



Notices of Proposed Rulemaking

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

Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
4425 W. Olive, Suite 140  
Glendale, AZ 85302  
Telephone: (623) 463-2727, ext. 131  
Fax: (623) 934-0583  
E-mail: rxcop@cox.net

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

The Board's five-year rule review in September 2002 identified R4-23-101 and R4-23-103 through R4-23-109 for amending to increase clarity, conciseness, and understandability. These Sections deal with the processes and procedures of formal hearings conducted by the Board. The Governor's Regulatory Review Council's staff recommended that R4-23-103 through R4-23-109 be repealed and that new language be written to comply with A.R.S. Title 41, Chapter 6, Article 10. The proposed rules contain 19 new Sections (R4-23-111 through R4-23-129) that establish the necessary processes and procedures for formal hearings conducted by the Board. The proposed rules include necessary style, format, grammar, and punctuation changes to comply with the rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the processes and procedures for formal hearings conducted by the Board.

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

The proposed rules will impact the Board, pharmacists, interns, pharmacy technicians, and pharmacies. The proposed rules will have no economic impact on pharmacists, interns, pharmacy technicians, pharmacies, or the public. The proposed rules will have minimal economic impact on the Board. The impact on the Board will be usual rulemaking-related costs which are minimal.

The public, Board, pharmacists, pharmacy technicians, and pharmacies benefit from rules that are clear, concise, and understandable. The proposed rules benefit the public, the Board, and the pharmacy community by clearly establishing the processes and procedures for formal hearings conducted by the Board.

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

Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
4425 W. Olive, Suite 140  
Glendale, AZ 85302  
Telephone: (623) 463-2727, ext. 131  
Fax: (623) 934-0583  
E-mail: rxcop@cox.net

**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:**

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, January 12, 2004. An oral proceeding is scheduled for:

Date: January 12, 2004  
Time: 10:00 a.m.  
Location: 4425 W. Olive, Suite 140  
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed in item #9.

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

Not applicable

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

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 1. ADMINISTRATION**

Section

R4-23-101.	General
R4-23-103.	<del>Procedure: witnesses</del> <u>Repealed</u>
R4-23-104.	<del>Hearings</del> <u>Repealed</u>
R4-23-105.	<del>Service</del> <u>Repealed</u>
R4-23-106.	<del>Record and transcript</del> <u>Repealed</u>
R4-23-107.	<del>Findings and evidence</del> <u>Repealed</u>
R4-23-108.	<del>Decisions and orders</del> <u>Repealed</u>
R4-23-109.	<del>Appeal</del> <u>Repealed</u>
<u>R4-23-111.</u>	<u>Notice of Hearing</u>
<u>R4-23-112.</u>	<u>Ex Parte Communications</u>
<u>R4-23-113.</u>	<u>Motions</u>
<u>R4-23-114.</u>	<u>Computing Time</u>
<u>R4-23-115.</u>	<u>Filing Documents</u>
<u>R4-23-116.</u>	<u>Continuing or Expediting a Hearing; Reconvening a Hearing</u>
<u>R4-23-117.</u>	<u>Vacating a Hearing</u>
<u>R4-23-118.</u>	<u>Prehearing Conference</u>
<u>R4-23-119.</u>	<u>Subpoenas</u>
<u>R4-23-120.</u>	<u>Telephonic Testimony</u>
<u>R4-23-121.</u>	<u>Rights and Responsibilities of Parties</u>
<u>R4-23-122.</u>	<u>Conduct of Hearing</u>
<u>R4-23-123.</u>	<u>Failure of Party to Appear for Hearing</u>
<u>R4-23-124.</u>	<u>Witnesses; Exclusion from Hearing</u>
<u>R4-23-125.</u>	<u>Proof</u>
<u>R4-23-126.</u>	<u>Disruptions</u>
<u>R4-23-127.</u>	<u>Hearing Record</u>
<u>R4-23-128.</u>	<u>Rehearing or Review and Appeal of Decision</u>
<u>R4-23-129.</u>	<u>Notice of Judicial Appeal; Transmitting the Transcript</u>

**ARTICLE 1. ADMINISTRATION**

**R4-23-101. General**

- A. ~~Notice, part of record, amendment:~~ These rules apply Title 4, Chapter 23 applies to all actions and proceedings of the Board and shall be deemed a part of the record in ~~every such any Board~~ any Board action or proceeding without formal introduction of, or reference to the ~~same rules~~. All parties are A party to a Board action is deemed to have knowledge of the ~~same rules~~. A copy will be supplied to licensees free of charge by the Board and to others for the approximate cost of printing. The rules are subject to amendment at any time, and the Board may adopt additional rules whenever, in its judgment, the same are advisable. These rules supersede existing rules of the Board. The Board office shall provide a copy of the rules:**
1. To each license applicant who submits a completed application packet; and
  2. To each permit applicant during the final compliance inspection after the Board approves the permit application.
- B. ~~Excuse of failure to comply:~~ The Board, when it is within its jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with ~~any of these the~~ the rules.**
- C. ~~Extension of time:~~ The Board, when it is within its jurisdiction, may grant an extension of time within which to comply with any rule when it shall deem ~~such the~~ the extension to be ~~proper and reasonable~~ in the interest of justice.**

**R4-23-103. Procedure: witnesses Repealed**

- ~~A. Pleading, etc., printed or typewritten: Pleadings, depositions, briefs, and other papers of importance shall be printed or typewritten, and when printed only one side of the paper shall be used.~~
- ~~B. Witnesses: All parties desiring witnesses summoned to testify on a hearing before the Board must make written application for subpoenas to issue stating the substance of what each witness will testify.~~
- ~~C. Subpoenas: Any party desiring the Board to issue a subpoena to compel the appearance of a witness at any hearing shall make written application therefor. Service of such subpoena shall be made at the expense of the party applying for same.~~
- ~~D. Witness' depositions:
  1. When any party desires to take the oral deposition of any witness residing outside the state, such party shall file with the Board a petition for permission to take the deposition of such witness, showing the name and address of such witness and setting forth specifically and in detail the nature and substance of the testimony expected to be given by such witness. Unless it appears from such petition that the testimony of such witness is relevant and material, said petition may be denied. If such statement be not made specifically and in detail, so that the Board may determine therefrom the relevancy and materiality of the testimony of such witness, such petition may be disregarded.
  2. Upon the granting of such petition, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure.
  3. The Board may, in its discretion, designate the time and place and the officer before whom such deposition may be taken.
  4. The expense of any deposition must be borne by the party applying to the Board for permission to take same.
  5. Any party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board in duplicate a statement showing the name and address of such witness and containing the interrogatories such party wishes such witness to answer. The adverse party may file in duplicate, cross interrogatories within ten days following the service upon him of a copy of said statement.
  6. Any party having any objection to the form of any interrogatory or cross-interrogatory may file a statement of his objections with the Board within five days after the service upon him of the interrogatories or cross-interrogatories and may suggest to the Board any an amendment to any interrogatory or cross-interrogatories. The Board may amend, add or strike out any interrogatory when in its judgment it is proper to do so.~~

**R4-23-104. Hearings Repealed**

- ~~A. Hearings; restraining order: Except as provided in A.R.S. § 32-1928, subsection (B), a certificate of licensure, as required of practitioners, permit, as required of establishments, shall be denied, revoked, suspended, or placed on probation only after due notice under R4-23-104(B), and only after hearing under R4-23-104(D). Failure to appear when requested shall leave the Board free to act upon the evidence and other information at hand without further notice to the licensee. Further, the licensee must be given an opportunity to show compliance with all lawful requirements for the retention of the license.~~
- ~~B. Notice of hearing: Notice shall be given to all interested parties at least 20 days prior to the date set for the hearing.~~
- ~~C. The notice shall include:
  1. A statement of the time, place, and nature of the hearing.
  2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
  3. A reference to the particular sections of the statutes and rules involved.
  4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application more definite and detailed statements shall be furnished.~~
- ~~D. Hearing procedures: A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. A decision or order of the Board must be supported by substantial, reliable, and probative evidence. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Every person who is a party to such proceedings shall have the right to be represented by counsel to submit evidence in open hearing and shall have the right of cross-examination. All witnesses will testify under oath.~~
- ~~E. Opportunity to respond: Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved. The deposition of any witness shall be taken in such manner as in the judgment of the Board is best calculated to ascertain the substantial rights of the parties and to expedite the investigation of the facts. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require it to be taken upon written interrogatories and vice versa. The deposition or answers to the interrogatories must be returned and filed with the Board within 45 days after permission for the taking of same is required.~~
- ~~F. Power to join an interested party: Any Board member may join as a party applicant or as a party defendant, any person, firm, or corporation, who may or might appear to have an interest in the matter before the Board.~~
- ~~G. Stipulation at hearing: The parties may stipulate to any facts that are not in dispute. Such stipulation may be in writing or may be made orally by reading the same into the record at the hearing; and will be binding upon the parties unless the Board grants permission to withdraw therefrom. The Board may, where it considers such action proper, set aside any stip-~~

ulation and proceed to ascertain the true facts. Further, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

- ~~H. Continuance of hearing: If, at the conclusion of a hearing held before a Board member, either party desires a further hearing in order to introduce further evidence, such party shall state, specifically and in detail, the nature and substance of the evidence desired to be produced, the names and addresses of the witnesses and the reasons why such party was unable to produce such evidence and such witnesses at the hearing. If it appears to the Board member presiding at the hearing that, with the exercise of due diligence, such party could have produced such witnesses or such evidence at the hearing, or that such evidence is cumulative or immaterial or otherwise not necessary, the Board member may submit the case for decision and deny the request for such further hearing; or may on its own motion continue the hearing. When a hearing is conducted, the matter shall be deemed submitted, subject to the jurisdiction of the Board to make any further or independent investigation it may determine advisable in the premises.~~
- ~~I. Files public records; notice of contents: The files of the Board will be open for inspection by all parties to the proceeding only, and they are deemed to have notice of all reports and other documents filed therein. Every party is deemed to admit the truth and correctness of every material fact or statement contained in any report or document on file, unless a written objection to or denial of such fact or facts be made and filed with the Board.~~

**R4-23-105. Service Repealed**

- ~~A. Service, same as civil action: Service of any decision, order, notice, subpoena, or other processes may be made personally in the same manner as a summons is served in a civil action; and in such event service shall be deemed complete at the time actually made.~~
- ~~B. Service by mail: Service may also be made of any decision, order, notice, subpoena, or other process by enclosing the same or a copy thereof in a sealed envelope and depositing the same in the United States mail, with postage prepaid, addressed to the party to be served. Such service may be made to the address of such party as shown by the records of the Board. Service shall be deemed complete within six days after the date of mailing. In computing time, the date of mailing is not to be counted; all intermediate Sundays and holidays are to be counted; if the last day falls on Sunday or a holiday, it is not to be counted, but service will be completed the following date.~~
- ~~C. Service upon attorney: Service upon an attorney who has appeared in behalf of a party will constitute service upon such party.~~
- ~~D. Service, proof of: Proof of service may be made by the affidavit or oral testimony of the person making such service.~~

**R4-23-106. Record and transcript Repealed**

- ~~A. Record: The record in a contested case shall include:
  1. All pleadings, motions, or interlocutory rulings.
  2. Evidence received or considered.
  3. A statement of matters officially noticed.
  4. Objections and offers of proof and rulings thereon.
  5. Proposed findings and exceptions.
  6. Any decision, opinion, or report by the officer presiding at the hearing.
  7. All staff memoranda, other than privileged communications, or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.~~
- ~~B. Transcripts: Oral proceedings or any part thereof shall be recorded manually or by a recording device and shall be transcribed on request of any party. The cost of such transcript shall be paid in accordance with the provisions of R4-23-109(B).~~

**R4-23-107. Findings and evidence Repealed**

- ~~A. Findings: Findings of facts shall be based exclusively on the evidence and on matters officially noticed.~~
- ~~B. Evidence: See R4-23-104(D).~~
- ~~C. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, parties shall be given an opportunity to compare the copy with the original.~~
- ~~D. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data, and the agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.~~

**R4-23-108. Decisions and orders Repealed**

~~Any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the finding. Parties shall be notified either personally or by mail to their last known address of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record.~~

**R4-23-109. Appeal Repealed**

- ~~A.~~ Notice of an appeal from the decision of the Board shall be made by service on the executive director at the office of the Board within 30 days after the Board has notified the person aggrieved of its decision.
- ~~B.~~ The party appealing may demand from the Board, in writing, a certified transcript of the record of the Board relating to its decision. Within 30 days after receipt of the demand, accompanied by payment of a fee of the current prevailing rate for transcript, and \$1.00 for certification thereof, the Board shall make and certify the transcript and file it with the county clerk of the court to which the appeal has been taken.
- ~~C.~~ When an appeal is taken to the superior court from the order or decision of the Board, such order or decision shall remain in effect pending final determination of the matter unless stayed by the court, on a hearing after notice to the Board, and upon a finding by the court there is probable cause for appeal, warranting such stay.
- ~~D.~~ Rehearing or review of decision
- ~~1.~~ Except as provided in paragraph (7), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this paragraph, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.
  - ~~2.~~ A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within ten days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
  - ~~3.~~ A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
    - ~~a.~~ Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
    - ~~b.~~ Misconduct of the Board or its hearing officer or the prevailing party;
    - ~~c.~~ Accident or surprise which could not have been prevented by ordinary prudence;
    - ~~d.~~ Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
    - ~~e.~~ Excessive or insufficient penalties;
    - ~~f.~~ Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
    - ~~g.~~ That the decision is not justified by the evidence or is contrary to law.
  - ~~4.~~ The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in paragraph (3). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
  - ~~5.~~ Not later than ten days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. 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.
  - ~~6.~~ When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
  - ~~7.~~ If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.
  - ~~8.~~ For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
  - ~~9.~~ To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing or decisions of the Board, such statutory provisions shall govern.

