and all patient records for inspection by the Board or any member designated thereof.
- E.** If the provisional licensee fails to comply with any rule or regulation governing the supervision of provisional licensees, including, but not limited to, the failure to attend any requested or required meeting or conference with either the Board or its designated member, or if the experience acquired by the provisional licensee during the provisional licensing period is of an inferior quality or is found not to have been equivalent to the experience attainable in a one-year internship program, such will constitute sufficient grounds for Board refusal to substitute said provisional practice for the one-year internship requirement of A.R.S. 32-826(A) for regular license to practice podiatry.
- C.** If the Board determines that the provisional licensee obtained podiatry experience equal to experience in a one-year-internship program and meets the requirements in A.R.S. § 32-826, the Board shall issue a regular podiatry license to the provisional licensee.

**R4-25-306. License Renewal**

On or before June 30 of each year, a licensee shall submit the renewal fee required in R4-25-103 and:

1. A renewal application that contains the following information:
  - a. The licensee's name, home and business mailing addresses, and location of practice;
  - b. Whether the licensee has been named as a defendant in a medical malpractice matter during the 12 months before the date of the renewal application, including:
    - i. The name of the court having jurisdiction over the medical malpractice matter and case number assigned to the medical malpractice matter, and
    - ii. Copies of all court documents relating to the medical malpractice matter;
  - c. Whether the licensee has been convicted of a felony or misdemeanor involving moral turpitude during the 12 months before the date of the renewal application;

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- d. Whether the licensee's malpractice or professional liability insurance has been denied, suspended, or revoked during the 12 months before the date of the renewal application;
  - e. Whether the licensee's Drug Enforcement Administration Certificate of Registration required in R4-25-602(A)(1)(a) has been suspended or revoked during the 12 months before the date of the renewal application, or is currently under investigation;
  - f. Whether the licensee has had a license, certification, or registration, other than a driver's license, suspended or revoked by any state or jurisdiction during the 12 months before the date of the renewal application;
  - g. Whether the licensee has been treated for alcoholism or drug abuse during the 12 months preceding the date of the renewal application;
  - h. Whether the licensee has a medical condition that in any way impairs or limits the licensee's ability to practice podiatric medicine;
  - i. Whether the licensee has been denied staff membership in a hospital or other health care institution, as defined in A.R.S. § 36-401, during the 12 months before the date of the renewal application;
  - j. Whether the licensee has been investigated by a health insurance company for health insurance fraud during the 12 months preceding the date of the renewal application; and
  - k. A statement by the licensee that the information on the renewal application is true and correct and the licensee's signature;
2. If the licensee answered yes to any of the questions in subsections (1)(c) through (1)(j), an explanation of each answer including applicable dates, outcomes, and current status; and
  3. The written report required in R4-25-503 for continuing education, including a notarized affirmation of attendance signed by the licensee.

**ARTICLE 4. REHEARING OR REVIEW**

**R4-25-401. Rehearings Rehearing or Review**

- A. Except as provided in subsection (G), ~~any a party in a contested case before the Board of Podiatry Examiners who is aggrieved by a decision rendered in such case issued by the Board~~ may file with the Board of Podiatry Examiners, ~~not no~~ later than ~~ten~~ 30 days service of the decision, a written motion for rehearing or review of the decision specifying the ~~particular grounds therefor~~ for rehearing or review. For purposes of this Section, a decision ~~shall be deemed~~ is considered to have been served when personally delivered to the party's last known home or business address or five days after the decision is mailed by certified mail to the party at the party's last known residence or place of business or the party's attorney.
- B. A party filing a motion for rehearing or review ~~under this rule may be amended~~ amend the motion at any time before it is ruled upon by the Board of Podiatry Examiners. ~~Other parties A response may be filed within ten~~ file a response within 15 days after ~~service of such~~ the date the motion or amended motion by any other party for rehearing or review is filed. The Board of Podiatry Examiners may require ~~the filing of written briefs upon the issues raised in the motion and may provide for oral argument~~ the parties a party to file supplemental memoranda explaining the issues raised in the motion or response and may permit oral argument.
- C. ~~The Board may grant~~ A a rehearing or review of the decision ~~may be granted~~ for any of the following ~~causes~~ reasons materially affecting the moving party's rights:
  1. Irregularity in the ~~Board's~~ administrative proceedings ~~of the agency or its hearing officer or the prevailing party, or any order or an~~ abuse of discretion that, ~~whereby the moving party was deprived~~ the party of a fair hearing;
  2. Misconduct of the Board of Podiatry Examiners ~~or its hearing officer or the prevailing party;~~
  3. Accident or surprise ~~which~~ that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence ~~which~~ that could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
  7. That the decision is not ~~justified~~ supported by the evidence or is contrary to law.
- D. ~~The Board of Podiatry Examiners may affirm or modify the decision or grant a rehearing or review to on all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing or review shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified for the rehearing or review.~~
- E. ~~Not~~ No later than ~~ten~~ 30 days after a decision is ~~rendered~~, issued by the Board, ~~the Board may,~~ on its own initiative, order grant a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party in subsection (C). ~~After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds therefor. An order granting a rehearing or review shall specify the grounds for the rehearing or review.~~

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- F. When a motion for rehearing or review is based upon affidavits, ~~they shall be served with the motion~~ a party shall serve the affidavits with the motion. An opposing party may, within ten days after ~~such~~ service, serve opposing affidavits, ~~which period The Board may be extended~~ extend for an additional period the time for serving opposing affidavits for not exceeding no more than 20 days by the Board of Podiatry Examiners for good cause shown or by written stipulation of the parties. The Board may permit Reply reply affidavits may be permitted.
- G. ~~If in a particular decision, the Board of Podiatry Examiners makes specific findings that the immediate effectiveness of such a decision is necessary for the immediate preservation of to preserve the public peace, health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision Board may be issued~~ issue the decision as a final decision without an opportunity for rehearing or review. If a decision is issued as a final decision without an opportunity for a rehearing or review, an aggrieved party that makes any an application for judicial review of the decision shall be made make the application within the time limits permitted for an application for judicial review of the Board of Podiatry Examiners' Board's final decisions decision at A.R.S. § 12-904.
- H. ~~For purposes of this Section, the terms "contested case" and "party shall be defined as provided in A.R.S. § 41-1001.~~
- I. ~~To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Board of Podiatry Examiners, such statutory provisions shall govern.~~

**ARTICLE 5. CONTINUING EDUCATION**

**R4-25-501. Continuing Education Hours Required**

- A. ~~In order to Unless a licensee obtains a waiver according to R4-25-505, meet the continuing education requirements of A.R.S. § 32-829, every the licensee must have attended shall complete at least 25 hours or more of Board-approved courses of programs relating to the practice of podiatry continuing education credit hours in the year preceding application for license renewal every fiscal year.~~
- B. ~~Any licensee who cannot complete at least 25 hours of approved continuing education during the preceding year will be is ineligible for renewal unless the licensee obtains a waiver pursuant to R4-25-505.~~
- B. ~~A licensee who has been licensed for less than 12 months before license renewal shall complete two continuing education credit hours for each month of licensure.~~

**R4-25-502. Approval of Courses Continuing Education**

- A. ~~Every year, each person holding an active license to practice podiatry in this state shall complete 25 credit hours of the continuing medical education required by A.R.S. § 32-829. One hour of credit will be allowed for each clock hour of participation in approved continuing medical education activities, unless otherwise designated in subsection (B) below.~~
- A. ~~A licensee may submit a written request to the Board for approval of continuing education before submission of a renewal application.~~
- B. ~~A request under subsection (A) shall contain:~~
1. ~~A brief summary of the continuing education;~~
  2. ~~The educational objectives of the continuing education;~~
  3. ~~The date, time, and place of the provision of the continuing education;~~
  4. ~~The name of the individual providing the continuing education, if available; and~~
  5. ~~The name of the organization providing the continuing education, if applicable.~~
- B.C. ~~Approved continuing medical education activities include the following: In determining whether to approve continuing education, the Board shall consider whether the continuing education:~~
1. ~~Podiatry educational programs Is designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of podiatry;~~
  2. ~~Up to 10 credit hours may be earned by completion of a podiatric educational program based on self-instruction which may include videotapes, films, filmstrips, slides, plus written materials.~~
  2. ~~Is developed and provided by an individual with knowledge and experience in the subject area; and~~
  - 3.3. ~~The Board may approve courses in podiatric or medical education that are sponsored by other health-related associations or privately sponsored education programs provided the subject matter and material have been approved by the Arizona Board of Podiatry Examiners.~~
  4. ~~Contributes directly to the professional competence of a licensee.~~
- D. ~~A licensee may request approval of 10 credit hours or less of continuing education when provided in any of the following ways:~~
1. ~~On the internet,~~
  2. ~~On a CD ROM, or~~
  3. ~~In podiatric medical literature, such as a journal.~~
- E. ~~The Board shall approve or deny a request for approval according to the time-frames set forth in R4-25-104 and Table 1.~~

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F. According to A.R.S. § 32-829(E), if approval of a continuing education request is denied, a licensee has 60 days from the date of the denial to meet the continuing education requirements. A licensee may submit another request for approval as specified in subsection (B).

**R4-25-503. Documentation**

~~A. Each application for renewal must be accompanied by a written report which affirms the applicant's attendance of 25 hours of Board approved courses and programs in continuing education. The report shall include the date, course, title, subject matter, hours attended, location, and be signed by the applicant. A licensee shall submit a written report of completed continuing education with a renewal application that includes:~~

- ~~1. The name of the licensee.~~
- ~~2. The title of each continuing education.~~
- ~~3. A description of the continuing education's content and educational objectives.~~
- ~~4. The date of completion of each continuing education.~~
- ~~5. The number of credit hours of each continuing education, and~~
- ~~6. A statement signed by the licensee verifying the information in the report.~~

~~B. Any material false statement in this report will be grounds for revocation or suspension or refusal to renew a license under the provisions of A.R.S. § 32-852(2).~~

~~C.B. Each year, the Board will select continuing education reports to be audited. The reports will be selected randomly or on the basis of previous unsatisfactory reports from particular applicants. Applicants selected for audit will be required to provide the Board with evidence which documents continuing education attendance.~~

~~The Board may audit continuing education reports every 12 months for conformance with A.R.S. § 32-829 and this Article:~~

- ~~1. Randomly; or~~
- ~~2. Selectively for licensees who previously submitted reports that did not conform with the requirements in A.R.S. § 32-829 or this Article.~~

**R4-25-504. Credit Hours Repealed**

~~A. One hour of credit shall be recorded for each hour of participation in the educational or scientific portion of programs approved pursuant to R4-25-502.~~

~~B. No credit shall be recorded for attending any committee or noneducational hospital meeting.~~

**R4-25-505. Waiver of Continuing Education Requirement**

~~A. If a renewal applicant A licensee who is unable to complete 25 hours of the continuing education requirement of R4-25-504 for one any of the reasons specified in A.R.S. § 32-829(C), the renewal application shall contain a may submit a written request for a waiver or postponement to the Board by August 31. The request shall include the report specified in R4-25-503(A) concerning those courses that have been completed and an explanation of why courses or programs sufficient to complete the requirement could not have met during the year preceding renewal. If the request is for postponement, it shall also include the applicant's plan for completing the continuing education requirement. that contains:~~

- ~~1. The name, address, and telephone number of the licensee;~~
- ~~2. The report required in R4-25-503;~~
- ~~3. An explanation of why the licensee was unable to meet the Board's continuing education requirements that includes one of the reasons in A.R.S. § 32-829(C); and~~
- ~~4. The signature of the licensee.~~

~~B. In making a decision on the request for postponement, the Board shall consider the following:~~

- ~~1. What justification exists for postponement?~~
- ~~2. How soon the applicant will makeup the continuing education requirement.~~
- ~~3. If the applicant will be practicing podiatry in Arizona in the interim.~~

~~B. The Board shall send written notice of approval or denial of the request for waiver within seven days of receipt of the request.~~

~~C. Any licensee who submits an application for waiver which is denied by If the Board will be ineligible for license renewal until the licensee has complied with R4-25-501 denies a request for a waiver, a licensee has 60 days from the date of the denial to meet the requirements for continuing education.~~

~~D. Licensees who have been licensed for less than a full licensing year must complete two continuing education hours for each month of the licensee's initial license.~~

**ARTICLE 6. DISPENSING OF DRUGS AND DEVICES**

**R4-25-602. Registration and Inventory Requirements**

~~A. A podiatrist may dispense drugs and devices if:~~

- ~~1. The podiatrist is currently licensed as a podiatrist in Arizona and registers with the Board by submitting all of the following to the Board:~~

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An individual currently licensed as a podiatrist in this state who wishes to dispense drugs and devices shall register with the Board by submitting all of the following:

- ~~a.1. The applicant's podiatrist's current Drug Enforcement Administration Certificate of Registration issued by the Department of Justice under 21 U.S.C. 801 et seq;~~
  - ~~b.2. The fee required in R4-25-103; and~~
  - ~~e.3. An application form provided by the Board, signed and dated by the applicant podiatrist, and notarized that contains:
    - ~~i.a. The applicant's podiatrist's name,~~
    - ~~ii.b. The address of each location where applicant the podiatrist intends to dispense drugs and devices, and~~
    - ~~iii.c. The types of drugs and devices the applicant podiatrist intends to dispense.~~~~
  - ~~2. The podiatrist ensures that all drugs are dispensed in a prepackaged container or in a light resistant container with a consumer safety cap, and labeled with the following information:
    - ~~a. The podiatrist's name, address, and telephone number;~~
    - ~~b. The serial number and date the drug or device is dispensed;~~
    - ~~c. The patient's name; and~~
    - ~~d. The name, strength of the drug, the quantity dispensed and direction for its use.~~~~
  - ~~3. The podiatric physician secures all controlled substances and the prescription only medications Nalbuphine Hydrochloride (Nubain) and Butorphanol Tartrate (Stadol) in a locked cabinet or room and controls access to the cabinet or room by written procedure and maintains an ongoing inventory of the contents. This written procedure shall be made available to the Board or its authorized agents on demand for inspections or copying.~~
  - ~~4. The podiatric physician ensures that drugs and devices not requiring refrigeration are maintained in an area where the temperature does not exceed 85° F.~~
  - ~~5. The podiatric physician maintains an ongoing dispensing log which includes separate inventory sheets for each controlled substance and the prescription only medications Nalbuphine Hydrochloride (Nubain) and Butorphanol Tartrate (Stadol). The dispensing sheets shall include the following information:
    - ~~a. The date the drug is dispensed;~~
    - ~~b. The patient's name,~~
    - ~~c. The name and strength of the drug;~~
    - ~~d. The number of dosage units dispensed;~~
    - ~~e. A running total of medication dispensed; and~~
    - ~~f. The signature of the podiatric physician or the person authorized by the podiatric physician in dispensing the medication. The signature must be placed next to each entry.~~~~
- ~~B. This rule does not apply to manufacturers' samples of drugs and devices.~~

**R4-25-603. Prescribing and Dispensing Requirements**

- ~~A. The podiatric physician shall record on the patient's medical record the name and strength of the drug dispensed, the quantity or volume dispensed, the date the drug is dispensed, and the number of refills authorized.~~
- ~~B. Prior to delivery to the patient, the doctor shall review the prepared drug and device to ensure compliance with the prescription and, additionally, ensure that the patient has been informed of the name of the drug, directions for its use, precautions, and storage.~~
- ~~C. All dispensed drugs and devices shall be purchased from a manufacturer or distributor licensed in this state, or another state or jurisdiction.~~
- ~~D. Prior to dispensing a drug or device, the patient shall be given a written prescription signed by the dispensing physician, on which appears the following statement in bold type: This prescription may be filled by the prescribing doctor or by a pharmacy of your choice."~~
- ~~E. A podiatric physician shall dispense drugs and devices only to the dispensing doctor's own patient and only for conditions being treated by that podiatric physician.~~
- ~~F. The podiatric physician shall provide direct supervision to all persons involved in the dispensing process.~~
- ~~G. The original prescription form for drugs and devices shall be countersigned and dated by the actual person who prepared the drugs and devices for dispensing.~~

A podiatrist shall:

1. Not dispense a drug unless the drug is obtained from a manufacturer or distributor licensed in any state or jurisdiction.
2. Ensure that a drug or device is dispensed only to a patient being treated by the podiatrist.
3. Before dispensing a drug, provide a patient with a written prescription order that:
  - a. Contains the following statement in bold type: "This prescription may be filled by the prescribing podiatrist or by a pharmacy of your choice", and
  - b. Is signed by the podiatrist;
4. Directly supervise each individual involved in preparing a drug that is dispensed;

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5. Ensure that a drug is:
  - a. Dispensed in a prepackaged container or in a light-resistant container with a consumer safety cap; and
  - b. Labeled with the following information:
    - i. The podiatrist's name, address, and telephone number;
    - ii. The date the drug is dispensed;
    - iii. The patient's name; and
    - iv. The name, strength of the drug and directions for the drug's use;
6. Ensure that the original prescription form for a drug is countersigned and dated by the individual who prepared the drug for dispensing.
7. Before a drug or device is dispensed to a patient:
  - a. Review the drug or device to ensure compliance with the prescription order;
  - b. Ensure the patient is informed of the following:
    - i. The name of the drug or device.
    - ii. Directions for taking the drug or using the device.
    - iii. Precautions for the drug or device, and
    - iv. Directions for storing the drug or device;
8. Document in the medical record the following for each patient:
  - a. Name of the drug or device dispensed.
  - b. Strength of the drug dispensed.
  - c. Date the drug or device is dispensed, and
  - d. Therapeutic reasons for dispensing the drug or device;
9. Maintain an inventory record for each drug that contains:
  - a. Name of the drug.
  - b. Strength of the drug.
  - c. Date the drug was received by the podiatrist.
  - d. Amount of the drug received by the podiatrist.
  - e. Name of the manufacturer and distributor of the drug, and
  - f. A unique identifying number provided by the manufacturer or distributor of the drug;
10. Store a drug in a locked cabinet or room and:
  - a. Establish a written policy for access to the locked cabinet or room, and
  - b. Make the written policy available to the Board or its authorized agent within 72 hours of the Board's request;
11. Ensure that a drug is stored at temperatures recommended by the manufacturer of the drug; and
12. Maintain a dispensing log, separate from the inventory record for each drug dispensed that includes the:
  - a. Name of the drug.
  - b. Strength of the drug.
  - c. Amount of the drug.
  - d. Patient's name.
  - e. Date the drug was dispensed, and
  - f. The name and signature of the podiatrist who dispensed the drug.

**R4-25-604. Record Keeping and Reporting Shortages**

- A. ~~All original prescription orders for medications dispensed from a podiatric physician's office shall be dated, consecutively numbered in the order in which they were originally dispensed, and filed separately from the medical records. Original prescription orders for Schedule II drugs shall be maintained separately from other prescription orders.~~  
A prescription order written by a podiatrist for a drug shall:
  1. Contain the:
    - a. Name of the patient.
    - b. Date the prescription order is written, and
    - c. Name and signature of the podiatrist;
  2. Be numbered consecutively; and
  3. Be maintained separately from a medical record.
- B. ~~A podiatric physician podiatrist shall maintain a drug purchase orders, invoices, and an original prescription orders an invoice of a drug purchased from a manufacturer or distributor for a period of three years from the date of the order purchased. Dispensing logs and destruction records shall be maintained for ten years.~~
- C. ~~The medication log required pursuant to R4-25-602(6) may be maintained by computer.~~
- C. A podiatrist shall maintain the inventory record in R4-25-603(9) and the dispensing log in R4-25-603(12) for 40 seven years from the date of entry.

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- ~~D.~~ A podiatric physician from whose office drugs are illegally removed, or podiatrist who determined discovers that an inaccurate drug count or a drug shortage exists in controlled drugs maintained for dispensing identified in the podiatrist's inventory record cannot be accounted for shall:
1. ~~immediately~~ Within 48 hours of discovery or the next business day if a weekend or holiday, notify the appropriate law enforcement agency and the federal Drug Enforcement Administration; and
  2. ~~The podiatric physician shall provide~~ Provide written notification to the Board within seven days ~~of~~ from the date of the determination discovery, including the name of the law enforcement agency notified.