**R4-23-111. Notice of Hearing**

- ~~A.~~ Except as provided in A.R.S. § 32-1928(B), the Board shall revoke, suspend, place on probation, or fine a licensee or permittee only after:
- ~~1.~~ Notice served under this Section, and
  - ~~2.~~ Hearing conducted under R4-23-122.

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- B.** The Board shall give notice of hearing to a party at least 30 days before the date set for the hearing in the manner described in R4-23-115(E) and (F). The notice shall include:
1. A statement of the date, time, place, and nature of the hearing;
  2. A statement of the legal authority and jurisdiction for the hearing;
  3. A reference to the particular section or sections of statute and rule involved; and
  4. A statement of the violation or issue or violations or issues, if more than one, asserted by the Board or other party.

**R4-23-112. Ex Parte Communications**

A party shall not communicate, either directly or indirectly, with a Board member about any substantive issue in a pending matter unless:

1. All parties are present;
2. It is during a scheduled proceeding, where an absent party fails to appear after proper notice; or
3. It is by written motion with copies to all parties.

**R4-23-113. Motions**

**A.** Purpose. A party requesting a ruling from the Board shall file a motion. Motions may be made for rulings such as:

1. Continuing or expediting a hearing pursuant to R4-23-116;
2. Vacating a hearing pursuant to R4-23-117;
3. Prehearing conference pursuant to R4-23-118;
4. Quashing a subpoena pursuant to R4-23-119;
5. Telephonic testimony pursuant to R4-23-120; and
6. Reconsideration of a previous order pursuant to R4-23-121.

**B.** Form. Unless made during a prehearing conference or hearing, motions shall be made in writing and shall conform to the requirements of R4-23-115. All motions, whether written or oral, shall state the factual and legal grounds supporting the motion, and the requested action.

**C.** Time Limits. Absent good cause, or unless otherwise provided by law or these rules, written motions shall be filed with the Board office at least 15 days before the hearing. A party demonstrates good cause by showing that the grounds for the motion could not have been known in time, using reasonable diligence and:

1. A ruling on the motion will further administrative convenience, expedition or economy; or
2. A ruling on the motion will avoid undue prejudice to any party.

**D.** Response to Motion. A party shall file a written response stating any objection to the motion within five days of service, or as directed by the Board.

**E.** Oral Argument. A party may request oral argument when filing a motion or response. The Board may grant oral argument if it is necessary to develop a complete record.

**F.** Rulings. Rulings on motions, other than those made during a prehearing conference or the hearing, shall be in writing and served on all parties.

**R4-23-114. Computing Time**

In computing any time period, the Board shall exclude the day from which the designated time period begins to run. The Board shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, the Board shall exclude Saturdays, Sundays, and legal holidays.

**R4-23-115. Filing Documents**

**A.** Docket. The Board shall open a docket for each hearing. All documents filed in a matter with the Board shall be date stamped on the day received by the Board office and entered in the docket.

**B.** Definition. "Documents" include papers such as complaints, answers, motions, responses, notices, and briefs.

**C.** Form. A party shall state on the document the name and address of each party served and how service was made under subsection (E). A document shall contain the Board caption and the Board's docket number.

**D.** Signature. A document filed with the Board shall be signed by the party or the party's attorney. A signature constitutes a certification that the signer has read the document, has a good faith basis for submission of the document, and that it is not filed for the purpose of delay or harassment.

**E.** Filing and service. A copy of a document filed with the Board shall be served on all parties. Filing with the Board office and service shall be completed by personal delivery; first-class, certified, or express mail; or facsimile.

**F.** Date of filing and service. A document is filed with the Board on the date it is received by the Board office, as established by the Board office's date stamp on the face of the document. A copy of a document is served on a party as follows:

1. On the date it is personally served.
2. Five days after it is mailed by first-class or express mail.
3. On the date of the return receipt if it is mailed by certified mail.
4. On the date indicated on the facsimile transmission.

Notices of Proposed Rulemaking

**R4-23-116. Continuing or Expediting a Hearing; Reconvening a Hearing**

- A.** Continuing or expediting a hearing. When ruling on a motion to continue or expedite, the Board shall consider such factors as:
1. The time remaining between the filing of the motion and the hearing date;
  2. The position of other parties;
  3. The reasons for expediting the hearing or for the unavailability of the party, representative, or counsel on the date of the scheduled hearing;
  4. Whether testimony of an unavailable witness can be taken telephonically or by deposition; and
  5. The status of settlement negotiations.
- B.** Reconvening a hearing. The Board may recess a hearing and reconvene at a future date by a verbal ruling.

**R4-23-117. Vacating a Hearing**

The Board shall vacate a calendared hearing and return the matter to the Board office for further action, if:

1. The parties agree to vacate the hearing;
2. The Board dismisses the matter;
3. The non-Board party withdraws the appeal; or
4. Facts demonstrate to the Board that it is appropriate to vacate the hearing for the purpose of informal disposition, or if the action will further administrative convenience, expedition, and economy and does not conflict with law or cause undue prejudice to any party.

**R4-23-118. Prehearing Conference**

- A.** Procedure. The Board may hold a prehearing conference. The conference may be held telephonically. The Board may issue a prehearing order outlining the issues to be discussed.
- B.** Record. The Board may record any agreements reached during a prehearing conference by electronic or mechanical means, or memorialize them in an order.

**R4-23-119. Subpoenas**

- A.** Form. A party shall request a subpoena in writing from the Board and shall include:
1. The caption and docket number of the matter;
  2. A list or description of any documents sought;
  3. The full name and home or business address of the custodian of the documents sought or all persons to be subpoenaed;
  4. The date, time, and place to appear or to produce documents pursuant to the subpoena; and
  5. The name, address, and telephone number of the party, or the party's attorney, requesting the subpoena.
- B.** The Board may require a brief statement of the relevance of testimony or documents.
- C.** Service of subpoena. Any person who is not a party and is at least 18 years of age may serve a subpoena. The person shall serve the subpoena by delivering a copy to the person to be served. The person serving the subpoena shall provide proof of service by filing with the Board office a certified statement of the date and manner of service and the names of the persons served.
- D.** Objection to subpoena. A party, or the person served with a subpoena who objects to the subpoena, or any portion of it, may file an objection with the Board. The objection shall be filed within five days after service of the subpoena, or at the outset of the hearing if the subpoena is served fewer than five days before the hearing.
- E.** Quashing, modifying subpoenas. The Board shall quash or modify the subpoena if:
1. It is unreasonable or oppressive, or
  2. The desired testimony or evidence may be obtained by an alternative method.

**R4-23-120. Telephonic Testimony**

The Board may grant a motion for telephonic testimony if:

1. Personal attendance by a party or witness at the hearing will present an undue hardship for the party or witness;
2. Telephonic testimony will not cause undue prejudice to any party; and
3. The proponent of the telephonic testimony pays for any cost of obtaining the testimony telephonically.

**R4-23-121. Rights and Responsibilities of Parties**

- A.** Generally. A party may present testimony and documentary evidence and argument with respect to the contested issue and may examine and cross-examine witnesses.
- B.** Preparation. A party shall have all witnesses, documents, and exhibits available on the date of the hearing.
- C.** Exhibits. A party shall provide a copy of each exhibit to all other parties at the time the exhibit is offered to the Board, unless the exhibit was previously provided to all other parties.
- D.** Responding to Orders. A party shall comply with an order issued by the Board concerning the conduct of a hearing. Unless an objection is made orally during a pre-hearing conference or hearing, a party shall file a motion requesting the Board to reconsider the order.

**R4-23-122. Conduct of Hearing**

- A.** Public access. Unless otherwise provided by law, all hearings are open to the public and may be conducted in an informal manner as prescribed in A.R.S. § 41-1092 et seq.
- B.** Opening. The Board shall begin the hearing by reading the caption, stating the nature and scope of the hearing, and identifying the parties, counsel, and witnesses for the record.
- C.** Stipulations. The Board shall enter into the record any stipulation, settlement agreement, or consent order entered into by any of the parties before or during the hearing.
- D.** Opening statements. The party with the burden of proof may make an opening statement at the beginning of a hearing. All other parties may make statements in a sequence determined by the Board.
- E.** Order of presentation. After opening statements, the party with the burden of proof shall begin the presentation of evidence, unless the parties agree otherwise or the Board determines that requiring another party to proceed first would be more expeditious or appropriate, and would not prejudice any other party. Copies of documentary evidence may be received in the discretion of the Board. Upon request, parties shall be given an opportunity to compare the copy with the original.
- F.** Examination. A party shall conduct direct and cross examination of witnesses in the order and manner determined by the Board to expedite and ensure a fair hearing. The Board shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information. The Board may take notice of judicially cognizable facts. In addition, the Board may take notice of generally recognized technical or scientific facts within the Board's or its staff's specialized knowledge. A party shall be notified either before or during the hearing or by reference in preliminary reports of the material the Board notices. The Board may use the Board's or its staff's experience, technical competence, and specialized knowledge in the evaluation of the evidence.
- G.** Closing argument. When all evidence has been received, parties shall have the opportunity to present closing oral argument, in a sequence determined by the Board. The Board may permit or require closing oral argument to be supplemented by written memoranda. The Board may permit or require written memoranda to be submitted simultaneously or sequentially, within time periods the Board may prescribe.
- H.** Conclusion of hearing. Unless otherwise provided by the Board, the hearing is concluded upon the submission of all evidence, the making of final argument, and the issuing of a final decision or order of the Board.
- I.** Decisions and orders. Unless otherwise provided by law, any final decisions or order adverse to a party in a hearing shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Unless otherwise provided by law, each party shall be notified either personally or by mail to the party's last known address of record of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to each party's attorney of record.

**R4-23-123. Failure of Party to Appear for Hearing**

If a party fails to appear at a hearing, the Board may proceed with the presentation of the evidence of the appearing party, or vacate the hearing and return the matter to the Board office for any further action.

**R4-23-124. Witnesses: Exclusion from Hearing**

All witnesses at the hearing shall testify under oath or affirmation. At the request of a party, or at the discretion of the Board, the Board may exclude witnesses who are not parties from the hearing room so that they cannot hear the testimony of other witnesses.

**R4-23-125. Proof**

- A.** Standard of proof. Unless otherwise provided by law, the standard of proof is a preponderance of the evidence.
- B.** Burden of proof. Unless otherwise provided by law:
  - 1. The party asserting a claim, right, or entitlement has the burden of proof.
  - 2. A party asserting an affirmative defense has the burden of establishing the affirmative defense; and
  - 3. The proponent of a motion shall establish the grounds to support the motion.

**R4-23-126. Disruptions**

A person shall not interfere with access to or from the hearing room, or interfere, or threaten interference with the hearing. If a person interferes, threatens interference, or disrupts the hearing, the Board may order the disruptive person to leave or be removed.