**R4-25-605. Renewals, Inspections, Penalties, and Fees Registration Renewal**

- ~~A.~~ A podiatric physician shall renew a registration to dispense annually, on or before on a registration form provided by the Board.
- A podiatrist shall renew a registration no later than June 30th of each year by submitting to the Board:
1. An application form provided by the Board, signed and dated by the podiatrist, and notarized that contains:
    - a. The podiatrist's name,
    - b. The address of each location where the podiatrist dispenses drugs and devices,
    - c. The types of drugs and devices the podiatrist dispenses, and
    - d. The podiatrist's Drug Enforcement Administration registration number issued by the Department of Justice under 21 U.S.C. 801 et seq; and
  2. The fee required in R4-25-103.
- ~~B.~~ The Board may conduct periodic inspection of dispensing practices to assure compliance with these rules and applicable Arizona Revised Statutes.
- ~~C.~~ Except in an emergency situation, a podiatric physician who dispenses drugs or devices without being registered by the Board is subject to a civil penalty by the Board of not less than \$300 and not more than \$1,000 for each transaction and may be prohibited from further dispensing for a period of time prescribed by the Board.
- ~~D.~~ The initial registration fee for dispensing drugs and devices by a podiatric physician shall be \$200. The annual renewal fee for continuing registration to dispense drugs and devices shall be \$100.
- ~~E.B.~~ If the completed annual a podiatrist fails to submit renewal form and correct fees are not received in the Board's office the information required in subsection (A) and the registration renewal fee required in R4-25-103 by June 30th, the physician's certification shall expire podiatrist's registration expires. If a podiatric physician's registration expires, that physician the podiatrist shall not be permitted to dispense:
1. Immediately cease dispensing drugs or devices, and
  2. The physician shall register again, by means of an initial registration Register pursuant to R4-25-602(A); before dispensing drugs and devices.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS**

**PREAMBLE**

**1. Sections Affected**

R4-26-101  
R4-26-201  
R4-26-202  
R4-26-203  
R4-26-203.01  
R4-26-204  
Appendix A  
R4-26-207  
R4-26-208  
Table 1

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
New Section  
Amend  
Repeal  
Amend  
Amend  
Amend

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**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. § 32-2063

Implementing statutes: A.R.S. §§ 32-2071, 32-2071.01, and 32-2072

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 1551, March 29, 2002

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

Name: Maxine McCarthy, Executive Director

Address: Arizona Board of Psychologist Examiners  
1400 W. Washington, Room 235  
Phoenix, AZ 85007

Telephone: (602) 542-8162

Fax: (602) 542-8279

E-mail: info@psychboard.az.gov

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

The Arizona Board of Psychologist Examiners is initiating this rulemaking on 4 A.A.C. 26, Articles 1 and 2, to update licensure procedures and continuing education requirements, and to implement an application procedure for licensure by credential under A.R.S. § 32-2071.01(B).

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of the study and other supporting material:**

None

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

Not applicable

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

The time it takes for psychologists to apply for licensure by credential under A.R.S. § 32-2071.01(B) will be substantially reduced. Consequently, psychologists moving to Arizona will be eligible for public or private employment sooner. The rule is also expected to reduce costs to applicants by allowing the Board to receive verification of an applicant's national examination score from the state in which an applicant originally tested (a service that is usually provided free of charge or at minimal cost) rather than solely from the examination score reporting service (which usually charges \$85-\$115). Licensees will be required to take four hours of continuing education ("CE") in ethics, but will have increased options in other areas of CE they may take. The rule will impose a minimal initial administrative burden on the Board due to the need to create new forms and procedures and publish the new rule. The impact on small businesses and consumers is expected to be positive, in that this should lead to the establishment of more small businesses in the state due to psychologists opening private practices and consumers will be provided with additional experienced psychologists. The acceptance of psychologists by credential is expected to have a positive impact on the Board's revenues due to an indeterminate number of new credential applications. The economic impact on other state agencies, such as the Office of the Secretary of State and the Governor's Regulatory Review Council, is expected to be minimal.

**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: Marcus Harvey, Projects Specialist

Address: Arizona Board of Psychologist Examiners  
1400 W. Washington, Room 235  
Phoenix, AZ 85007

Telephone: (602) 542-8161

Fax: (602) 542-8279

E-mail: licensing@psychboard.az.gov

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

No oral proceeding is scheduled. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item #4 within 30 days after publication of this notice. Oral and written comments about the proposed rules may be submitted to the person identified in item #4 until 5:00 p.m. on December 2, 2002.

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

None

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

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R4-26-101. Definitions

**ARTICLE 2. LICENSURE**

Section

R4-26-201. Application Deadline

R4-26-202. Doctorate

R4-26-203. Application for Licensure

R4-26-203.01. Application for Licensure by Credential Under A.R.S. § 32-2071.01(B)

R4-26-204. Examinations

Appendix A. ~~Arizona Pass Point for the Examination for the Practice of Psychology~~ Repealed

R4-26-207. Continuing Education

R4-26-208. Time-frames for Processing Applications

Table 1. Time-frames (In Days) for Processing Applications

**ARTICLE 1. GENERAL PROVISIONS**

**R4-26-101. Definitions**

In this Chapter:

“Additional examination” means an examination administered by the Board to determine the competency of an applicant and may include questions about the applicant’s knowledge and application of Arizona law, the practice of psychology, ethical conduct, and psychological assessment and treatment practices.

“Administrative completeness review” means the Board’s process for determining that an applicant has provided all of the information and documents required by the Board to determine whether to grant a license to the applicant.

“Advertising” means the use of any communications media to disseminate information regarding the qualifications of a psychologist or to solicit clients for psychological services, whether or not the psychologist pays for the dissemination of the information. Methods of advertising include a published statement or announcement, directory listing, business card, personal resume, brochure, or any electronic communication conveying professional qualifications or promoting the use of the psychologist’s professional services.

“Applicant” means an individual requesting licensure, renewal, or approval from the Board.

“Application packet” means the forms and documents the Board requires an applicant to submit to the Board.

“Case”, in the context of R4-26-106(D), means a legal cause of action instituted before an administrative or judicial court.

“Case conference” means a meeting that includes the discussion of a particular client or case that is related to the practice of psychology.

“Client record” means “adequate records” as defined in A.R.S. § 32-2061(A)(2), “medical records” as defined in A.R.S. § 12-2291(4), and all records pertaining to assessment, evaluation, consultation, intervention, treatment, or the provision of psychological services in any form or by any medium.

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“Confidential record” means:

Minutes of an executive session of the Board;

A record that is classified as confidential by a law or rule applicable to the Board;

An applicant’s or licensee’s college or university transcript if requested by a person other than the applicant or licensee;

All materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, or any other information relating to a client’s diagnosis, treatment, or personal or family life. ~~The Board shall disclose whether an investigation is being undertaken and the general nature of the investigation;~~

Home address and home telephone number of an applicant or a licensee;

Test scores of an applicant or a licensee;

Date of birth of an applicant or a licensee; and

Social security numbers of an applicant or a licensee.

“Credentialing agency” means the Association of State and Provincial Psychology Boards, the National Register of Health Service Providers in Psychology, or the American Board of Professional Psychology.

“Days” means calendar days.

“Diplomate” means a status bestowed on a person by the American Board of Professional Psychology after successful completion of the work and examinations required.

“Directly available”, in the context of A.R.S. § 32-2071(D)(2), means immediately available in person, by telephone, or by electronic transmission.

“Dissertation” means a document prepared as part of a graduate doctoral program that includes, at a minimum, separate sections that:

Review the literature on the psychology topic being investigated, state each research question under investigation, and state each hypothesis investigated;

Describe the method or procedure used to investigate each research question or each hypothesis;

Describe and summarize the findings and results of the investigation;

Discuss the findings and compare them to the relevant literature presented in the literature review section; and

List the references used in the various sections of the dissertation. ~~A a majority of the references used in the dissertation shall which are~~ either be listed in journals of the American Psychological Association’s Association journal, Psychological Abstracts, or classified as a psychology subject by the Library of Congress.

“Fellow” means a ~~rank or position~~ status bestowed on a person by a psychology association or society.

“Gross negligence” means a ~~psychologist’s breach of duty to know~~ psychologist knows or have has reason to know of facts that would lead a reasonable psychologist to realize that the psychologist’s act or failure to act creates an unreasonable risk of harm and involves a high degree of probability that substantial harm may result.

“Internship training program” means the supervised professional experience required in A.R.S. § 32-2071(D).

“National examination” means the national ~~written~~ examination provided by the Association of State and Provincial Psychology Boards.

“Party” means the Board, an applicant, a licensee, or the ~~State~~ state.

“Primarily psychological”, in the context of A.R.S. § 32-2071(A)(6), means subject matter that covers the practice of psychology as defined in A.R.S. § 32-2061(A)(8).

“Psychometric testing” means measuring cognitive and emotional processes and learning.

“Raw test data” means information collected during a psychologist’s assessment and evaluation.

“Residency” means the same as in A.R.S. § 32-2071(H), ~~except~~ but does not include a domicile or hospital residency.

“Retired”, as used in A.R.S. § 32-2073(E), means a psychologist has permanently stopped practicing psychology, as defined in A.R.S. § 32-2061(A)(8).

“Substantive review” means the Board’s process for determining whether an applicant meets the requirements of A.R.S. §§ 32-2071 through 32-2076 and this Chapter.

“Successfully completing”, as used in A.R.S. § 32-2071(A)(4), means receiving a passing grade in a course from a school or institution.

“Supervise” means to control, oversee, and review the activities of an employee, intern, trainee, or resident who provides psychological services.

“Supervisor” means a psychologist licensed or certified as a psychologist in the state in which the supervision occurs.

~~“Three or more graduate semester hours” means 3 16-week semester hours, 4 12-week quarter hours, or 5 33-9-week trimester hours.~~

**ARTICLE 2. LICENSURE**

**R4-26-201. Application Deadline**

To be considered at the next scheduled Board meeting. ~~A~~ a license application and all related supporting materials and documentation, including reference forms mailed from the Board office and any additional information requested by the Board, shall be completed and filed at the Board office at least ~~60~~ 14 days before the date of the ~~next scheduled written examination meeting.~~ An applicant who does not meet this deadline shall ~~not sit for that examination~~ have the application reviewed at a subsequent Board meeting.

**R4-26-202. Doctorate**

- A. The Board shall apply the following criteria to determine if a doctoral program complies with A.R.S. § 32-2071:
1. A program is “identified and labeled as a psychology program” under A.R.S. § 32-2071(A)(2), if the university, college, department, school, or institute had institutional catalogues and brochures that specified its intent to educate and train psychologists, at the commencement of the applicant’s degree program;
  2. A program “stands as a recognized, coherent organizational entity” under A.R.S. § 32-2071(A)(2), if the university, college, department, school, or institute had a psychology curriculum that was an organized sequence of courses at the commencement of the applicant’s degree program; and
  3. A program has “clearly identified entry and exit criteria” within its curriculum under A.R.S. § 32-2071(A)(2), if the university, college, department, school, or institute has requirements that outline the prerequisites for entrance into the program and the sequence of study and has requirements for graduation delineated.
- B. The Board shall verify that an applicant has completed the hours in the subject areas described in A.R.S. § 32-2071(A)(4). For this purpose, the applicant shall have the institution that the applicant attended provide directly to the Board an official transcript of all courses taken.
1. The Board shall verify that an applicant’s transcripts have been prepared solely by the institution under A.R.S. § 32-2071(A)(7), by determining whether the applicant had any input into the transcript drafting process.
  2. The Board may require additional documentation from the applicant or from the institution to determine whether the applicant has satisfied the requirements of A.R.S. § 32-2071(A)(4).
  3. The Board shall count five quarter hours as the equivalent of three semester hours, as required under A.R.S. § 32-2071(A)(4). When an academic term is other than a semester or quarter, credit hours are evaluated on the basis of 15 classroom contact hours equaling one semester hour.
- C. To determine whether a comprehensive examination taken by an applicant as part of a doctoral program in psychology satisfies the requirements of A.R.S. § 32-2071(A)(4), the Board shall review documentation provided directly to the Board by the educational institution that granted the doctoral degree, that demonstrates how the applicant’s comprehensive examination was constructed, lists criteria for passing, and provides the information used to determine that the applicant passed.
- D. The Board shall not accept credit hours for workshops, practica, or undergraduate courses from any degree-granting university or institution of higher education, for life experiences, or for credits transferred from institutions that are not accredited under A.R.S. § 32-2071(A)(1), to satisfy a requirement of A.R.S. § 32-2071(A)(4).
- E. The Board shall count a course or comprehensive examination only once to satisfy a requirement of A.R.S. § 32-2071(A)(4).
- F. An honorary doctorate degree does not qualify an applicant for licensure as a psychologist.
- G. The Board shall not accept as core program credits practica, workshops, continuing education courses, experiential or correspondence courses, or life experiences. The Board shall accept core program credits for seminar or readings courses and independent study only if the applicant provides substantiation that the course was an in-depth study devoted to a particular core area. The applicant shall substantiate through one or more of the following:
1. Course description in official college catalogue,
  2. Course syllabus, or
  3. Signed statement from a dean or psychology department head detailing that the course was an in-depth study devoted to a particular core area.

**R4-26-203. Application for Licensure**

- A. An applicant for a psychologist license shall submit an application packet to the Board that includes an application form, provided by the Board, signed and dated by the applicant, and notarized, that contains the following information:
1. Applicant’s name, business and home addresses, social security number, business and home telephone numbers, and date and place of birth;
  2. Whether the applicant holds a Certificate of Professional Qualification in Psychology, a National Register of Health Service Providers in Psychology credential, or is a diplomate of the American Board of Professional Psychology;
  3. Name of each jurisdiction in which the applicant is currently or has been licensed as a psychologist;
  4. Whether the applicant has applied for licensure as a psychologist in any other jurisdiction and if so, the date of each application;

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5. Whether the applicant is licensed or certified in a profession or occupation other than psychology;
6. Whether the applicant has ever taken the national examination in psychology, name of each jurisdiction in which taken, and each date of examination;
7. Whether the applicant has ever had an application for a professional license, certification, or registration denied or rejected by any jurisdiction;
8. Whether the applicant has ever had disciplinary action initiated against the applicant's professional license, certification, or registration, or had a professional license, certification, or registration suspended or revoked by any jurisdiction;
9. Whether the applicant has ever entered into a consent agreement or stipulation arising from a complaint against any professional license, certification, or registration;
10. Whether the applicant is a member of any professional association in the field of psychology and name of association;
11. Whether the applicant has ever had membership in a professional association in the field of psychology denied or revoked;
12. Whether the applicant is currently under investigation for or has been found guilty of violating a code of professional ethics of any professional organization;
13. Whether the applicant is currently under investigation for or has been found guilty of violating a code of ~~unprofessional~~ professional conduct by any jurisdiction;
14. Whether the applicant has ever been sanctioned or placed on probation by any jurisdiction;
15. Whether the applicant has been convicted of a felony or a misdemeanor other than a minor traffic offense, or has ever entered into a diversion program ~~in lieu~~ instead of prosecution, including any convictions that have been expunged or deleted;
16. Whether the applicant has been sued in civil ~~or criminal~~ court or prosecuted in criminal court pertaining to the applicant's practice as a psychologist, the applicant's work under a certificate or license in another profession, or the applicant's work as a member of a ~~particular~~ profession in which the applicant was not certified or licensed;
17. Whether the applicant is currently addicted to alcohol or any drug that in any way impairs or limits the applicant's ability to practice;
18. Whether the applicant currently has any medical, physical, or psychological condition that may in any way ~~currently~~ impair or limit the applicant's ability to practice psychology safely and effectively;
19. Name and address of each university or college from which the applicant graduated, date of attendance, date of graduation, degree received, name of department, and major subject area;
20. Major advisor's name and department and the title of the applicant's dissertation or Psy.D. project for the doctoral degree;
21. Official title of the doctoral degree program or predoctoral specialty area;
22. Whether the ~~predoctoral~~ internship was an American Psychological Association approved program or ~~an~~ a member of the Association of Psychology and Postdoctoral Internship ~~Center Centers~~ program;
23. Each location at which the applicant participated in an internship training program and each supervisor's name;
24. Areas of professional competence;
25. Intended area of professional practice in psychology;
26. Name, position, and address of at least ~~2~~ two references who:
  - a. Are ~~licensed~~ psychologists, ~~diplomates of the American Board of Professional Psychology, fellows or members in good standing of the American Psychological Association, Canadian Psychological Association, or American Psychological Society, or other psychologists who are~~ licensed or certified to practice psychology in a United States or Canadian jurisdiction and who are not members of the Arizona Board of Psychologist Examiners;
  - b. Are familiar with the applicant's work experience in the field of psychology or in a postdoctoral program within ~~3~~ the three years immediately ~~preceding~~ before the date of application. If more than ~~3~~ three years have elapsed since the applicant last engaged in professional activities in the field of psychology or in a postdoctoral program, the references may be from the most recent ~~3-year~~ three-year period in which the applicant engaged in professional activities in the field of psychology or in a postdoctoral program; and
  - c. Recommend the applicant for licensure;
27. History of employment in the field of psychology including the beginning and ending dates of employment, number of hours worked per week, name and address of employer, name and address of supervisor, and type of employment ~~in the field of psychology~~;
28. ~~Whether the applicant is requesting a temporary license under A.R.S. § 32-2073, if applicable;~~
29. ~~Information to demonstrate~~ demonstrating that the applicant satisfied the core program requirements in A.R.S. § 32-2071(A)(4) and R4-26-202;
29. ~~Whether the applicant agrees to allow the Board to submit supplemental requests for additional information under R4-26-208(C);~~
30. A notarized statement, verified under oath by the applicant, that the information on the application pertains to the applicant, is true and correct, and has not been ~~procured~~ submitted through fraud or misrepresentation;

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31. ~~Two photographs~~ One photograph of the applicant no larger than ~~4-1/2X2~~ 1 1/2 by two inches taken not more than 60 days before the date of application;
  32. Fee required by ~~the Board~~ R4-26-108; and
  33. Any other information authorized by statute.
- B.** In addition to the requirements of subsection (A), an applicant for a psychologist's license shall arrange to have directly submitted to the Board:
1. An official transcript from each university or college from which the applicant has received a graduate degree ~~and that contains~~ the date the degree was received;
  2. An official document from the degree-granting institution indicating that the applicant has completed a residency that satisfies the requirements of A.R.S. § 32-2071(H) ~~in its entirety~~;
  3. An affidavit from the applicant's supervisor, if available, or a psychologist knowledgeable of the applicant's internship training program, verifying that the applicant's internship training program meets the requirements in A.R.S. § 32-2071(D); and
  4. An affidavit from the applicant's postdoctoral supervisor, if available, or a psychologist knowledgeable of the applicant's postdoctoral experience verifying that the applicant's postdoctoral experience meets the requirements in A.R.S. § 32-2071(E).
  5. Verification of all other psychology licenses or certificates ever held in any jurisdiction.
- C.** In addition to the requirements in subsections (A) and (B), ~~for approval to sit for the additional examination~~, an applicant shall ensure that an official notification of the applicant's score on the national examination is provided to the Board. An applicant who has passed the national examination and is seeking an examination waiver under A.R.S. § 32-2072(C)(1) shall have the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction in which the applicant originally passed the examination.
1. ~~An applicant who has passed the national examination and is seeking an exemption under A.R.S. § 32-2072(C) shall have the examination score sent directly to the Board by the professional examination service.~~
  2. ~~An applicant who is seeking an exemption under A.R.S. § 32-2072(C) due to the applicant's status as a diplomate of the American Board of Professional Psychology shall arrange to have a verification of diplomate status sent directly to the Board by the American Board of Professional Psychology.~~

**R4-26-203.01. Application for Licensure by Credential Under A.R.S. § 32-2071.01(B)**

- A.** An applicant for a psychologist license by credential under A.R.S. § 32-2071.01(B) shall submit an application packet to the Board that includes:
1. An application form, provided by the Board, signed and dated by the applicant, that contains the information required by R4-26-203(A)(1) through (25), and (A)(29) through (33);
  2. Verification sent directly to the Board by the credentialing agency that the applicant:
    - a. Holds a current Certificate of Professional Qualification in Psychology (CPO) issued by the Association of State and Provincial Psychology Boards; or
    - b. Holds a current National Register Health Service Provider in Psychology (NRHSPP) credential at the Doctoral Level under A.R.S. § 32-2071; or
    - c. Is a diplomate of the American Board of Professional Psychology (ABPP); and
  3. Verification of all other psychology licenses or certificates ever held in any jurisdiction.
- B.** An applicant for a psychologist license by credential based on a National Register Health Service Provider in Psychology credential also shall have passed the national examination and shall have notification of the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction in which the applicant originally tested.
- C.** If the Board determines that an application for licensure by credential requires clarification, the Board may require that an applicant submit or cause the applicant's credentialing agency to submit directly to the Board any documentation including transcripts, course descriptions, catalogues, brochures, supervised experience verifications, examination scores, application for credential, or any other information that is deemed necessary by the Board.

**R4-26-204. Examinations**

- A. General Rules**
1. The Board administers the national examination and may administer ~~the an~~ additional examination.
  2. Under A.R.S. § 32-2072(B), an applicant who fails an examination at least 3 ~~three or more~~ times, in Arizona or any other jurisdiction, shall comply with the following requirements before taking another examination:
    - a. The applicant shall meet with the Board to review the areas of deficiency and to develop and implement a program of study and ~~practice~~ practical experience designed to remedy the applicant's deficiencies. This remedial program may consist of course work, ~~self study~~ self-study, internship experience, supervision, or any combination of these.