**R4-23-127. Hearing Record**

- A.** Maintenance. The Board shall maintain the official administrative record of a matter.
- B.** Transfer of record. Any party requesting a copy of the administrative record or any portion of the administrative record shall make a request to the Board office and shall pay the reasonable costs of duplication.

**C.** Release of exhibits. Exhibits shall be released:

1. Upon the order of a court of competent jurisdiction; or
2. Upon motion of the party who submitted the exhibits if the time for judicial appeal has expired and no appeal is pending.

**R4-23-128. Rehearing or Review and Appeal of Decision**

**A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and this Section. For purposes of these rules, the terms “contested case” and “party” are defined in A.R.S. § 41-1001.

**B.** A party to a contested case shall exhaust the party’s administrative remedies by filing a motion for rehearing or review within 30 days after the service of the Board decision that is subject to rehearing or review in order to be eligible for judicial review under A.R.S. Title 12, Chapter 7, Article 6. The Board shall notify a party in its decision, that is subject to rehearing or review, that the party may file a motion for rehearing or review and that failure to file a motion for rehearing or review within 30 days after service of the decision has the effect of prohibiting the party from seeking judicial review of the Board’s decision.

**C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.

**D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party’s rights:

1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
2. Misconduct of the Board, its staff, its hearing officer, or the prevailing party;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
5. Excessive or insufficient penalty;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
7. That the Board’s decision is a result of passion or prejudice; or
8. That the findings of fact or decision is not justified by the evidence or is contrary to law.

**E.** The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.

**F.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).

**G.** Not later than ten days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on the motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.

**H.** If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.

**I.** The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party’s motion or other action could not have been known in time, using reasonable diligence, and:

1. A ruling on the motion will further administrative convenience, expedition, or economy; or
2. A ruling on the motion will avoid undue prejudice to any party.

**R4-23-129. Notice of Judicial Appeal; Transmitting the Transcript**

**A.** Notification to the Board office. Within 10 days of filing a complaint for judicial review of a final administrative decision of the Board, the party shall file a copy of the complaint with the Board office. The Board office shall then transmit the administrative record to the Superior Court.

**B.** Transcript. A party requesting a transcript shall arrange for transcription at the party’s expense. The Board office shall make a copy of the audio taped record available to the transcriber. The party arranging for transcription shall deliver the transcript, certified by the transcriber under oath to be a true and accurate transcription of the audio taped record, to the Board office, together with one unbound copy.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

**1. Sections Affected**

	<b><u>Rulemaking Action</u></b>
R4-23-110	Amend
R4-23-205	Amend
R4-23-402	Amend
R4-23-403	Repeal
R4-23-407	Amend
R4-23-653	Amend
R4-23-654	Amend
R4-23-657	Amend
R4-23-658	Amend
R4-23-659	Amend
R4-23-673	Amend
R4-23-674	Amend
Article 11	New Article
R4-23-1101	New Section
R4-23-1102	New Section
R4-23-1103	New Section
R4-23-1104	New Section
R4-23-1105	New Section

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

Authorizing statute: A.R.S. § 32-1904(A)(1) and (B)(7)

Implementing statutes: A.R.S. §§ 32-1901(63) and (64), 32-1923.01, 32-1924, 32-1925, 32-1926, and 32-1927.01

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 1471, May 16, 2003

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

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy  
4425 W. Olive, Suite 140  
Glendale, AZ 85302

Telephone: (623) 463-2727, ext. 131

Fax: (623) 934-0583

E-mail: rxcop@cox.net

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

The forty-sixth Arizona Legislature passed S.B. 1301. The bill was signed by the governor and became effective on April 17, 2003. S.B. 1301 prescribes the requirements for licensure of pharmacy technicians and pharmacy technician trainees by the Board, including licensing fees. The proposed rules implement the pharmacy technician and pharmacy technician trainee licensure requirements of S.B. 1301, and through the Board's general rulemaking authority in A.R.S. § 32-1904 prescribe the pharmacy technician and pharmacy technician trainee practice standards. The existing practice standards in R4-23-403 are repealed in the proposed rulemaking. The proposed rules place the licensure and practice standards in a new Article 11, Pharmacy Technicians. R4-22-110, Definitions, is amended to include necessary new and amended definitions. R4-23-205, Fees, is amended to include new fees for pharmacy technician and pharmacy technician trainee licenses, and a new pharmacy intern fee structure and fee that were included in S.B. 1301. R4-23-402, R4-23-407, R4-23-653, R4-23-654, R4-23-657, R4-23-658, R4-23-659, R4-23-673, and R4-23-674 are amended based on the new statutory definitions of pharmacy technician and pharmacy technician trainee and the proposed rules in Article 11. The proposed rules include necessary style, format, grammar, and punctuation changes to comply with the rules of the Secretary of State and Governor's Regulatory Review Council.

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The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the licensure and practice standards for pharmacy technicians and pharmacy technician trainees who are becoming an integral part of modern pharmacy practice.

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

The proposed rules will impact the Board, pharmacists, pharmacy technicians, and pharmacies. The proposed rules will have a substantial economic impact on the Board's office expenses through the immediate issuing of approximately 10,000 new licenses. These expenses will be partially offset by licensure fees collected from the new applicants. The estimated costs could exceed the estimated revenue by over \$300,000 between May 2003 and November 2005. The Board believes the benefits outweigh the costs.

The public, Board, pharmacists, pharmacy technicians, and pharmacies benefit from rules that are clear, concise, understandable, and reflect current practice standards. The proposed rules will meet the Board's mandate to protect the public health and safety through licensure and oversight of pharmacy technician activities in Arizona pharmacies.

The proposed rules will have no economic impact on pharmacists.

The proposed rules will require the use of licensed pharmacy technicians or licensed pharmacy technician trainees in all Arizona pharmacies. The proposed rules may have some economic impact on pharmacies because of the natural tendency for wages to increase as a result of the licensure requirement. The amount of the possible wage increase, if any, is unknown. Over the last few years, the majority of pharmacy employers in Arizona have been reimbursing their pharmacy technicians who passed the Board-approved national pharmacy technician examination (PTCB) and became certified pharmacy technicians. The Board believes this trend will continue with pharmacy technician licensure, and pharmacy employers will continue to reimburse pharmacy technicians who pass the PTCB and become licensed pharmacy technicians. This could reduce an individual technician's cost of licensure.

The proposed rules will have a minimal economic impact on individual pharmacy technicians. The possible costs include the Board-approved pharmacy technician examination, \$120; an examination study book, \$50; a pharmacy technician study course, \$250; pharmacy technician biennial licensure fee, \$50; a wall certificate fee, \$10; and a pharmacy technician trainee licensure fee, \$25. Some of these costs are optional, and because some of the fees are prorated, the actual cost will vary. The minimum costs necessary for a pharmacy technician to be licensed are: the Board-approved pharmacy technician examination, the pharmacy technician licensure fee, and the wall certificate fee. The minimum costs necessary for a pharmacy technician trainee to be licensed are the pharmacy technician trainee licensure fee and the wall certificate fee. The total cost of licensure for a pharmacy technician including the examination could range from \$142.50 to \$480. The total cost of licensure for a pharmacy technician trainee could range from \$6.25 to \$35. A licensed pharmacy technician will have an ongoing license renewal cost of \$50 every two years. A pharmacy technician's or pharmacy technician trainee's employer may reimburse the pharmacy technician or pharmacy technician trainee for some or all of the technician's licensure costs.

The Board, the public, and the pharmacy community benefit from rules that clearly establish the requirements for pharmacy technician training, licensure, and practice. The Board, the public, and the pharmacy community further benefit from rules that give the Board control through licensure of a pharmacy's ancillary personnel (technicians) who have access to drugs and affect patient care.

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

Name: Dean Wright, Compliance Officer  
Address: Board of Pharmacy  
4425 W. Olive, Suite 140  
Glendale, AZ 85302  
Telephone: (623) 463-2727, ext. 131  
Fax: (623) 934-0583  
E-mail: rxcop@cox.net

**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:**

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, January 5, 2004. An oral proceeding is scheduled for:

Date: January 5, 2004  
Time: 10:00 a.m.  
Location: 4425 W. Olive, Suite 140  
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed in item #9.

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

Not applicable

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

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 1. ADMINISTRATION**

Section  
R4-23-110. Definitions

**ARTICLE 2. PHARMACIST LICENSURE**

Section  
R4-23-205. Fees

**ARTICLE 4. PROFESSIONAL PRACTICES**

Section  
R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern  
R4-23-403. ~~Pharmacy Technicians and Certified Pharmacy Technicians~~ Repealed  
R4-23-407. Prescription Requirements

**ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**

Section  
R4-23-653. Personnel: Professional or Technician  
R4-23-654. Absence of Pharmacist  
R4-23-657. Security  
R4-23-658. Drug Distribution and Control  
R4-23-659. Administration of Drugs  
R4-23-673. Limited-service Mail-order Pharmacy  
R4-23-674. Limited-service Long-term Care Pharmacy

**ARTICLE 11. PHARMACY TECHNICIANS**

Section  
R4-23-1101. Licensure and Eligibility  
R4-23-1102. Pharmacy Technician Licensure  
R4-23-1103. Pharmacy Technician Trainee Licensure  
R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees  
R4-23-1105. Pharmacy Technician Training Program

ARTICLE 1. ADMINISTRATION

**R4-23-110. Definitions**

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to 4 A.A.C. 23:

“Active ingredient” No change

“Alternate physician” No change

“Approved course in pharmacy law” No change

“Approved Provider” No change

“Authentication of product history” No change

“AZPLEX” No change

“Batch” No change

“Beyond-use date” No change

“Biological safety cabinet” No change

“Certified pharmacy technician” means:

~~An individual who receives a passing grade on a certification examination for pharmacy technicians recognized by the Arizona State Board of Pharmacy and meets the requirements of a pharmacy technician as defined in A.A.C. R4-23-110; or~~

~~An individual employed in a hospital pharmacy who meets the requirements in R4-23-653(F)(1) and performs, under the supervision of a pharmacist, activities related to the preparation, dispensing, or distribution of prescription medication consistent with the policies and procedures required in R4-23-653(G).~~

“Class 100 environment” No change

“Community pharmacy” No change

“Component” No change

“Computer system” No change

“Computer system audit” No change

“Contact hour” No change

“Container” No change

“Continuing education” No change

“Continuing education activity” No change

“Continuing education unit” or “CEU” No change

“Correctional facility” No change

“CRT” No change

“Current good compounding practices” No change

“Current good manufacturing practice” No change

“Cytotoxic” No change

“Day” No change

“DEA” No change

“Delinquent license” No change

“Dietary supplement” No change

“Dispensing pharmacist” No change

“Drug sample” No change

“Drug therapy management” No change

“Drug therapy management agreement” No change

“Extreme emergency” No change

“FDA” No change

“Immediate notice” No change

“Inactive ingredient” No change

“Internal test assessment” No change

“Limited-service correctional pharmacy” No change

“Limited-service long-term care pharmacy” No change

“Limited-service mail-order pharmacy” No change

“Limited-service nuclear pharmacy” No change

“Limited-service pharmacy permittee” No change

“Long-term care consultant pharmacist” No change

“Long-term care facility” or “LTCF” No change

“Lot” No change

“Lot number” or “control number” No change

“Materials approval unit” No change

“Mediated instruction” No change

“MPJE” No change

“NABP” No change

“NABPLEX” No change

“NAPLEX” No change

“Other designated personnel” No change

“Outpatient” No change

“Outpatient setting” No change

“Patient profile” No change

~~“Pharmaceutical care” means the provision of drug therapy and other pharmaceutical patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient’s symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.~~

“Pharmaceutical patient care services” means the provision of drug selection, drug utilization review, drug administration, drug therapy monitoring, and other drug-related patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient’s symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

“Pharmacy law continuing education” No change

~~“Pharmacy technician” means an individual, qualified under R4-23-403(A)(1) and (2), who, during and after completing the training required in R4-23-403(A)(3), performs, under the supervision of a pharmacist, activities related to the preparation and distribution of prescription medications consistent with policies and procedures required in R4-23-403(J) and state and federal law.~~

“Prepackaged drug” No change

“Provider pharmacy” No change

“Radiopharmaceutical” No change

“Radiopharmaceutical quality assurance” No change

“Radiopharmaceutical services” No change

“Red C stamp” No change

“Remodel” No change

“Remote drug storage area” No change

“Resident” No change

“Responsible person” No change

“Score transfer” No change

“Sight-readable” No change

“Single-drug audit” No change

“Single-drug usage report” No change

“Sterile pharmaceutical product” No change

“Strength” No change

“Supervision” No change

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- “Supervisory physician” No change
- “Supplying” No change
- “Support personnel” No change
- “Transfill” No change
- “Wholesale distribution” No change
- “Wholesale distributor” No change

**ARTICLE 2. PHARMACIST LICENSURE**

**R4-23-205. Fees**

**A. Licensure fees:**

1. Pharmacist:
  - a. Initial licensure [Prorated according to A.R.S. § 32-1925(B)]: \$145.
  - b. Licensure renewal: \$145.
2. Pharmacy or graduate intern:
  - a. Initial licensure [~~prorated according to A.R.S. § 32-1925(B)~~]: \$2050.
  - b. Licensure renewal: \$2050.
3. Pharmacy technician:
  - a. Initial licensure [prorated according to A.R.S. § 32-1925(B)]: \$50.
  - b. Licensure renewal: \$50.
4. Pharmacy technician trainee: \$25.