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- b. An applicant shall not submit a new license application ~~only~~ until after completion of the remedial program described in subsection (A)(2)(a). In addition to the information required on the original application, the new application shall include documentation of all professional activities of the applicant since the date of the original application.
  3. If an applicant who has been accepted to sit for a Board examination fails to appear at the time scheduled for the commencement of the examination or any part of the examination, the applicant ~~shall lose eligibility~~ is not eligible to sit for that examination.
  4. The Board shall deny a license if an applicant commits any of the following acts:
    - a. Violates the ~~security~~ confidentiality of the examination materials;
    - b. Removes any examination materials from the examination room;
    - c. Reproduces any portion of ~~the a~~ a licensing examination;
    - d. Aids in the reproduction or reconstruction of any portion of ~~the a~~ a licensing examination;
    - e. Pays or uses another person to take a licensing examination for the applicant or to reconstruct any portion of the licensing examination;
    - f. Obtains examination material, either before, during, or after an examination, or uses or purports to use any examination materials ~~which that~~ that were removed or taken from ~~any an~~ an examination for the purpose of instructing or preparing applicants for examinations;
    - g. Sells, distributes, buys, receives, or has possession of any portion of a future, current, or previously administered licensing examination that is not authorized by the Board or its authorized agent for release to the public ~~by the Board or its authorized agent~~;
    - h. Communicates with any other examinee during the administration of a licensing examination;
    - i. Copies answers from another examinee or permits the copying of answers by another examinee;
    - j. Possesses during the administration of ~~the a~~ a licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than material distributed during the examination; or
    - k. Impersonates another examinee.
- B. National Examination**
- ~~1. Under A.R.S. §§ 32-2063 and 32-2072, the Board shall administer a the national examination ~~provided by the Association of State and Provincial Psychology Boards for the licensure of a psychologist~~. An applicant approved by the Board to take a the national examination passes the examination if the applicant's score equals or exceeds the passing score recommended by the Association of State and Provincial Psychology Boards. The Board shall notify the applicant in writing of the examination results when the Board receives the results from the Association of State and Provincial Psychology Boards.~~
  - ~~2. The Board shall not allow inspection of a national examination.~~
- C. Additional Examination**
1. An applicant shall pass a the national examination before being permitted by the Board to take ~~the an~~ an additional examination.
  2. Under A.R.S. § 32-2072(A), the Board may administer an additional examination to all applicants to determine the adequacy of the applicant's knowledge and application of Arizona law. The additional examination may also cover the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
    - a. The Board ~~may~~ shall review and approve the additional examination before administration. The additional examination may be developed by the Board, a committee of the Board, consultants to the Board, or independent contractors.
    - b. The additional examination may be administered by the Board, a committee of the Board, consultants to the Board, or independent contractors.
    - c. Applicants, examiners, and consultants to the Board shall execute a security acknowledgment form stating that they shall maintain examination security.

**APPENDIX A Repealed**

**ARIZONA PASS POINT FOR THE EXAMINATION FOR THE PRACTICE OF PSYCHOLOGY**

<b>FORM</b>	<b>DATE</b>	<b># OF ITEMS</b>	<b>AZ PASS POINT</b>
+	1966		102
+	1967		102

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2	1967		113
1	1968		101
2	1968		112
2	1969		110
3	1969		134
2	1970		110
3	1970		133
2	1971		109
3	1971		134
4	1971		105
2	1972		109
3	1972		133
4	1972		103
2	1973		109
3	1973		133
4	1973		103
2	1974		109
3	1974		131
4	1974		103
5	1974		104
2	1975		109
3	1975		131
4	1975		104
5	1975		105
2	1976		109
3	1976		131
4	1976		104
5	1976		105
2	1977		109
4	1977		104
5	1977		105
6	1977		107
7	1977		113
5	1978		105
7	1978		114
8	1978		113
9	1978		129
9	10-20-78	175	127
10	04-20-79	200	142
11	10-19-79	200	152

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12	04-11-80	192	142
13	10-10-80	197	155
14	04-10-81	193	131
15	10-16-81	196	138
16	04-16-82	200	141
17	10-08-82	200	145
18	04-08-83	200	147
19	10-15-83	200	155
20	04-13-84	200	145
21	10-26-84	200	151

**R4-26-207. Continuing Education**

- A. A licensee shall complete a minimum of 60 hours of continuing education during each ~~2-year~~ two-year license renewal period. One clock hour of instruction, training, preparation of a published book or journal article, or making a presentation equals ~~1~~ one continuing education credit.
1. ~~A Psychologists~~ psychologist licensed for less than ~~2~~ two years shall ~~accrue~~ earn continuing education credit based on the number of weeks remaining between the date of ~~their~~ the psychologist's licensure and May 1 of the next renewal year.
  2. Continuing education hours are prorated from the date of the Board correspondence notifying a ~~new licensee of an applicant of approval~~ new licensee of an applicant of approval for licensure. To calculate the number of continuing education hours that a new licensee must obtain:
    - a. Count the number of weeks between the week following the date of new licensure notification and May 1 of the next renewal year;
    - b. Divide the number of weeks by 104, the total number of weeks in the renewal period; and
    - c. Multiply that number by 60, the total number of continuing education hours required.
  3. The same ~~fraction method specified in subsection (A)(2)~~ fraction method specified in subsection (A)(2) is used to calculate the minimum number of continuing education hours required in each of the ~~three~~ three categories listed in subsection (B). Calculations that result in a fractional number are rounded to the next largest whole number.
- B. During the ~~2-year~~ two-year license period, a licensee shall obtain a minimum of 40 hours from Category I as described in subsection (B)(1). A licensee shall obtain a minimum of four of the 40 hours in professional ethics as described in subsection (B)(1)(a). The other 20 required continuing education hours may be from Category I or Category II.
1. Category I ~~includes~~ consists of:
    - a. ~~A course, seminar, workshop, or home study with certificate of completion, and post doctoral study sponsored by a regionally accredited university or college, as listed in A.R.S. § 32-2071(A)(1), that provides a graduate-level degree program;~~
    - b. ~~A continuing education program offered by national, international, regional, or state associations, societies, boards, or continuing education providers, if:~~
      - i. ~~At least 75% of the content of the educational experience is related to the "practice of psychology", as defined in A.R.S. § 32-2061(A)(8); and~~
      - ii. ~~A program's instructor meets the qualifications stated in subsection (C);~~
    - a. Post-doctoral study sponsored by a regionally accredited university or college as listed in A.R.S. § 32-2071(A)(1), that provides a graduate-level degree program, or a course, seminar, workshop, or home study with certificate of completion, or a continuing education program offered by a national, international, regional, or state association, society, board, or continuing education provider, if:
      - i. At least 75% of the program is related to the "practice of psychology" as defined in A.R.S. § 32-2061(A)(8); and
      - ii. A program's instructor meets the qualifications stated in subsection (C);
  - e.b. Attending a Board meeting. A licensee shall receive 4 four continuing education hours for attending a full-day Board meeting and 2 two continuing education hours for attending a half-day Board meeting. These Board-approved continuing education hours may not be accepted outside the State of Arizona. A licensee shall complete documentation provided by the Board at the time of the licensee attends a Board meeting attendance. The

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Board shall not accept ~~no~~ more than 10 continuing education hours obtained by attending a Board meeting from a licensee for each renewal period; ~~or and~~

~~d.c.~~ Serving as a complaint consultant. A licensee who serves as a Board complaint consultant may receive continuing education hours equal to the actual number of hours served as a complaint consultant up to a maximum of 20 continuing education hours per renewal period. ~~Continuing education hours received for complaint consultation may not be accepted outside the State of Arizona.~~

2. ~~Category II includes self study; study groups; publication of authored or co-authored psychology books or psychology book chapters; publication of articles in peer-reviewed psychology journals; presentation of symposia or papers at a state, regional, national, or international psychology meeting; or attendance at or participation in case conferences.~~

2. Category II consists of:

a. Self-study or study groups for professional growth and development as a psychologist;

b. Publication of authored or co-authored psychology books, psychology book chapters, or articles in peer-reviewed psychology journals;

c. Presentation of symposia or papers at a state, regional, national, or international psychology meeting;

d. Attendance at or participation in case conferences; or

e. Courses, workshops, seminars, or symposia for professional growth and development as a psychologist or enhancement of psychological practice, education or administration.

C. ~~A continuing education instructor's qualifications are subject to unannounced review by the Board. The Board shall not approve continuing education unless the A continuing education instructor shall:~~

1. ~~Be Is~~ currently licensed or certified in the instructor's profession or ~~work works~~ at least 20 hours each week as a faculty member at a regionally accredited college or university, as listed in A.R.S. § 32-2071(A);

2. ~~Be Is~~ a fellow as defined in R4-26-101 or a diplomate as defined in R4-26-101; or

3. ~~Demonstrate~~ Demonstrates competence and expertise in the subject or material the instructor teaches by having an advanced degree, teaching experience, work history, authored professional publication articles, or presented seminars in that subject or material.

D. A licensee who organizes and presents a continuing education activity shall receive the same number and category of continuing education hours described in subsection (B) as those persons attending the continuing education ~~function~~ activity. The Board shall not allow credit ~~only more than~~ once in a ~~2-year~~ two-year license renewal period for organizing and presenting a continuing education function on the same topic or content area.

E. A licensee elected to an officer position in an international, national, regional, or state psychological association or society, or appointed to a government psychology board or committee, shall receive ~~a maximum of 10~~ Category I continuing education hours equal to the actual number of hours served in the position up to a maximum of 10 hours per renewal period for each renewal cycle for the licensee's work in the position.

F. Each licensee shall keep the following documents that substantiate completion of continuing education hours for the ~~2~~ two previous; consecutive; license renewal periods; ~~Documents that verify continuing education completion shall include~~

1. a A certificate of attendance;

2. statement Statement signed by the provider verifying participation in the activity;

3. official Official transcript; ~~or;~~

4. documents Documents indicating a licensee's participation as an elected officer or appointed member as specified in subsection (E). ~~The Board shall accept; or~~

5. a A signed affidavit to document ~~self-study~~ self-study activity ~~which that~~ includes a description of the activity, the subject covered, the dates, and the number of hours involved.

G. The Board may audit a licensee's compliance with continuing education requirements. The Board may deny renewal or take other disciplinary action against a licensee who fails to obtain or document required continuing education hours. The Board may discipline ~~A a~~ licensee who commits fraud, deceit, or misrepresentation regarding continuing education hours ~~may be disciplined by the Board.~~

H. A licensee who cannot meet the continuing education requirement for good cause may seek an extension of time to complete the continuing education requirement by submitting a written request to the Board, including the renewal fee.

1. Good cause is limited to licensee illness, military service, or residence in a foreign country for at least 12 months of the license renewal period.

2. A licensee shall submit a request for extension on or before the expiration of a license, ~~as provided by statute.~~ The Board shall not grant ~~A a~~ time extension ~~shall not exceed~~ longer than one year.

3. A licensee who cannot complete the continuing education requirement within the time extension may apply to the Board for inactive license status under A.R.S. § 32-2073(E).

I. The Board shall not allow continuing education hours in excess of the 60 required hours to be carried beyond the ~~2-year~~ two-year renewal period in which they were accrued.

J. Courses, workshops, seminars, or symposia designed to increase income or office efficiency are not eligible for continuing education hours.

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**R4-26-208. Time-frames for Processing Applications**

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is listed in Table 1. An applicant and the Board's Executive Director may agree in writing to extend the substantive review time-frame and the overall time-frame. ~~Any~~ An extension shall not exceed ~~25%~~ 25 percent of the overall time-frame.
- B. The administrative completeness review time-frame 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 time-frame begins, for approval or denial of:
    - a. ~~To An application to take the national examination, on the date the Board office receives an application packet and ends on the date the Board office sends an applicant a written notice of administrative completeness;~~
    - b. ~~To take the additional examination, if applicable, on the date the Board office receives an application packet for an additional examination, and ends on the date the Board office sends an applicant a written notice of administrative completeness of the additional examination packet;~~
    - c. ~~Of a temporary license for an applicant licensed in another jurisdiction, on the date the Board office receives an application packet from the applicant and ends on the date the Board office sends the applicant a written notice of administrative completeness;~~
    - d. ~~Of a license, on the date an applicant takes the additional examination and ends on the date the Board office notifies the applicant that the applicant has completed the additional examination;~~
    - b. An application for licensure from an applicant licensed in another jurisdiction, who is applying for an examination waiver under A.R.S. § 32-2072(C)(1), on the date the Board receives an application packet and ends on the date the Board sends an applicant a written notice of administrative completeness;
    - c. An application for licensure by credential, on the date the Board receives an application packet and ends on the date the Board sends a notice of administrative completeness and if the application does not require substantive review, request for payment of licensing fee;
    - d. An application to take an additional examination, on the date the Board receives an application packet for the additional examination, and ends on the date the Board sends an applicant a written notice of administrative completeness;
    - e. ~~Of a A license renewal application, on the date the Board office receives a renewal application packet and ends on the date the Board office sends an applicant a written renewal approval or a written notice of completeness, whichever comes 1st receipt;~~
    - f. ~~Of a A request for reinstatement of an expired license, on the date the Board office receives the request for reinstatement and ends on the date the Board office sends an applicant a written renewal approval or a written notice of completeness, whichever comes 1st receipt; and~~
    - g. ~~Of a A request for an extension in which to complete continuing education requirements, on the date the Board office receives a request for extension, and ends on the date the Board office sends an applicant written notice of completeness of the request.~~
  2. If an application packet is incomplete, the Board shall send an applicant a written notice specifying the ~~missing document or incomplete information~~ deficiencies. The administrative completeness review time-frame and the overall time-frame are suspended from the date of mailing this notice until the date the Board receives a complete application packet from the applicant. An applicant shall supply the missing information within the time specified in Table 1 from the date of the notice. If the applicant fails to do so, the Board may close the file unless the applicant requests a denial of the application within 30 days from the date of the notice. An applicant whose file has been closed and who later wishes to ~~become licensed~~ pursue licensure shall reapply and pay the applicable fee.
  3. If a renewal application is incomplete, the Board shall send an applicant a written notice specifying deficiencies. The administrative completeness time-frame and the overall time-frame are suspended from the date of mailing this notice until the date ~~that the~~ the Board receives a complete application packet from the applicant.
  4. ~~Once~~ When an application packet is complete, the Board shall send a written notice of administrative completeness to an applicant.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1.
1. The substantive review time-frame begins for approval or denial of:
    - a. An application to take the national examination, on the date the Board sends an applicant written notice of administrative completeness and ends on the date the Board approves or denies the application to take the national examination;
    - b. ~~An application to take the additional examination, on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application to take the additional examination;~~
    - c. ~~A temporary license, on the date the Board sends an applicant written notice of administrative completeness and ends on the date the Board approves or denies the temporary license;~~
    - d. ~~A license, on the date the Board sends an applicant written notification that the applicant has completed the additional examination, if applicable, and ends on the date the Board approves or denies the application;~~

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- b. An application for licensure from an applicant licensed in another jurisdiction, who is applying for an examination waiver under A.R.S. § 32-2072(C)(1), on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application;
  - c. An application for licensure by credential that requires substantive review, on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application;
  - d. An application to take an additional examination, on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application to take the additional examination;
  - e. An application for license renewal that is deficient under subsection (B)(3), on the date an applicant submits a complete renewal application packet the missing information, and ends on the date the Board approves or denies the renewal application;
  - f. A request for reinstatement of an expired license, on the date the Board sends written notice of administrative completeness and ends on the date the Board approves or denies the request; and
  - g. A request for an extension in which to complete continuing education requirements, on the date the Board office sends an applicant written notice of completeness and ends on the date the Board approves or denies the request.
2. During the substantive review time-frame, the Board may make ± one comprehensive written request for additional information or documentation. The Board and an applicant may mutually agree in writing to allow the Board to submit supplemental requests for additional information. If the Board issues a comprehensive written request or a supplemental request for additional information by mutual written agreement, The the time-frame for the Board to complete the substantive review is suspended from the date of mailing the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
- D.** The Board shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. §§ 32-2071 through 32-2076, as applicable.
- E.** The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-2071 through 32-2076, as applicable.
- F.** The Board shall send a renewal certificate receipt to an applicant who meets the requirements of A.R.S. § 32-2074 and R4-26-205.
- G.** The Board shall send a written notice of expiration of license to an applicant who fails to meet the requirements of A.R.S. § 32-2074 and R4-26-207. The notice of expiration is fully effective upon mailing to the applicant's last known address of record in the Board's file.
- H.** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the time-frame ends on the next business day.

**Table 1. Time-frames (in days) for Processing Applications**

<b>Type of Time frame</b>	<b>Statutory or Rule Authority</b>	<b>Administrative-Completeness-Time frame</b>	<b>Time to Respond to Notice of Deficiency</b>	<b>Substantive Review-Time frame</b>	<b>Time to Respond to Request for Additional Information</b>	<b>Overall-Time frame</b>
Approval or denial to take the national examination	A.R.S. § 32-2071; A.R.S. § 32-2071.01; A.R.S. § 32-2072; A.A.C. R4-26-204	30	240	60	240	90
Approval or denial to take additional examination	A.R.S. § 32-2071; A.R.S. § 32-2071.01; A.R.S. § 32-2072; A.A.C. R4-26-204	30	240	60	240	90
Approval or denial to issue temporary license	A.R.S. § 32-3071 A.R.S. § 32-2073	30	240	60	240	90
Approval or denial for licensure	A.R.S. § 32-2071; A.R.S. § 32-2071.01	30	240	60	240	90
Approval or denial of application for renewal of license	A.R.S. § 32-2074 A.A.C. R4-26-205	60	No time specified	90	No time specified	150

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Approval or denial of renewal application for reinstatement	A.R.S. § 32-2074; A.A.C. R4-26-206	60	No time specified	90	No time specified	150
Approval or denial of extension for continuing education requirement	A.R.S. § 32-2074; A.A.C. R4-26-207	60	No time specified	90	No time specified	150

<u>Type of Time-frame</u>	<u>Statutory or Rule Authority</u>	<u>Administrative Completeness Time-frame</u>	<u>Time to Respond to Notice of Deficiency</u>	<u>Substantive Review Time-frame</u>	<u>Time to Respond to Request for Additional Information</u>	<u>Overall Time-frame</u>
<u>Approval or denial to take the national examination</u>	<u>A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204</u>	<u>30</u>	<u>240</u>	<u>60</u>	<u>240</u>	<u>90</u>
<u>Approval or denial of application for licensure, by examination waiver</u>	<u>A.R.S. §§ 32-2071, 32-2071.01, 32-2072(C)(1)</u>	<u>30</u>	<u>240</u>	<u>60</u>	<u>240</u>	<u>90</u>
<u>Approval or denial of application for licensure by credential</u>	<u>A.R.S. §§ 32-2071.01, 32-2072; and A.A.C. R4-26-203.01</u>	<u>30</u>	<u>240</u>	<u>60</u>	<u>240</u>	<u>90</u>
<u>Approval or denial to take additional examination</u>	<u>A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204</u>	<u>30</u>	<u>240</u>	<u>60</u>	<u>240</u>	<u>90</u>
<u>Approval or denial of application for renewal of license</u>	<u>A.R.S. § 32-2074; A.A.C. R4-26-205</u>	<u>60</u>	<u>N/A</u>	<u>90</u>	<u>N/A</u>	<u>150</u>
<u>Approval or denial of application for reinstatement of expired license</u>	<u>A.R.S. § 32-2074; A.A.C. R4-26-206</u>	<u>60</u>	<u>N/A</u>	<u>90</u>	<u>N/A</u>	<u>150</u>
<u>Approval or denial of extension for continuing education requirement</u>	<u>A.R.S. § 32-2074; A.A.C. R4-26-207</u>	<u>60</u>	<u>N/A</u>	<u>90</u>	<u>N/A</u>	<u>150</u>

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 5. LAW ENFORCEMENT MERIT SYSTEM COUNCIL**

**PREAMBLE**

**1. Sections Affected**

R13-5-101  
R13-5-102  
R13-5-201  
R13-5-302  
R13-5-304  
R13-5-308

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend

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R13-5-309	Amend
R13-5-315	Amend
R13-5-316	Amend
R13-5-504	Amend
R13-5-506	Amend
R13-5-703	Amend
R13-5-704	Amend

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

Authorizing statute: A.R.S. § 41-1830.12(A)

Implementing statutes: A.R.S. §§ 41-382(19)(a), 41-1714, 41-1830.11, 41-1830.12, 41-1830.13, and 41-1830.14

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 4592, November 1, 2002

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

Name: Commander. C. H. Johnston, Business Manager

Address: Law Enforcement Merit System Council  
P.O. Box 6638  
Phoenix, AZ 85005

Telephone: (602) 223-2286

Fax: (602) 223-2096

E-mail: Cjohnston@dps.state.az.us

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

The Law Enforcement Merit System Council (Council) completed a major rewrite of the rules on May 10, 2000. It was anticipated that some minor revisions would be needed following such a major rewrite. This is another revision intended to clarify the rules.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, any analysis of each study and other supporting material:**

Not applicable

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

Not applicable

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

Throughout the proposed rulemaking, numbers have been changed to conform with the format established by the Secretary of State and the Governor's Regulatory Review Council. Other changes were made to correct punctuation or misuse of words in order to clarify the rule. These will not be addressed individually.

**R13-5-102**

The revision of R13-5-102 will not have an economic impact. It changes the term "elect" to "select" in subsection (C) to be consistent with the statute. Subsections (D) and (G) are being modified for clarification only.

**R13-5-201**

The revision of R13-5-201 will have a minor economic impact upon the Department by allowing employees to qualify for higher pay levels sooner. By receiving credit for time in grade upon reclassification to another classification, the employee will qualify for the higher pay level sooner than they would have otherwise qualified. However, this will provide a benefit to the employee by crediting them with the time they have actually spent doing the work in that position.

**R13-5-302**

The revision in R13-5-302 should provide a benefit to an agency, an employee, and the Council by clarifying the manner of notification of examination results and the method of requesting a review by the employee. This should have little economic impact on either the agency or the employee.

**R13-5-304**

A minor revision to R13-5-304(A) merely inserts some language taken from subsection (E).

The revision to R13-5-304(E) should provide a benefit to the agency, the employee, and the Council by providing a longer length of time for an employment eligibility list before it expires. This should reduce the number of examinations necessary. It should also give the employee a clear date when the employee can expect to have another opportunity to test for a classification. It will also eliminate extending the duration of a list thereby making it easier for an employee to plan for future testing.

**R13-5-308 and R13-5-309**

The revisions to R13-5-308 and R13-5-309 will be a benefit to the agency in processing the names of eligible candidates for selection as cadet officers. Because of the importance in selecting candidates to be police officers, it is necessary to deviate from the normal selection process. This revision will outline the process for selection of police officers. This will provide a benefit to the agency and the state of Arizona by providing for care in the selection of candidates for filling these critical positions.