**B. Reciprocity fee: \$300.**

**C. ~~Examination~~ Application fee: \$50.**

**D. Vendor permit fees (Resident and nonresident):**

1. Pharmacy: \$400 biennially (Including hospital, and limited service).
2. Drug wholesaler or manufacturer:
  - a. Manufacturer: \$1000 biennially.
  - b. Full service drug wholesaler: \$1000 biennially.
  - c. Nonprescription drug wholesaler: \$500 biennially.
3. Drug packager or repackager: \$1000 biennially.
4. Nonprescription drug, retail:
  - a. Category I (30 or fewer items): \$100 biennially
  - b. Category II (more than 30 items): \$200 biennially
5. Compressed medical gas distributor: \$200 biennially
6. Compressed medical gas supplier: \$100 biennially

**E. Other Fees:**

1. Wall certificate license.
  - a. Pharmacist: \$20.
  - b. ~~Relief pharmacist~~ Pharmacy or graduate intern: \$10.
  - c. Pharmacy technician: \$10.
  - d. Pharmacy technician trainee: \$10.
2. Duplicate of any Board-issued license, registration, certificate, or permit: \$10.
3. Duplicate current renewal license: \$10.

**F. Fees are not refunded under any circumstances except for the Board’s failure to comply with its established licensure or permit time-frames under R4-23-202, or R4-23-602.**

**G. Penalty fee. Renewal applications submitted after the expiration date are subject to penalty fees as provided in A.R.S. §§ 32-1925 and 32-1931.**

1. Licensees: A fee equal to 1/2 the licensee’s biennial licensure renewal fee from subsection (A).
2. Permittees: A fee equal to 1/2 the permittee’s biennial permit fee from subsection (D).

**ARTICLE 4. PROFESSIONAL PRACTICES**

**R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern**

**A. A pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order:**

1. Receive, reduce to written form, and manually initial oral prescription orders;
2. Obtain and record the name of an individual who communicates an oral prescription order;

3. Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
    - a. Name, address, telephone number, date of birth (or age), and gender;
    - b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;
  4. Record, or assume responsibility to record, in the patient's profile, a pharmacist's, graduate intern's, or pharmacy intern's comments relevant to the ~~individual's~~ patient's drug therapy, including other information specific to the patient or drug;
  5. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
    - a. A patients' allergies,
    - b. Incompatibilities with a patient's currently-taken medications,
    - c. A patient's use of unusual quantities of dangerous drugs or narcotics,
    - d. A medical practitioner's signature, and
    - e. The frequency of refills;
  6. Verify that a dosage is within proper limits;
  7. Interpret the prescription order, which includes exercising professional ~~judgement~~ judgment in determining whether to dispense a particular prescription;
  8. Compound, mix, combine, or otherwise prepare and package the prescription medication needed to dispense individual prescription orders;
  9. Prepackage or supervise the prepackaging of drugs by ~~supportive personnel~~ a pharmacy technician or pharmacy technician trainee under R4-23-403 R4-23-1104. For drugs prepackaged by ~~supportive personnel~~ a pharmacy technician or pharmacy technician trainee, a pharmacist shall:
    - a. Verify the drug to be prepackaged;
    - b. ~~Decide the wording and requirements placed on the label,~~ Verify that the label meets the official compendium's standards; and
    - c. Check the completed prepackaging procedure and product; and
    - d. Manually initial the completed label; or
    - e. For automated packaging systems, manually initial the completed label or a written log or initial a computer-stored log;
  10. Check a prescription label to ensure that it communicates the prescriber's directions precisely;
  11. Make a final accuracy check on the completed prescription medication and manually initial the finished label. Manual initialing of a finished label is not required if the pharmacy's computer system complies with the computer documentation requirements of R4-23-408(B)(4);
  12. Record, or assume responsibility to record, a prescription serial number and date dispensed on the original prescription order;
  13. Obtain, or assume responsibility to obtain, permission to refill a prescription ~~orders~~ order and record, or assume responsibility to record on the original prescription order:
    - a. Date dispensed,
    - b. Quantity dispensed, and
    - c. Name of medical practitioner or medical practitioner's agent who communicates permission to refill the prescription order;
  14. Reduce to written or printed form, or assume responsibility to reduce to written or printed form, a new prescription order received by:
    - a. Facsimile,
    - b. Computer modem, or
    - c. Other means of communication;
  15. Verify and manually initial a new prescription order received by:
    - a. Facsimile,
    - b. Computer modem, or
    - c. Other means of communication;
  16. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who originally dispenses the prescription order; and
  17. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who dispenses each refill.
- B.** Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's agent in ~~an~~ an outpatient ~~settings~~ setting, including a patient discharged from a hospital. The oral consultation is required whenever the following occurs:
1. The prescription medication has not been previously dispensed to the patient;
  2. A new prescription number is assigned to a previously dispensed prescription medication;

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3. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;
  4. The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
  5. The patient or patient's agent requests oral consultation.
- C. Oral consultation shall include:
1. The name, strength, and dosage form of a prescription medication or prescription-only device;
  2. The directions for use;
  3. The route of administration; and
  4. Special instructions, precautions, or storage requirements.
- D. The pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
1. Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
  2. Techniques of self-monitoring drug therapy;
  3. The duration of the drug therapy;
  4. Prescription refill information; and
  5. Action to be taken if a dose is missed.
- E. Nothing in subsection (B) shall be construed as requiring a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's agent refuses the consultation.
1. Only a pharmacist, graduate intern, or pharmacy intern shall accept a refusal for consultation.
  2. A pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, a refusal for consultation on the original prescription order or document by alternative methods approved by the Board or its designee.
- F. When a prescription is delivered to the patient or patient's agent outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
1. Approved use for the prescription medication;
  2. Possible adverse reactions;
  3. Drug-drug, food-drug, or disease-drug interactions;
  4. Missed dose information; and
  5. Telephone number of the dispensing pharmacy.
- G. A prescription medication or prescription-only device, delivered to a patient at a location where a licensed health care professional is responsible for administering a the prescription medication to a the patient, is exempt from the requirement of subsection (C).
- H. A pharmacist, graduate intern, or pharmacy intern shall wear a badge indicating name and title while on duty.
- I. Nothing in this Section ~~shall prevent~~ prevents a hospital ~~pharmacists~~ pharmacist from accepting a prescription ~~orders in accordance with~~ order according to rules pertaining specifically to hospital pharmacies.

**R4-23-403. Pharmacy Technicians and Certified Pharmacy Technicians Repealed**

- ~~A. Before working as a pharmacy technician or certified pharmacy technician, an individual shall:~~
- ~~1. Be 18 years of age or older;~~
  - ~~2. Have a high school diploma or equivalent;~~
  - ~~3. Complete a training program, as specified in subsection (J), at the pharmacy of employment;~~
  - ~~4. Read and discuss with the pharmacist in charge of the pharmacy where employed, the Board of Pharmacy rules concerning pharmacy technicians or certified pharmacy technicians, the pharmacy technician or certified pharmacy technician job description, and the policy and procedure manual of that pharmacy; and~~
  - ~~5. Date and sign a statement affirming understanding of the Board rules for pharmacy technicians or certified pharmacy technicians, the job description, and the policy and procedure manual.~~
- ~~B. Nothing in subsection (A) shall prevent additional offsite training of a pharmacy technician or certified pharmacy technician. Any pharmacy technician or certified pharmacy technician employed before the effective date of this rule shall be exempt from R4-23-403(A)(1) and (2).~~
- ~~C. In accordance with the space requirement listed at R4-23-609(A), the pharmacist in charge shall ensure that no more than two technicians are in the pharmacy area per pharmacist except three technicians per pharmacist may be in the pharmacy area if the third technician is a certified pharmacy technician.~~
- ~~D. Permissible activities of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician may assist a graduate intern, pharmacy intern, or pharmacist with the following:~~
- ~~1. Receive a request from a patient or patient's agent to refill the patient's prescription medication;~~
  - ~~2. Record on the original prescription order the prescription serial number and date dispensed;~~
  - ~~3. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the~~

- medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
4. Record information in the refill record or patient profile;
  5. Type and affix labels for a prescription medication or enter information for new or refill prescription medication into a computer, provided a pharmacist verifies the accuracy and personally initials in handwriting the finished label prepared by the technician before the prescription medication is dispensed to the patient;
  6. Reconstitute prescription medications, provided a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
  7. Retrieve, count, or pour prescription medications, provided a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee; and
  8. Prepackage drugs in accordance with R4-23-402(A).
- E.** Permissible activities of a certified pharmacy technician. Acting in compliance with all applicable statutes and rules, after completing a training program developed by the pharmacy permittee or pharmacist in charge under subsections (A)(3) and (J), and under the supervision of a pharmacist, a certified pharmacy technician may, in addition to the activities listed in subsection (D), assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription medications in accordance with written policies and procedures if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing.
- F.** Prohibited activities. Pharmacy technicians and certified pharmacy technicians shall not perform functions reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402.
- G.** A pharmacy technician or certified pharmacy technician shall wear a badge indicating name and title while on duty.
- H.** Before employing a pharmacy technician or certified pharmacy technician, a pharmacy permittee or pharmacist in charge shall:
1. Develop policies and procedures specifying permissible activities a pharmacy technician or certified pharmacy technician may perform as specified in R4-23-403(D) and (E);
  2. Implement the policies and procedures;
  3. Review and revise the policies and procedures biennially;
  4. Assemble the policy and procedures as a written manual or by another method approved by the Board or its designee, and
  5. Make the policies and procedures available within the pharmacy for reference by a pharmacy technician or certified pharmacy technician and inspection by the Board or its designee.
- I.** The policies and procedures shall include the following:
1. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
  2. Employment performance expectations for a pharmacy technician and certified pharmacy technician;
  3. Prescription dispensing procedures for:
    - a. Accepting a new written prescription;
    - b. Accepting a refill request;
    - c. Drug product selection;
    - d. Counting and pouring;
    - e. Labeling; and
    - f. Refill authorization;
  4. Computer data entry procedures for:
    - a. New and refill prescriptions;
    - b. Patient's drug allergies;
    - c. Drug-drug interactions;
    - d. Drug-food interactions;
    - e. Drug-disease-state contraindications;
    - f. Refill frequency;
    - g. Patient's disease and medical condition;
    - h. Patient's age or date of birth and gender; and
    - i. Patient profile maintenance;
  5. Compounding procedures for a certified pharmacy technician;
  6. Pharmacist and patient communication;
  7. Quality management procedures for:
    - a. Competency review and evaluation;
    - b. Continuing education;
    - c. Drug recall;
    - d. Drug storage;
    - e. Expired and beyond-use-date drugs; and

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- f. Medication errors;
- 8. Security procedures for:
  - a. Confidentiality of patient prescription records; and
  - b. The pharmacy area;
- 9. Automated medication distribution system;
- 10. Sanitation; and
- 11. Brief overview of state and federal pharmacy statutes and rules.
- ~~J.~~ Pharmacy technician and certified pharmacy technician training program.
  - 1. A pharmacy permittee or pharmacist in charge shall:
    - a. Develop a pharmacy technician and certified pharmacy technician training program based on the needs of the individual pharmacy;
    - b. Implement the pharmacy technician and certified pharmacy technician training program;
    - c. Include written guidelines that:
      - i. Define the specific tasks the technician is expected to perform; and
      - ii. Specify how the technician's competency will be assessed; and
    - d. Provide a copy of the training program and guidelines within the pharmacy for reference by a pharmacy technician or certified pharmacy technician and inspection by the Board or its designee.
  - 2. A pharmacist in charge shall certify that a technician has successfully completed the training program.
  - 3. A pharmacy technician or certified pharmacy technician shall perform only those tasks, listed in subsections (D) and (E), for which training and competency has been demonstrated.
- ~~K.~~ Hospital pharmacies. Nothing in this rule prohibits a hospital pharmacy from using a pharmacy technician or certified pharmacy technician in accordance with state or federal law specifically for a hospital pharmacy.

**R4-23-407. Prescription Requirements**

- A.** Prescription orders. A pharmacist shall ensure that:
  - 1. A prescription order dispensed by the pharmacist includes the following information:
    - a. Date of issuance;
    - b. Name and address of the patient for whom or the owner of the animal for which the drug or device is dispensed;
    - c. Drug name, strength, and dosage form or device name;
    - d. Name of the drug's or device's manufacturer or distributor if the prescription order is written generically or a substitution is made;
    - e. Prescribing medical practitioner's directions for use;
    - f. Date of dispensing;
    - g. Quantity prescribed and if different, quantity dispensed;
    - h. For a prescription order for a controlled substance, the medical practitioner's address and DEA number;
    - i. For a written prescription order, the medical practitioner's signature;
    - j. For an oral prescription order, the medical practitioner's name and telephone number; and
    - k. Name or initials of the dispensing pharmacist;
  - 2. A prescription order is kept by the pharmacist or pharmacy permittee as a record of the dispensing of a drug or device for ~~three~~ seven years from the date the drug or device is dispensed, except for a drug or device personally administered by a medical practitioner to the medical practitioner's patient; and
  - 3. The dispensing of a drug or device complies with the packaging requirements of the official compendium and state and federal law.
- B.** Prescription refills. A pharmacist shall ensure that the following information is recorded on the back of a prescription order when it is refilled:
  - 1. Date refilled,
  - 2. Quantity dispensed,
  - 3. Name or approved abbreviation of the manufacturer or distributor if the prescription order is written generically or a substitution is made, and
  - 4. The name or initials of the dispensing pharmacist.
- C.** A pharmacist may furnish a copy of a prescription order to the patient for whom it is prescribed or to the authorized representative of the patient if the copy is clearly marked "COPY FOR REFERENCE PURPOSES ONLY:" or other similar statement. A copy of a prescription order is not a valid prescription order and a pharmacist shall not dispense a drug or device from the information on a copy.
- D.** Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permittee or pharmacist-in-charge shall ensure that:
  - 1. Both the original and the transferred prescription order are maintained for ~~three~~ seven years after the last dispensing date.

2. The original prescription order information for a Schedule III, IV, or V controlled substance is transferred only as specified in 21 CFR 1306.25, published April 1, 2001, and no future amendments or editions, incorporated by reference and on file with the Board and the Office of the Secretary of State.
3. The original prescription order information for a non-controlled substance drug is transferred without limitation only up to the number of originally authorized refills.
4. Transfer within Arizona.
  - a. The transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
    - i. The transfer of information is communicated directly between:
      - (1) Two licensed pharmacists,
      - (2) A licensed pharmacist and a licensed pharmacy or graduate intern, or
      - (3) Two licensed pharmacy or graduate interns;
    - ii. The following information is recorded by the transferring pharmacist or pharmacy or graduate intern:
      - (1) The word "void" is written on the face of the invalidated original prescription unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
      - (2) The name and identification code, number, or address and telephone number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist or pharmacy or graduate intern, the date of transfer, and the name of the transferring pharmacist or pharmacy or graduate intern is written on the back of the prescription or entered into the transferring pharmacy's computer system; and
    - iii. The following information is recorded by the receiving pharmacist or pharmacy or graduate intern on the transferred prescription order:
      - (1) The word "transfer";
      - (2) Date of issuance of the original prescription order;
      - (3) Original number of refills authorized on the original prescription order;
      - (4) Date of original dispensing;
      - (5) Number of valid refills remaining and the date of the last refill;
      - (6) Name, and identification code, number, or address, telephone number, and original prescription number of the pharmacy from which the prescription is transferred;
      - (7) Name of the transferring pharmacist or pharmacy or graduate intern; and
      - (8) Name of the receiving pharmacist or pharmacy or graduate intern.
  - b. The transfer of original prescription order information for a Schedule III, IV, or controlled substance meets the following conditions:
    - i. The transfer of information is communicated directly between two licensed pharmacists;
    - ii. The following information is recorded by the transferring pharmacist:
      - (1) The word "void" is written on the face of the invalidated original prescription order unless it is an electronic or oral transfer and the transferred prescription order information is invalidated in the transferring pharmacy's computer system; and
      - (2) The name, address, and DEA number of the pharmacy to which the prescription is transferred, the name of the receiving pharmacist, the date of transfer, and the name of the transferring pharmacist is written on the back of the prescription order or entered into the transferring pharmacy's computer system; and
    - iii. The following information is recorded by the receiving pharmacist on the transferred prescription order:
      - (1) The word "transfer";
      - (2) Date of issuance of original prescription order;
      - (3) Original number of refills authorized on the original prescription order;
      - (4) Date of original dispensing;
      - (5) Number of valid refills remaining and the date of the last refill;
      - (6) Name, address, DEA number, and original prescription number of the pharmacy from which the prescription is transferred;
      - (7) Name of the transferring pharmacist; and
      - (8) Name of the receiving pharmacist.
5. Transfer from out-of-state.
  - a. The transfer of original prescription order information for a non-controlled substance drug meets the conditions in subsections (D)(4)(a)(i) and (D)(4)(a)(iii).
  - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the conditions in subsections (D)(4)(b)(i) and (D)(4)(b)(iii).
6. Electronic transfer. The electronic transfer of original prescription order information meets the following conditions:
  - a. The electronic transfer is between pharmacies owned by the same company using a common or shared database;

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- b. The electronic transfer of original prescription order information for a non-controlled substance drug is performed by a pharmacist or a pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician under the supervision of a pharmacist;
- c. The electronic transfer of original prescription order information for a controlled substance is performed between two licensed pharmacists;
- d. The electronic transfer of original prescription order information for a non-controlled substance drug meets the following conditions:
  - i. The transferring pharmacy's computer system:
    - (1) Invalidates the transferred original prescription order information;
    - (2) Records the identification code, number, or address of the pharmacy to which the prescription order information is transferred;
    - (3) Records the name or identification code of the receiving pharmacist, pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician; and
    - (4) Records the date of transfer; and
    - ~~(5) Records the name or identification code of the transferring pharmacist, pharmacy or graduate intern, or pharmacy technician; and~~
  - ii. ~~The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (D)(4)(a)(iii) receiving pharmacy's computer system;~~
    - (1) Records that a prescription transfer occurred;
    - (2) Records the date of issuance of the original prescription order;
    - (3) Records the original number of refills authorized on the original prescription order;
    - (4) Records the date of original dispensing;
    - (5) Records the number of valid refills remaining and the date of the last refill;
    - (6) Records the identification code, number, or address and original prescription number of the pharmacy from which the prescription is transferred;
    - (7) Records the name or identification code of the receiving pharmacist or pharmacy or graduate intern, pharmacy technician trainee, or pharmacy technician; and
    - (8) Records the date of transfer.
- e. The electronic transfer of original prescription order information for a controlled substance meets the following conditions:
  - i. The transferring pharmacy's computer system:
    - (1) Invalidates the transferred original prescription order information;
    - (2) Records the identification code, number, or address, and DEA number of the pharmacy to which the prescription order information is transferred;
    - (3) Records the name or identification code of the receiving pharmacist;
    - (4) Records the date of transfer; and
    - (5) Records the name or identification code of the transferring pharmacist; and
  - ii. The electronic prescription order information received by the computer system of the receiving pharmacy includes the information required in subsection (D)(4)(b)(iii); and
- f. In addition to electronic documentation of a transferred prescription order in the computer system, an original prescription order containing the requirements of this Section is filed in compliance with A.R.S. § 32-1964.

**ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**

**R4-23-653. Personnel: Professional or Technician**

- A. Each hospital pharmacy shall be directed by a pharmacist who is licensed to engage in the practice of pharmacy in Arizona and is referred to as the Director of Pharmacy. The Director of Pharmacy shall be the pharmacist-in-charge, as defined in A.R.S. § 32-1901 or shall appoint a pharmacist-in-charge. The Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall:
  - 1. ~~be~~ Be responsible for all the activities of the hospital pharmacy and for meeting the requirements of the Arizona Pharmacy Act and these rules;
  - 2. Ensure that the policies and procedures required by these rules are prepared and implemented;
  - 3. Review biennially and, if necessary, revise the policies and procedures required under these rules;
  - 4. Document the review required under subsection (A)(3);
  - 5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
  - 6. Make the policies and procedures available within the pharmacy for employee reference and inspection by the Board or its designee.

- B. In all hospitals, a pharmacist shall be in the hospital during the time the pharmacy is open for pharmacy services, except for an extreme emergency as defined in R4-23-110. Pharmacy services shall be provided for a minimum of 40 hours per week, unless an exception for less than the minimum hours is made upon written request by the hospital and with express permission of the Board or its designee.
- C. In a hospital where the pharmacy is not open 24 hours per day for pharmacy services, a pharmacist shall be “on-call” as defined in R4-23-651 when the pharmacy is closed.
- D. The Director of Pharmacy may be assisted by other personnel approved by the Director of Pharmacy in order to operate the pharmacy competently, safely, and adequately to meet the needs of the hospital’s patients.
- E. Pharmacists. A pharmacist or a pharmacy intern or graduate intern under the supervision of a pharmacist shall perform the following professional practices:
1. Verify a patient’s medication order before administration of a drug to the patient, except:
    - a. In an emergency medical situation; or
    - b. In a hospital where the pharmacy is open less than 24 hours a day for pharmacy services, a pharmacist shall verify a patient’s medication order within four hours of the time the pharmacy opens for pharmacy services;
  2. Verify a medication order’s pharmaceutical and therapeutic feasibility based upon:
    - a. The patient’s medical condition,
    - b. The patient’s allergies,
    - c. The pharmaceutical and therapeutic incompatibilities, and
    - d. The recommended dosage limits;
  3. Measure, count, pour, or otherwise prepare and package a drug needed for dispensing, except a pharmacy technician or pharmacy technician trainee may measure, count, pour, or otherwise prepare and package a drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
  - ~~3-4.~~ Compound, admix, combine, ~~measure, count,~~ or otherwise prepare and package ~~the a~~ drug needed for dispensing, except a ~~certified~~ pharmacy technician may compound, admix, combine, ~~measure, count,~~ or otherwise prepare and package ~~the a~~ drug needed for dispensing under the supervision of a pharmacist according to written policies and procedures approved by the Board or its designee;
  - ~~4-5.~~ Verify the accuracy, correct procedure, compounding, admixing, combining, measuring, counting, pouring, preparing, packaging, and safety of a drug prepared and packaged by a ~~certified~~ pharmacy technician or pharmacy technician trainee according to subsections (E)(3) and (4) and (G);
  - ~~5-6.~~ Supervise drug repackaging and check the completed repackaged product as specified in R4-23-402(A);
  - ~~6-7.~~ Supervise training and education in aseptic technique and drug incompatibilities for all personnel involved in the admixture of parenteral products within the hospital pharmacy;
  - ~~7-8.~~ Consult with the medical practitioner regarding the patient’s drug therapy or medical condition;
  - ~~8-9.~~ When requested by a medical practitioner, patient, patient’s agent, or when the pharmacist deems it necessary, provide consultation with a patient regarding the medication order, patient’s profile, or overall drug therapy;
  - ~~9-10.~~ Monitor a patient’s drug therapy for safety and effectiveness;
  - ~~10-11.~~ Provide drug information to patients and health care professionals;
  - ~~11-12.~~ Manage the activities of ~~certified~~ pharmacy technicians, pharmacy technician trainees, other personnel, and systems to ensure that all activities are performed accurately, safely, and without risk of harm to patients;
  - ~~12-13.~~ Verify the accuracy of all aspects of the original, completed medication order; and
  - ~~13-14.~~ Ensure compliance by pharmacy personnel with a quality assurance program developed by the hospital.
- F. Certified pharmacy technicians and pharmacy technician trainees.
- ~~1-~~ Before working as a ~~certified~~ pharmacy technician or pharmacy technician trainee, an individual shall:
    - ~~a. Be at least 18 years of age;~~
    - ~~b. Have a high school diploma or equivalent;~~
    - ~~c. Have a current pharmacy technician certificate recognized by the Arizona State Board of Pharmacy;~~
    - ~~d. Complete a training program, as specified in subsection (H), at the pharmacy of employment;~~
    - ~~e. Read and discuss with the pharmacist in charge of the pharmacy where employed, the Board rules concerning certified pharmacy technicians, the certified pharmacy technician job description, and the policy and procedure manual of that pharmacy; and~~
    - ~~f. Date and sign a statement affirming understanding of the Board rules for certified pharmacy technicians, the job description, and the policy and procedure manual.~~
  - ~~2-~~ Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a certified pharmacy technician may assist a pharmacist in activities not defined as professional practices as outlined in R4-23-653(E).
  - ~~3-~~ Subsection (F)(1) does not prevent additional off site training of a certified pharmacy technician. Any currently employed hospital pharmacy technician who does not meet the requirement in subsection (F)(1)(c) before the effective date of this rule shall complete the requirement in subsection (F)(1)(c) within one year from the effective date of

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~~this rule~~ meet the eligibility and licensure requirements prescribed in A.A.C. Title 4, Chapter 23, Article 11.