A minor change was made to R13-5-308(D) clarifying the purpose for making a second offer to candidates on the list before cancelling the list. This makes it clear to the candidates that the list will be cancelled if all candidates decline the position. The proposed rule change is for clarification only and will not have an economic impact on either the agency or the employee.

**R13-5-315**

The change in this Section is being made to correct a typographical error. It will have no impact on either the agency or the employee.

**R13-5-316**

The establishment of a new subsection (C) will make it clear to employees what their status is when their position is reallocated and they are reclassified as a result of the reallocation. There has been a great deal of confusion as to whether the employee would be required to serve a new probationary period in the new classification when the employee continues to perform the same job they performed prior to the reallocation and reclassification. This revision will clarify this rule and should be beneficial to both the agency and the employee. The revision to subsection (D) is being done for clarification purposes only and will have no economic impact. The revision to subsection (M) is also being done for clarification purposes and will have no economic impact.

**R13-5-504**

The revision to R13-5-504 clarifies the application of Civic Duty Leave by explaining how the monies paid for Civic Duty Leave will be handled. This should provide a benefit to both the agency and the employee by clarifying when the employee is required to forward any payment to the agency and when the employee is entitled to retain the payment for Civic Duty Leave. A statute that was incorrectly referenced was deleted from subsection (A).

**R13-5-506**

The revision to R13-5-506 provides a definition for the term "seriously incapacitating" and clarifies the status of an employee who is using donated leave while waiting for a decision on an application for long-term disability. This will have a slight impact on the costs to the agency but will provide a benefit to the employee that may not otherwise be available when the wait for approval of long-term disability is beyond the employee's control.

**R13-5-703**

The revision to R13-5-703 will implement the Council's policy pertaining to hearings for suspensions from duty without pay for 24 hours, or less, or the forfeiture of annual leave for 24 hours, or less. This will have an economic impact on the Council by limiting the length of time spent on these minor disciplinary cases. Other minor changes were made to clarify the language of the rule.

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**R13-5-704**

The revision to R13-5-704 will clarify that attorneys must indicate where the factual statement is located in the Council transcript when citing the record. This will save the Council from having to search the record to locate the statement. This will be a cost saving to the Council by reducing the amount of time the Council will have to spend locating statements referenced by the attorneys.

**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: Commander. C. H. Johnston, Business Manager  
Address: Law Enforcement Merit System Council  
P.O. Box 6638  
Phoenix, AZ 85005  
Telephone: (602) 223-2286  
Fax: (602) 223-2096  
E-mail Cjohnston@dps.state.az.us

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

Following submission to the Secretary of State and the rules being published in the *Arizona Administrative Register*, written comments will be received at the address listed in item #9 for a period of 30 days after publication. A public hearing will be scheduled if one is requested. Otherwise, the record will be closed at the end of the 30-day period following the publication in the *Arizona Administrative Register*. If a public meeting is requested, the record will be closed at the end of the public meeting.

**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:**

Not applicable

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

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 5. LAW ENFORCEMENT MERIT SYSTEM COUNCIL**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R13-5-101. Definitions  
R13-5-102. Law Enforcement Merit System Council  
R13-5-201. Classification  
R13-5-302. Examinations  
R13-5-304. Employment  
R13-5-308. Hiring Preference  
R13-5-309. Selection  
R13-5-315. Employee Conduct  
R13-5-316. Probation  
R13-5-504. Civic Duty Leave  
R13-5-506. Donated Annual Leave  
R13-5-703. Appeal to the Council  
R13-5-704. Rehearing of Council Decision

**R13-5-101. Definitions**

In this Chapter, unless otherwise specified, the following terms mean:

- 1- "Abandonment of position" means failure of an employee to report to work for a period of ~~five~~ 5 consecutive working days without authorization from the employee's supervisor or manager and without good cause.
- 2- No change

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- 3. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
- 10. "Background investigation" means an inquiry to determine the character of a potential employee and may include verification and review of identity, education, employment history, personal references, credit rating, criminal history, and driving record, ~~and civil standing.~~
- 11. No change
- 12. No change
- 13. No change
- 14. No change
- 15. No change
- 16. "Classification" means one ~~4~~ or more positions requiring the same minimum qualifications, knowledge, skills, and abilities, that have the same title and pay range.
- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. No change
- 23. No change
- 24. "Contested case" ~~means a case that falls within the definition~~ has the same meaning as in A.R.S. § 41-1001(4).
- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. "Disabled person" means anyone who has a physical or mental impairment that substantially limits one ~~4~~ or more main life activities, or who has a record of impairment, or is regarded as having such impairment.
- 30. No change
- 31. "Duties" means actions or tasks ~~an action or task~~ required under the circumstances by an employee's position or classification.
- 32. No change
- 33. No change
- 34. No change
- 35. No change
- 36. "Examination plan" means a description of each phase of the examination, the weight applied to each phase of the examination, the criteria for moving from one phase of the examination to another, and any limitations as to the number of names to appear on the eligibility list. ~~whether the length the eligibility list will be limited to a specific number of names~~
- 37. No change
- 38. No change
- 39. "Fair Labor Standards Act" (FLSA) means those federal statutes at Title 29 U.S.C. § 201-219; § 251-262, ~~which is incorporated by reference and on file with the Department of the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- 40. "Family Medical Leave Act" (FMLA) means a medical leave of absence, with or without pay, taken by an eligible employee under a policy adopted by an agency head from options authorized in the federal regulations for the Family and Medical Leave Act. 29 U.S.C. § 2611, et seq., ~~which is incorporated by reference and on file with the Department of the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- 41. "For cause" means any improper behavior, unacceptable performance, or violation of Council rules that leads to disciplinary action or dismissal for any reason listed in A.R.S. § 41-1830.15 or this Chapter.
- 42. No change
- 43. No change
- 44. No change
- 45. No change
- 46. No change

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47. No change  
48. No change  
49. No change  
50. No change  
51. No change  
52. No change  
53. No change  
54. No change  
55. "Overtime" means time worked by a non-exempt employee in excess of 40 hours in a work week or in excess of 160 hours in a 28-day cycle. ~~Overtime may include time worked when required to return to work from annual leave.~~  
"Part-time appointment" means the appointment of an employee to work a schedule of less than 40 hours per week.  
"Part-time employee" means an employee appointed to work less than 40 scheduled hours per week.  
56. No change  
57. No change  
58. No change  
59. "Permanent status" means the employment rights achieved after satisfactorily completing the probationary period for ~~a~~ the classification.  
60. No change  
61. No change  
62. No change  
63. "Promotion" means the appointment of an employee to a position in another classification with a higher maximum pay ~~at the maximum~~ level.  
64. "Provisional appointment" means an employee who is appointed to a position in a classification for which there is no eligibility list. ~~without being on an eligibility list and who serves until an eligibility list can be established for the position.~~  
65. No change  
66. No change  
67. No change  
68. No change  
69. No change  
70. No change  
71. No change  
72. No change  
73. No change  
    a. No change  
    b. No change  
    e. No change  
74. No change  
75. No change  
76. No change  
77. "Responsibilities" means actions or tasks for which the employee is accountable ~~the accountability for actions or tasks performed by an employee~~ in a position or classification.  
78. "Retirement" means a voluntary separation from the agency by an employee who is eligible for an immediate disbursement from ~~to participate in~~ a retirement plan.  
79. No change  
80. ~~"Skills"~~ "Skill" means an individual's level of proficiency or competency in performing a specific task.  
81. No change  
82. No change  
83. No change  
84. No change  
85. No change  
86. No change  
87. No change  
"Time in grade" means time spent in a classification.  
88. No change  
89. No change  
90. No change

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91. "Veteran" means an individual who served in the armed forces of the United States U.S. and was discharged from military service under honorable conditions after more than six month's of active duty and as defined in 37 U.S.C.A. § 101 and A.R.S. § 38-492.
92. "Work week" means ~~the~~ a 40-hour time period an employee works ~~is assigned to work~~ between Saturday and Friday, including ~~actual time worked and~~ any leave time taken.

**R13-5-102. Law Enforcement Merit System Council**

- A. No change
- B. No change
- C. ~~Selection Election~~ of Officers. The Council shall ~~select~~ ~~elect~~ a Chair and Vice-Chair from its members at a regular meeting in November or December of even-numbered years. The Chair and Vice-Chair shall hold office for a period of two ~~2~~ years, or until their successors are selected ~~elected~~.
- D. Meetings. The Chair, or in the Chair's absence the Vice-Chair, shall call a meeting of the Council when a meeting is needed. The Council shall hold meetings at a location ~~convenient locations~~ to the participants whenever possible. Except for the Council's executive sessions, the Council's meetings shall remain open to the public and the Chair shall give interested parties an opportunity to be heard.
- E. No change
- F. No change
- G. Council rules. ~~The Council's rules shall apply to all employees in any agency under the Council's rules.~~ All employees shall receive a copy of the Council's rules.

**R13-5-201. Classification**

- A. No change
- B. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. Time in grade. An employee reclassified as a result of a reallocation shall be credited with time in grade, as follows:
1. An employee shall be credited with time-in-grade for the time spent in the position if the employee continues to perform the same duties previously performed in that position.
  2. An employee shall not be credited with time-in-grade for the time spent in the position if significant changes were made to the duties and responsibilities of the position to qualify for the higher classification.
  3. Time-in-grade status for a part time employee shall be calculated on the basis of actual hours worked.
- ~~I.~~ No change
- ~~J.~~ No change

**R13-5-302. Examinations**

- A. No change
- B. No change
- C. No change
1. No change
  2. No change
  3. No change
  4. No change
- D. No change
- E. No change
1. No change
  2. No change
  3. No change
- F. No change
1. No change
  2. No change
  3. No change
  4. No change
- G. No change
1. No change
  2. No change

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- ~~H.~~ ~~Reviewing exam results. Within 10 business days after receiving a notice of examination results, an applicant may request that the business manager review all examination questions, answers, scoring methods, procedures, and decisions.~~  
Examination Results Notification. Human Resources shall mail notification of examination results to each competitor. Within ten business days after the examination results are mailed, a competitor may file a written request that the business manager review all examination questions, answers, scoring methods, procedures, and decisions. A competitor requesting a business manager's review shall outline the specific areas the competitor believes are in error.
1. If the business manager's review discloses an error, the business manager shall return the examination to Human Resources for correction.
  2. If an error affects the scores of other competitors, Human Resources shall revise all incorrect scores.
  3. If the business manager determines the error is not correctable and the defective portion of the exam is critical to the examination process, Human Resources shall re-administer that portion of the examination under guidelines provided by the business manager.
- I. No change
- ~~J.~~ ~~Notifying a competitor. Upon completion of an examination process, Human Resources shall notify a competitor of the competitor's final score.~~
- ~~K.~~~~J.~~ No change