- G. ~~Technician~~ Pharmacy technician policies and procedures.** Before employing a ~~certified~~ pharmacy technician or ~~pharmacy technician trainee~~, a Director of Pharmacy or pharmacist-in-charge shall:
- ~~1. Develop the policies and procedures that specify:~~ required under R4-23-1104.
    - ~~a. The activities a certified pharmacy technician may perform; and~~
    - ~~b. The quality assurance methods used to ensure the accuracy and safety of a certified pharmacy technician's activities;~~
  - ~~2. Implement the policies and procedures;~~
  - ~~3. Review and revise the policies and procedures biennially;~~
  - ~~4. Document the review and revision process;~~
  - ~~5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and~~
  - ~~6. Make the policies and procedures available within the hospital pharmacy for reference by a certified pharmacy technician and inspection by the Board or its designee.~~
- H. ~~Certified pharmacy~~ Pharmacy technician training program.**
1. A Director of Pharmacy or pharmacist-in-charge shall:
    - ~~a. Develop a~~ comply with the training program for ~~certified pharmacy technicians~~ requirements of R4-23-1105 based on the needs of the hospital pharmacy;
    - ~~b. Implement the certified pharmacy technician training program;~~
    - ~~c. Include written training guidelines that:~~
      - ~~i. Define the specific tasks the certified pharmacy technician may perform;~~
      - ~~ii. Specify how the certified pharmacy technician's competency will be assessed; and~~
      - ~~iii. Provide a copy of the training program and guidelines in the hospital pharmacy for reference by a certified pharmacy technician and inspection by the Board or its designee; and~~
    - ~~d. Attest that a certified pharmacy technician successfully completes the training program.~~
  2. A ~~certified~~ pharmacy technician or pharmacy technician trainee shall:
    - a. Perform only those tasks for which training and competency has been demonstrated; and
    - b. Not perform professional practices reserved for a pharmacist, graduate intern, or pharmacy intern in subsection (E), except as specified in ~~subsection~~ subsections (E)(3) and (4).
- I. Supervision.** A hospital pharmacy's Director of Pharmacy and the pharmacist-in-charge, if a different individual, shall supervise all of the activities and operations of a hospital pharmacy. A pharmacist shall supervise all functions and activities of ~~certified~~ pharmacy technicians, pharmacy technician trainees, and other hospital pharmacy personnel to ensure that all functions and activities are performed competently, safely, and without risk of harm to patients.

**R4-23-654. Absence of Pharmacist**

- A.** If a pharmacist will not be on duty in the hospital, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have access to drugs in the remote drug storage area defined in R4-23-110 or in the hospital pharmacy if a drug is not available in a remote drug storage area and is required to treat the immediate needs of a patient. A pharmacist shall be on-call during all absences.
- B.** If a pharmacist will not be on duty in the hospital pharmacy, the Director of Pharmacy or pharmacist-in-charge shall arrange, before the pharmacist's absence, for the medical staff and other authorized personnel of the hospital to have telephone access to an on-call pharmacist.
- C.** The hospital pharmacy permittee shall ensure that the hospital pharmacy is not without a pharmacist on duty in the hospital for more than 72 consecutive hours.
- D. Remote drug storage area.** The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital:
1. Develop and maintain an inventory listing of the drugs to be included in a remote drug storage area; and
  2. Develop and implement policies and procedures in the same manner described in R4-23-653(~~G~~) (A) that ensure proper storage, access, and accountability for drugs in a remote drug storage area.
- E. Access to hospital pharmacy.** If a drug is not available from a remote drug storage area and the drug is required to treat the immediate needs of a patient whose health may be compromised, the drug may be obtained from the hospital pharmacy according to the requirements of this subsection.
1. The Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate committee of the hospital, develop and implement policies and procedures in the same manner described in R4-23-653(~~G~~) (A) to ensure that access to the hospital pharmacy during the pharmacist's absence conforms to the following requirements:
    - a. Access is delegated to only one supervisory nurse in each shift;
    - b. The policy and name of supervisory nurse is communicated in writing to the medical staff of the hospital;

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- c. Access is delegated only to a nurse who has received training from the Director of Pharmacy, pharmacist-in-charge, or Director's designee in the procedures required for proper access, drug removal, and recordkeeping; and
- d. Access is delegated by the supervisory nurse to another nurse only in an emergency.
2. If a nurse to whom authority is delegated to access the hospital pharmacy removes a drug from the hospital pharmacy, the nurse shall:
  - a. Record the following information on a form or by another method approved by the Board or its designee:
    - i. Patient's name;₂
    - ii. Drug name, strength, and dosage form;₂
    - iii. Quantity of drug removed;₂ and
    - iv. Date and time of removal;
  - b. Sign or initial, if a corresponding signature is on file in the hospital pharmacy, the form recording the drug removal;
  - c. Attach the original or a direct copy of the medication order for the drug to the form recording the drug removal; and
  - d. Place the form recording the drug removal conspicuously in the hospital pharmacy.
3. Within four hours after a pharmacist's returning from an absence, a pharmacist shall verify all records of drug removal that occurred during the pharmacist's absence according to R4-23-653(E).

**R4-23-657. Security**

- A. Personnel security standards. A Director of Pharmacy shall ensure that:
  1. No one is permitted in the pharmacy unless a pharmacist is present except as provided in this Section and R4-23-654. If only one pharmacist is on duty in the pharmacy and that pharmacist must leave the pharmacy for an emergency or patient care duties, nonpharmacist personnel may remain in the pharmacy to perform duties as outlined in R4-23-653, provided that all C-II controlled substances are secured to prohibit access by other than a pharmacist, and that the pharmacist ~~remain~~ remains available in the hospital;
  2. All hospital pharmacy areas are kept locked by key or programmable lock to prevent access by unauthorized personnel; and
  3. Pharmacists, pharmacy or graduate interns, ~~certified~~ pharmacy technicians, pharmacy technician trainees, and other personnel working in the pharmacy wear identification badges, including name and position, whenever on duty.
- B. Prescription blank security. The Director of Pharmacy shall develop and implement policies and procedures in the same manner described in R4-23-653(~~G~~) (A) for the safe distribution and control of prescription blanks bearing identification of the hospital.

**R4-23-658. Drug Distribution and Control**

- A. General. The Director of Pharmacy or pharmacist-in-charge shall:
  - ~~1. in consultation with the medical staff, develop and implement written policies and procedures in the same manner described in R4-23-653(A) for the effective operation of a drug distribution system that optimizes patient safety;~~
  - ~~2. Make the policies and procedures available in the pharmacy for reference by pharmacy employees and inspection by the Board or its designee;~~
  - ~~3. Review and revise the policies and procedures biennially;~~
  - ~~4. Document the review and revision process; and~~
  - ~~5. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee.~~
- B. Responsibility. The Director of Pharmacy is responsible for the safe and efficient procurement, dispensing, distribution, administration, and control of drugs, including the following:
  1. In consultation with the appropriate department personnel and medical staff committee, develop a medication formulary for the hospital;
  2. Proper handling, distribution, and recordkeeping of investigational drugs; and
  3. Regular inspections of drug storage and preparation areas within the hospital.
- C. Physician orders. A Director of Pharmacy or pharmacist-in-charge shall ensure that:
  1. Drugs are dispensed from the hospital pharmacy only upon a written order, direct copy or facsimile of a written order, or verbal order of an authorized medical practitioner; and
  2. A pharmacist reviews the original, direct or facsimile copy, or verbal order before an initial dose of medication is administered, except as specified in R4-23-653(E)(1).
- D. Labeling. A Director of Pharmacy or pharmacist-in-charge shall ensure that all drugs distributed or dispensed by a hospital pharmacy are packaged in appropriate containers and labeled as follows:
  1. For use inside the hospital;₂
    - a. Labels for all single unit packages contain at a minimum, the following information:

- i. Drug name, strength, and dosage form;
      - ii. Lot number and beyond-use-date; and
      - iii. Appropriate auxiliary labels;
    - b. Labels for repackaged preparations contain at a minimum the following information:
      - i. Drug name, strength, and dosage form;
      - ii. Lot number and beyond-use-date;
      - iii. Appropriate auxiliary labels; and
      - iv. Mechanism to identify pharmacist ~~accountability~~ accountable for repackaging;
    - c. Labels for all intravenous admixture preparations contain at a minimum the following information:
      - i. Patient's name and location;
      - ii. Name and quantity of the basic parenteral solution;
      - iii. Name and amount of drug added;
      - iv. Date of preparation;
      - v. Beyond-use-date and time;
      - vi. Guidelines for administration;
      - vii. Appropriate auxiliary label or precautionary statement; and
      - viii. Initials of pharmacist responsible for admixture preparation; and
  2. For use outside the hospital; Any drug dispensed to a patient by a hospital pharmacy that is intended for self-administration outside of the hospital is labeled as specified in A.R.S. §§ 32-1963.01(C) and 32-1968(D) and A.A.C. R4-23-402.
- E.** Controlled substance accountability. A Director of Pharmacy or pharmacist-in-charge shall ensure that effective policies and procedures are developed and implemented in the same manner described in R4-23-653(~~G~~) (A) regarding the use, accountability, and recordkeeping of controlled substances in the hospital, including the use of locked storage areas when controlled substances are stored in patient care areas.
- F.** Emergency services dispensing. If a hospital permits dispensing of drugs from the emergency services department when the pharmacy is unable to provide this service, the Director of Pharmacy, in consultation with the appropriate department personnel and medical staff committee shall develop and implement written policies and procedures in the same manner described in R4-23-653(~~G~~) (A) for dispensing drugs for outpatient use from the hospital's emergency services department. The policies and procedures shall include the following requirements:
1. Drugs are ~~only~~ dispensed only to patients who have been admitted to the emergency services department;
  2. Drugs are ~~only~~ dispensed only by an authorized medical practitioner, not a designee or agent;
  3. The nature and type of drugs available for dispensing are designed to meet the immediate needs of the patients treated within the hospital;
  4. Drugs are ~~only~~ dispensed only in quantities sufficient to meet patient needs until outpatient pharmacy services are available;
  5. Drugs are prepackaged by a pharmacist or a pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist in suitable containers and appropriately prelabeled with the drug name, strength, dosage form, quantity, manufacturer, lot number, beyond-use-date, and any appropriate auxiliary labels;
  6. Upon dispensing, the authorized medical practitioner completes the label on the prescription container that complies with the requirements of R4-23-658(D); and
  7. The hospital pharmacy maintains a dispensing log, hard-copy prescription, or electronic record, approved by the Board or its designee and includes the patient name and address, drug name, strength, dosage form, quantity, directions for use, medical practitioner's signature or identification code, and DEA registration number, if applicable.

**R4-23-659. Administration of Drugs**

- A.** Self-administration. A hospital shall not allow self-administration of medications by a patient unless the Director of Pharmacy or pharmacist-in-charge, in consultation with the appropriate department personnel and medical staff committee, develops and implements policies and procedures for self-administration of medications by a patient in the same manner described in R4-23-653(~~G~~) (A). The policies and procedures shall specify that self-administration of medications, if allowed, occurs only when:
1. Specifically ordered by a medical practitioner; and
  2. ~~A~~ The patient is educated and trained in the proper manner of self-administration.
- B.** Drugs brought in by a patient. If a hospital allows a patient to bring a drug into the hospital and before a patient brings a drug into the hospital, the Director of Pharmacy or pharmacist-in-charge shall, in consultation with the appropriate department personnel and medical staff committee, develop and implement policies and procedures for a patient-owned drug brought into the hospital in the same manner described in R4-23-653(~~G~~) (A). The policies and procedures shall specify the following criteria for a patient-owned drug brought into the hospital:

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1. When policy allows the administration of a patient-owned drug, the drug is not administered to the patient unless:
    - a. A pharmacist or medical practitioner identifies the drug; and
    - b. A medical practitioner writes a medication order specifying administration of the identified patient-owned drug; and
  2. If a patient-owned drug will not be used during the patient's hospitalization, the hospital pharmacy's personnel shall:
    - a. Package, seal, and give the drug to the patient's agent for removal from the hospital; or
    - b. Package, seal, and store the drug for return to the patient at the time of discharge from the hospital.
- C. Drug samples. The Director of Pharmacy or pharmacist-in-charge is responsible for the receipt, storage, distribution, and accountability of drug samples within the hospital, including developing and implementing specific policies and procedures in the same manner described in R4-23-653(~~G~~) (A) regarding drug samples.

**R4-23-673. Limited-service Mail-order Pharmacy**

- A. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
1. A dispensing area devoted to stocking, compounding, and dispensing prescription medications, which is physically separate from a non-dispensing area devoted to non-dispensing pharmacy services;
  2. A dispensing area of at least 300 square feet if three or fewer persons work in the dispensing area simultaneously;
  3. A dispensing area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the dispensing area simultaneously;
  4. Space in the dispensing area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist;
  5. A non-dispensing area of at least 30 square feet for each person working simultaneously in the non-dispensing area; and
  6. Space in the non-dispensing area permits free movement of personnel and visual surveillance by the pharmacist; or
- B. The limited-service pharmacy permittee shall design and construct the limited-service mail-order pharmacy to conform with the following requirements:
1. A contiguous area in which both dispensing and non-dispensing pharmacy services are provided;
  2. A contiguous area of at least 300 square feet if three or fewer persons work in the area simultaneously;
  3. A contiguous area that provides 300 square feet plus 60 square feet for each person in excess of three persons if more than three persons work in the area simultaneously; and
  4. Space in the contiguous area permits efficient pharmaceutical practice, free movement of personnel, and visual surveillance by the pharmacist.
- ~~C.~~ The limited-service pharmacy permittee shall allow no more than four supportive personnel per pharmacist to be in the limited-service mail-order pharmacy.
- ~~D-C.~~ The limited-service pharmacy permittee shall ensure that the limited-service mail-order pharmacy complies with the standards for area, personnel, security, sanitation, and equipment set forth in R4-23-608, R4-23-609(B) through (H), R4-23-610(A) and (C) through (F), R4-23-611(A) through (I), and R4-23-612.
- ~~E-D.~~ The pharmacist-in-charge of a limited-service mail-order pharmacy shall authorize only pharmacists, interns, pharmacy technicians, pharmacy technician trainees, drug inspectors, peace officers acting in their official capacities, supportive support personnel, and other designated personnel to be in the limited-service mail-order pharmacy.
- ~~F-E.~~ The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- ~~G-F.~~ In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation but not less than ~~six~~ five days and a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service mail-order pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container of drugs dispensed from the limited-service mail-order pharmacy.
- ~~H-G.~~ The pharmacist-in-charge of a limited-service mail-order pharmacy shall ensure that the written policies and procedures for pharmacy operations and drug distribution include the following:
1. Prescription orders;
  2. Clinical services and drug utilization management for:
    - a. Drug utilization reviews,
    - b. Inventory audits,
    - c. Patient outcome monitoring,
    - d. Drug information, and
    - e. Education of pharmacy and other health professionals;
  3. Duties and qualifications of professional and support staff;
  4. Controlled substances;
  5. Drug product procurement;

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6. Drug compounding, dispensing, and storage;
7. Patient profiles;
8. Quality management procedures for:
  - a. Adverse drug reactions,
  - b. Drug recalls,
  - c. Expired and beyond-use-date drugs,
  - d. Medication or dispensing errors, and
  - e. Education of professional and support staff;
9. Recordkeeping;
10. Sanitation;
11. Security;
12. Drug delivery requirements for:
  - a. Transportation,
  - b. Security,
  - c. Temperature and other environmental controls,
  - d. Emergency provisions, and
13. Patient education.

**R4-23-674. Limited-service Long-term Care Pharmacy**

- A. A limited-service pharmacy permittee shall ensure that the limited-service long-term care pharmacy complies with:
  1. The general requirements of R4-23-671;
  2. The professional practice standards of Article 4, ~~except R4-23-403(C)~~ and Article 11; and
  3. The permits and drug distribution standards of R4-23-606 through R4-23-612, R4-23-670, and this Section.
- B. If a limited-service long-term care pharmacy permittee contracts with a long-term care facility as a Provider Pharmacy, as defined in R4-23-110, the limited-service long-term care pharmacy permittee shall ensure that:
  1. The limited-service long-term care pharmacy employs or contracts with a long-term care consultant pharmacist; and
  2. The long-term care consultant pharmacist and the pharmacist-in-charge of the limited-service long-term care pharmacy comply with R4-23-701, R4-23-701.01, R4-23-701.02, and R4-23-701.03 and this Section.
- C. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that prescription medication is delivered to the patient's long-term care facility or locked in the dispensing area of the pharmacy when a pharmacist is not present in the pharmacy.
- D. The pharmacist-in-charge of a limited-service long-term care pharmacy shall:
  - ~~1. Authorize~~ authorize only those individuals listed in R4-23-610(B) to be in the limited-service long-term care pharmacy; ~~and~~
  - ~~2. Allow no more than four pharmacy technicians or certified pharmacy technicians per pharmacist to be in the limited-service long-term care pharmacy.~~
- E. In consultation with the long-term care facility's medical director and director of nursing, the long-term care consultant pharmacist and pharmacist-in-charge of the long-term care facility's provider pharmacy may develop, if necessary, a medication formulary for the long-term care facility that ensures the safe and efficient procurement, dispensing, distribution, administration, and control of drugs in the long-term care facility.
- F. The limited-service long-term care pharmacy permittee or pharmacist-in-charge shall ensure that the written policies and procedures required in R4-23-671(E) include the following:
  1. Clinical services and drug utilization management for:
    - a. Drug utilization reviews;
    - b. Inventory audits;
    - c. Patient outcome monitoring;
    - d. Drug information; and
    - e. Education of pharmacy and other health professionals;
  2. Controlled substances;
  3. Drug compounding, dispensing, and storage;
  4. Drug delivery requirements for:
    - a. Transportation;
    - b. Security;
    - c. Temperature and other environmental controls; and
    - d. Emergency provisions;
  5. Drug product procurement;
  6. Duties and qualifications of professional and support staff;
  7. Emergency drug supply unit procedures;
  8. Formulary, including development, review, modification, use, and documentation, if applicable;

9. Patient profiles;
10. Patient education;
11. Prescription orders;
12. Quality management procedures for:
  - a. Adverse drug reactions;
  - b. Drug recalls;
  - c. Expired and beyond-use-date drugs;
  - d. Medication or dispensing errors; and
  - e. Education of professional and support staff;
13. Recordkeeping;
14. Sanitation; and
15. Security.

#### **ARTICLE 11. PHARMACY TECHNICIANS**

##### **R4-23-1101. Licensure and Eligibility**

**A.** License required. Before posing or practicing as a pharmacy technician or pharmacy technician trainee in Arizona, a person shall:

1. Possess a pharmacy technician or pharmacy technician trainee license issued by the Board;
2. Read and discuss with the pharmacist-in-charge of the pharmacy where employed, the Board rules concerning pharmacy technicians and pharmacy technician trainees, the pharmacy technician and pharmacy technician trainee job description, and the policy and procedure manual of that pharmacy; and
3. Date and sign a statement affirming understanding of the Board rules for pharmacy technicians or pharmacy technician trainees, the job description, and the policy and procedure manual.

**B.** Eligibility.

1. To be eligible for licensure as a pharmacy technician trainee, a person shall:
  - a. Be of good moral character,
  - b. Be at least 18 years of age, and
  - c. Have a high school diploma or the equivalent of a high school diploma.
2. To be eligible for licensure as a pharmacy technician, a person shall:
  - a. Meet the requirements of subsection (B)(1),
  - b. Complete a pharmacy technician training program that meets the standards prescribed in R4-23-1105, and
  - c. Pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination.

**C.** A pharmacy technician holding a delinquent license. Before an Arizona pharmacy technician license will be reinstated, a pharmacy technician whose Arizona pharmacy technician license is delinquent for five or more consecutive years shall furnish to the Board satisfactory proof of fitness to be licensed as a pharmacy technician and pay all past due biennial renewal fees and penalty fees. Satisfactory proof includes:

1. For a delinquent licensee who is practicing as a pharmacy technician outside the Board's jurisdiction with a pharmacy technician license issued by another jurisdiction:
  - a. Proof of current, unrestricted pharmacy technician licensure in another jurisdiction; and
  - b. Proof of employment as a pharmacy technician during the last year; or
2. For a delinquent licensee who did not practice as a pharmacy technician within the last year:
  - a. Take and pass a Board-approved pharmacy technician examination, and
  - b. Complete 120 hours of pharmacy technician training as a pharmacy technician trainee licensed under R4-23-1103, or
  - c. Complete 480 hours of pharmacy technician training as a pharmacy technician trainee licensed under R4-23-1103.

##### **R4-23-1102. Pharmacy Technician Licensure**

**A.** Application. An applicant for licensure as a pharmacy technician shall:

1. Provide the Board proof that the applicant is eligible under R4-23-1101(B)(2), including documentation that the applicant:
  - a. Completed a pharmacy technician training program that meets the standards prescribed in R4-23-1105; and
  - b. Passed the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination;
2. File an application on a form furnished by the Board, that includes:
  - a. Applicant's name, address, mailing address, if different, telephone number, and social security number;

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- b. Whether the applicant has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charge, and if so, indicate charge, conviction date, and jurisdiction;
  - c. Whether the applicant has ever had a pharmacy technician license revoked, suspended, or denied in this state or any other jurisdiction, and if so, indicate where and when;
  - d. Pharmacy name and address where the pharmacy technician will practice;
  - e. Date signed and applicant's verified signature; and
  - f. The wall license and initial licensure fees specified in R4-23-205.
- B.** Licensure. Within seven business days of receipt of a completed application, fees, and other information specified in subsection (A), the Board office shall determine whether the application is complete. If the application is complete, the Board shall assess whether the applicant is qualified under statute and rule. If the applicant is qualified, the Board office shall issue a license number and mail a current renewal license to the applicant. An applicant who is issued a license number may begin practice as a pharmacy technician. The Board office shall mail the wall license to the licensee within 14 days of issuing the license number.
- C.** License renewal. To renew a license, a pharmacy technician shall submit a license renewal form supplied by the Board with the biennial renewal fee specified in R4-23-205. The completed renewal form will be processed for renewal by the Board office in the same manner described in subsection (B).
- D.** If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacy technician license is suspended and the licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205 to vacate the suspension.