**R13-5-304. Employment**

- A. Establishing an employment eligibility list. Human Resources shall develop, and the business manager shall establish, employment eligibility lists for various classifications, as needed. For each list, Human Resources shall arrange the names of competitors in descending order of the competitor's final examination scores.
- B. No change
- C. No change
- D. No change
- E. Duration of an eligibility list. ~~The business manager shall establish each~~ Each new or merged list remains in effect for 1 year 18 months from its effective date. ~~Before a list expires, the Council may extend the duration or cancel a list. The Council may extend a list for no more than 1 6-month period. The maximum duration of a list shall be 18 months., except in the event there is a court order placed on the list preventing promotions from the list by the agency; Before a list expires, the Council may cancel the list.~~
1. No change
  2. No change
  3. Conducting continuous or periodic testing. If the Council determines that a classification requires continuous or periodic testing, the business manager may authorize Human Resources to conduct examinations regardless of the existence of an employment list in that classification. Human Resources shall merge the names of candidates tested with names on the existing employment list for that classification as described in subsection (E)(2). ~~The names of candidates tested will then be merged with names on the existing employment list for that classification in the manner described in R13-5-304(E)(2).~~
  4. No change
- F. No change
1. No change
  2. No change
  3. No change

**R13-5-308. Hiring Preference**

- A. No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
- B. Referring candidates. Except for the classification of cadet officer, Human Resources shall contact eligible candidates in the ~~above~~ order of preference specified in subsection (A) to be interviewed. Candidates shall advise Human Resources if they wish to be interviewed.
1. If there is one ~~For 1~~ vacant position, Human Resources shall refer the three 3 interested candidates standing highest on each of the lists. Human Resources may refer less than three 3 names when there are fewer than three 3 candidates on the lists.
  2. For multiple vacancies, Human Resources shall refer one 1 more candidate for each additional vacant position from the lists.

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3. If a list is not available, the business manager may refer candidates from lists of the same or higher level as the position being filled.

**C.** Referring candidates for cadet officer. Human Resources shall make a job offer conditional on passing the background investigation to as many of the highest ranking candidates on the list as Human Resources deems is necessary to fill existing positions.

~~**D.**~~ Canceling a list. If all candidates on the promotional eligibility list advise Human Resources that they are not interested in a position, Human Resources shall make a second offer to all candidates on the list. The second offer shall include a notification to each candidate that if all candidates decline the position, the list will be cancelled. If all candidates on the list decline the second offer, the business manager shall cancel the list. Human Resources shall then initiate a process to create a new list for the classification.

**R13-5-309. Selection**

**A.** No change

**B.** Interviewing. If the hiring manager does not select a transferee or the top candidate from the certified list, The the hiring manager shall interview all candidates requesting a transfer, and may interview up to three candidates from each certified list. The hiring manager may select a transferee or the top candidate from a certified list without conducting an interview.

**C.** No change

**D.** Selection of cadet officer. A candidate receiving a job offer, who is not disqualified during the background investigation, shall be appointed to the classification.

~~**E.**~~ No change

~~**F.**~~ No change

**R13-5-315. Employee Conduct**

**A.** No change

**B.** Fitness for duty. If a supervisor has reasonable doubt that an employee is psychologically or physically able unable to perform the essential duties of the position, the supervisor shall request the agency head's permission to have the employee evaluated by a psychologist or physician determined by the agency. Upon approval, Human Resources shall schedule an appointment, and the employee shall submit to an evaluation. The examiner shall provide the agency head with conclusions, recommendations, and other information necessary to decide if the employee is fit for duty.

**C.** No change

**D.** No change

**E.** No change

**F.** No change

**G.** No change

**R13-5-316. Probation**

**A.** No change

**B.** No change

**C.** Effects of reclassification on probation. The probationary status of an employee reclassified as a result of a classification and compensation maintenance review under R13-5-201(H) is as follows:

1. A permanent status employee shall not be required to serve a new probationary period if the employee continues to perform the same duties previously performed in the reclassified position.

2. A probationary employee shall continue to serve the probationary period.

~~**D.**~~ Effect of military service on probation. A probationer may be called into active military service. If a the probationer is called into active military service and returns to the agency and satisfactorily completes probation, the employee's personnel record shall show that the employee achieved permanent status on the date the employee would have completed probation if military service had not intervened.

~~**E.**~~ No change

~~**F.**~~ No change

~~**G.**~~ No change

~~**H.**~~ No change

~~**I.**~~ No change

~~**J.**~~ No change

~~**K.**~~ No change

1. No change

2. No change

3. No change

4. No change

~~**L.**~~ No change

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~~L.M.~~ Probation for a returning employee. If a separated employee is reinstated to a classification previously held with permanent status, the agency head may require the employee to serve an initial probationary period. When a separated employee is recalled or reinstated into a classification different from any classification previously held with permanent status, the employee shall serve a probationary period. If an employee is separated from an agency while serving an initial probation, the employee ~~shall will~~ be required to serve an initial probation upon being recalled or reinstated.

~~M.N.~~ No change

~~N.O.~~ No change

1. No change

2. No change

~~O.P.~~ No change

**R13-5-504. Civic Duty Leave**

~~A. Voting. Leave to vote~~ Under conditions outlined in A.R.S. § ~~16-401 and~~ 16-402, an employee may be absent with pay for the time required to vote.

~~B. Jury duty.~~ An employee shall report for jury duty as directed by a summons unless officially excused by the Jury Commissioner for reasons under A.R.S. § 21-202. When summoned, the employee shall notify or provide the immediate supervisor with a copy of the summons.

1. While on jury duty ~~leave~~, an employee shall be absent with pay.

2. Upon receipt of a summons for jury duty, a commissioned employee shall notify the Jury Commissioner of the employee's peace officer status.

~~C. Witness.~~ An employee subpoenaed as a witness shall be absent with pay, unless the subpoena is unrelated to agency business.

~~D. Fees.~~ An employee ~~on paid for~~ civic duty ~~leave under this Section~~ shall forward ~~to the agency~~ all jury duty or witness fees to the agency.

~~E. Vehicle mileage reimbursement.~~ An employee may retain any mileage reimbursement paid by the court for the use of a privately owned vehicle. An employee shall remit to the agency any mileage reimbursement for use of a state owned vehicle.

**R13-5-506. Donated Annual Leave**

~~A. No change:~~

1. No change

2. No change

3. No change

4. "Extended illness or injury" means ~~an employee is unable to perform the employee's job duties for between a period of at least three 3 consecutive weeks and to a maximum of six 6 consecutive months.~~

5. "Seriously incapacitating" means an illness or injury that renders an employee unable to perform the employee's duties, or that confines an immediate family member to home or hospital.

~~B. No change~~

~~C. Qualifying for donated leave.~~ An employee may request and use donated annual leave if the employee has ~~an a seriously incapacitating and~~ extended illness or injury or a member of the employee's immediate family has ~~an a seriously incapacitating extended~~ illness or injury and the employee has exhausted all available leave balances.

1. An employee requesting donated leave shall submit a written request for donated leave under the agency's policy. An agency shall approve only those requests that qualify for donated leave under this Section.

2. Except as provided in subsection (C)(3), an ~~An~~ employee receiving donated leave shall not use more than ~~six 6~~ consecutive months of donated leave per illness or injury. ~~If the employee who is ill or injured applies for long-term disability (LTD) insurance by the end of the 5th month of leave, the employee may continue to use donated leave until an LTD determination is made.~~

3. If an employee who has a seriously incapacitating and extended illness or injury applies for long-term disability (LTD) insurance by the end of the fifth month of leave, the employee may continue to use donated leave until an LTD determination is made.

~~D. No change~~

~~E. No change~~

**R13-5-703. Appeal to the Council**

~~A. No change~~

~~B. No change~~

~~C. No change~~

~~D. No change~~

~~E. No change~~

~~F. No change~~

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- G.** No change
- H.** No change
- I.** Conduct of hearings. The Council may sit as a whole at a hearing, or the chair may designate one or more of its members to hold the hearing. A record of the hearing shall be reviewed by a majority of the Council prior to making a decision in those cases where only one member has been designated to hear a case. Only a Council member who was present at a hearing, or who reviewed the record may participate in making the decision. The member or members designated to preside at a hearing may administer oaths, subpoena and require attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or outside the state to be taken in the manner prescribed by law for like depositions in civil cases in the Superior Court of this state.
- J.** No change
- K.** No change
- L.** No change
1. Within 20 days after receiving a notice of appeal, the agency shall provide all material relating to the case, including all investigation materials, to the employee. For the purpose of this ~~subsection~~ rule, hand-written notes substantially incorporated within a report shall not be considered investigation materials.
  2. No change
  3. No change
  4. No change
- M.** Motions. All motions shall be in writing and filed no later than 20 days prior to the hearing. A response shall be filed in writing within 10 days after service of the motion. The chair may designate one or more members of the Council to hear and rule on a motion. ~~with the exception of a A motion to dispose of the case shall require a vote of a majority of the Council. A motion not filed in accordance with this rule may be precluded by the Council.~~
- N.** Pleadings. The Council may strike a pleading not filed in accordance with this Section.
- ~~**N.O.**~~No change
1. No change
    - a. No change
    - b. No change
    - c. No change
  2. No change
  3. No change
- ~~**O.P.**~~No change
- O.** Minor discipline hearings. When the Council hears appeals of suspension without pay of 24 hours or less or the deduction of 24 hours or less from an employee's annual leave balance, each party shall have no more than three hours to present evidence unless the Council allows more time to assure a fair hearing.
- ~~**P.R.**~~No change
- ~~**Q.S.**~~Settlement of disputes. The parties may agree to settle any matter pending before the Council. The parties shall submit the terms of settlement to the Council. If the Council approves the settlement, the settlement becomes final. If no settlement is reached, or if the proposed settlement is revoked or rejected by the Council, or withdrawn by either party, or if the settlement agreement judgment is later vacated or reversed by the court, neither the plea discussion nor any resulting agreement or judgment shall be admissible against the employee in any hearing before the Council on this matter.
- ~~**R.T.**~~No change
- ~~**S.U.**~~No change
- R13-5-704. Rehearing of Council Decision**
- A.** Motion for rehearing.
1. Except as provided in subsection (C), any party in a contested case or appealable agency action may file a written motion for rehearing within ~~thirty~~ 20 days after service of the decision. The requesting party shall specify the grounds for a rehearing, as provided in subsection (B). A respondent may file a response to the motion within ~~fifteen~~ 10 days after service.
  2. A party filing a post hearing motion shall include references to the record where appropriate.
  - ~~2-3.~~ The Council may require the parties to file written memoranda ~~memorandums~~ upon the issues raised in the motion and may permit oral argument.
  - ~~3-4.~~ The Council may grant a rehearing on all or part of the issues. If a rehearing is granted ~~approved~~, the Council shall specify the grounds for the rehearing, and the rehearing shall cover only those matters.
- B.** No change
1. No change
  2. No change
  3. No change
  4. No change

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- 5. The decision was not supported by the evidence; or
  - 6. No change
- C.** No change