**R4-23-1103. Pharmacy Technician Trainee Licensure**

- A.** Application. An applicant for licensure as a pharmacy technician trainee shall:
- 1. Provide the Board proof that the applicant is eligible under R4-23-1101(B)(1); and
  - 2. File an application on a form furnished by the Board, that includes:
    - a. Applicant's name, address, mailing address, if different, telephone number, and social security number;
    - b. Whether the applicant has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charge, and if so, indicate charge, conviction date, and jurisdiction;
    - c. Whether the applicant has ever had a pharmacy technician or pharmacy technician trainee license revoked, suspended, or denied in this state or any other jurisdiction, and if so, indicate where and when;
    - d. Pharmacy name and address where the pharmacy technician trainee will complete the pharmacy technician training program;
    - e. Date signed and applicant's verified signature; and
    - f. The wall license and initial licensure fees specified in R4-23-205.
- B.** Licensure.
- 1. Within seven business days of receipt of a completed application, fees, and other information specified in subsection (A), the Board office shall determine whether the application is complete. If the application is complete, the Board shall assess whether the applicant is qualified under statute and rule. If the applicant is qualified, the Board office shall issue a license number and mail a current license to the applicant. An applicant who is issued a license number may begin practice as a pharmacy technician trainee. The Board office shall mail the wall license to the licensee within 14 days of issuing the license number. A pharmacy technician trainee license is valid for 24 months from the date issued.
  - 2. A pharmacy technician trainee who does not complete the prescribed training program and pass the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination before the pharmacy technician trainee's license expires is not eligible for licensure as a pharmacy technician and shall not practice as a pharmacy technician or pharmacy technician trainee.
- C.** The Board may allow a pharmacy technician trainee whose license expires before the pharmacy technician trainee completes the prescribed training program and passes the Pharmacy Technician Certification Board (PTCB) examination or another Board-approved pharmacy technician examination to reapply for licensure not more than one time. A pharmacy technician trainee whose license has expired may make a special request to the Board under R4-23-401 for approval to reapply for licensure.
- D.** The Board shall base its decision to grant or deny a special request to reapply for licensure on an assessment of:
- 1. The reasons the pharmacy technician trainee did not complete a pharmacy technician training program and the likelihood that the pharmacy technician trainee will complete a pharmacy technician training program within another 24 months;
  - 2. The reasons the pharmacy technician trainee failed the pharmacy technician examination and the likelihood that the pharmacy technician trainee will pass the pharmacy technician examination within another 24 months; and
  - 3. Other extenuating circumstances.

**R4-23-1104. Pharmacy Technicians and Pharmacy Technician Trainees**

- A.** Permissible activities of a pharmacy technician trainee. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician trainee may assist a graduate intern, pharmacy intern, or pharmacist with the following when applicable to the pharmacy practice site:
1. Record on the original prescription order the prescription serial number and date dispensed;
  2. Initiate or accept verbal or electronic refill authorization from a medical practitioner or medical practitioner's agent and record, on the original prescription order or by an alternative method approved by the Board or its designee, the medical practitioner's name, patient name, name and quantity of prescription medication, specific refill information, and name of medical practitioner's agent, if any;
  3. Record information in the refill record or patient profile;
  4. Type and affix a label for a prescription medication or enter information for a new or refill prescription medication into a computer, if a pharmacist verifies the accuracy and initials in handwriting or by another method approved by the Board or its designee the finished label prepared by the technician before the prescription medication is dispensed to the patient;
  5. Reconstitute a prescription medication, if a pharmacist checks the ingredients and procedure before reconstitution and verifies the final product after reconstitution;
  6. Retrieve, count, or pour a prescription medication, if a pharmacist verifies the contents of the prescription medication against the original prescription medication container or by an alternative drug identification method approved by the Board or its designee;
  7. Prepackage drugs in accordance with R4-23-402(A); and
  8. Measure, count, pour, or otherwise prepare and package a drug needed for hospital inpatient dispensing, if a pharmacist verifies the accuracy, measuring, counting, pouring, preparing, packaging, and safety of the drug before the drug is delivered to a patient care area.
- B.** Permissible activities of a pharmacy technician. Acting in compliance with all applicable statutes and rules and under the supervision of a pharmacist, a pharmacy technician may:
1. Perform the activities listed in subsection (A); and
  2. After completing a drug compounding training program developed by the pharmacy permittee or pharmacist-in-charge under R4-23-1105, assist a pharmacist, graduate intern, or pharmacy intern in compounding prescription medications and sterile or non-sterile pharmaceuticals in accordance with written policies and procedures, if the preparation, accuracy, and safety of the final product is verified by a pharmacist before dispensing.
- C.** Prohibited activities. A pharmacy technician or pharmacy technician trainee shall not perform a function reserved for a pharmacist, graduate intern, or pharmacy intern in accordance with R4-23-402 or R4-23-653.
- D.** A pharmacy technician or pharmacy technician trainee shall wear a badge indicating name and title while on duty.
- E.** Before employing a pharmacy technician or pharmacy technician trainee, a pharmacy permittee or pharmacist-in-charge shall develop and implement policies and procedures in the same manner described in R4-23-653(A) for pharmacy technician and pharmacy technician trainee activities as specified in subsection (F).
- F.** The policies and procedures shall include the following:
1. For all practice sites:
    - a. Supervisory controls and verification procedures to ensure the quality and safety of pharmaceutical service;
    - b. Employment performance expectations for a pharmacy technician and pharmacy technician trainee;
    - c. The activities a pharmacy technician or pharmacy technician trainee may perform as specified in R4-23-1104(A) and (B);
    - d. Pharmacist and patient communication;
    - e. Reporting, correcting, and avoiding medication and dispensing errors;
    - f. Security procedures for:
      - i. Confidentiality of patient prescription records, and
      - ii. The pharmacy area;
    - g. Automated medication distribution system;
    - h. Compounding procedures for pharmacy technicians; and
    - i. Brief overview of state and federal pharmacy statutes and rules;
  2. For community and limited-service pharmacy practice sites:
    - a. Prescription dispensing procedures for:
      - i. Accepting a new written prescription,
      - ii. Accepting a refill request,
      - iii. Selecting a drug product,
      - iv. Counting and pouring,
      - v. Labeling, and
      - vi. Obtaining refill authorization;

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- b. Computer data entry procedures for:
  - i. New and refill prescriptions.
  - ii. Patient's drug allergies.
  - iii. Drug-drug interactions.
  - iv. Drug-food interactions.
  - v. Drug-disease state contraindications.
  - vi. Refill frequency.
  - vii. Patient's disease and medical condition.
  - viii. Patient's age or date of birth and gender, and
  - ix. Patient profile maintenance; and
- 3. For hospital pharmacy practice sites:
  - a. Medication order procurement and data entry;
  - b. Drug preparation and packaging;
  - c. Outpatient and inpatient drug delivery; and
  - d. Inspection of drug storage and preparation areas and patient care areas.

**R4-23-1105. Pharmacy Technician Training Program**

**A.** Nothing in this Section prevents additional offsite training of a pharmacy technician.

**B.** Pharmacy technician training program.

- 1. A pharmacy permittee or pharmacist-in-charge shall develop and implement in the same manner described in R4-23-653(A) a pharmacy technician training program based on the needs of the individual pharmacy.
- 2. A pharmacy permittee or pharmacist-in-charge shall ensure that the pharmacy technician training program includes training guidelines that:
  - a. Define the specific tasks a pharmacy technician trainee is expected to perform.
  - b. Specify how the pharmacy technician trainee's competency will be assessed, and
  - c. Address the policies and procedures specified in R4-23-1104(F) and the permissible activities specified in R4-23-1104(A) and (B).
- 3. A pharmacist-in-charge shall:
  - a. Document a pharmacy technician trainee's progress throughout the training program.
  - b. Date and sign a statement attesting that a pharmacy technician trainee has successfully completed the training program.
  - c. Maintain the documentation required in this subsection and R4-23-1101(A)(3) for inspection by the Board or its designee, and
  - d. Provide to the pharmacy technician trainee a copy of the statement required in subsection (B)(3)(b).

**C.** Drug compounding training program.

- 1. A pharmacy permittee or pharmacist-in-charge shall develop and implement in the same manner described in R4-23-653(A) a drug compounding training program based on the needs of the individual pharmacy.
- 2. A pharmacy permittee or pharmacist-in-charge shall ensure that the drug compounding training program includes training guidelines that:
  - a. Define the specific tasks a pharmacy technician is expected to perform.
  - b. Specify how the pharmacy technician's competency will be assessed, and
  - c. Address the following procedures and tasks:
    - i. Area preparation.
    - ii. Component preparation.
    - iii. Aseptic technique and product preparation.
    - iv. Packaging and labeling, and
    - v. Area clean up.
- 3. A pharmacist-in-charge shall:
  - a. Document a pharmacy technician's progress throughout the training program, and
  - b. Date and sign a statement attesting that a pharmacy technician trainee has successfully completed the training program.
  - c. Maintain the documentation required in this subsection for inspection by the Board or its designee.

**D.** A pharmacy technician shall perform only those tasks, listed in R4-23-1104(B), for which training and competency has been demonstrated.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 1. RADIATION REGULATORY AGENCY

PREAMBLE

**1. Sections Affected**

R12-1-206  
R12-1-319  
R12-1-324  
R12-1-424  
R12-1-425  
R12-1-501  
R12-1-518  
R12-1-523  
R12-1-603  
R12-1-609  
R12-1-614  
R12-1-905  
R12-1-1504  
R12-1-1506  
R12-1-1716  
R12-1-1720  
R12-1-1721  
R12-1-1723  
R12-1-1742  
R12-1-1743

**Rulemaking Action**

Amend  
Amend  
New Section  
Amend  
Amend  
Amend  
New Section  
Amend  
Amend

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

Authorizing statutes: A.R.S. §§ 30-654(B) and 30-673

Implementing statutes: A.R.S. §§ 30-657, 30-672(J), and 30-672.01

**3. A citation to all published notices relating to the proceeding:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 3385, August 1, 2003

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

Name: Daniel H. Kuhl  
Address: Arizona Radiation Regulatory Agency  
4814 S. 40th Street  
Phoenix, AZ 85040  
Telephone: (602) 255-4845, ext. 233  
Fax: (602) 437-0705  
E-mail: dkuhl@arra.state.az.us

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

R12-1-206 is being amended to update an incorporated reference that will affect all users of x-ray machines. R12-1-319 is amended to include NRC standards that must be met when terminating a radioactive material license, and in R12-1-324 the licensee will be required to involve the public when a licensed program is terminated or a decommissioning plan is needed. R12-1-424 and R12-1-425 are being amended to include new NRC standards for persons using respiratory protection when handling or working with forms of radioactive material that are inhalable. Industrial radiography operations will be affected by the changes to R12-1-501 and R12-1-523, which are being amended to include new definitions and personnel monitoring standards respectively. Both of these rule amendments and the new labeling, storage, and transportation requirements in R12-1-518 are made as required by the Agreement Arizona has with the NRC. R12-1-603, R12-1-609, and R12-1-614 are amended to include changes affecting healing arts x-ray users. The changes were requested during the public comment period for a previous Agency rulemaking, RMP-054, which became final rules in the summer of this year. The changes could not be made at that time because the changes would have resulted in substantial changes to the existing RMP-0054 rule package. R12-1-905 is amended to change the record retention requirement for particle accelerators to three years which is the standard throughout the Agency's rules. No doubt there are some rules that may contain a different duration, however, the Agency has not had

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time to correct all of the time-frame discrepancies. R12-1-1504 and R12-1-1506 are amended to incorporate current federal transportation regulations in 49 CFR. These incorporations are required by the NRC. Six rules contained in Article 17 are being amended to include NRC standards in 10 CFR 39. Article 17 regulates well logging and wireline activities.

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

There should not be any significant economic impact as a result of the implementation of the proposed amendments. The benefits from the amendments are the increased public safety from the safe use, transport, storage, and disposal of radiation sources.

The Arizona Radiation Regulatory Agency (ARRA) should not experience an increase in its cost of operation as a result of implementing the rule amendments. Other agencies and political subdivisions possessing radiation sources should not experience an increase in their cost of operation as result of implementing the rule amendments. The current mix of Arizona businesses possessing radiation sources should not experience an increase in their cost of operation as result of implementing the rule amendments. The cost, if any, will be passed on to businesses that use the services of the licensees and registrants.

There is one potential exception to the cost estimates listed above, the radioactive material license termination requirements proposed in Article 3. If a licensee should go out of business with a jobsite contaminated with radioactive material, the state of Arizona could be left with the cost of cleaning up the site and returning it to unrestricted use. To preclude this from happening, the previously adopted decommissioning requirements in R12-1-323 must be met during the license application process. The Agency is aware of the licensees having the greatest potential for an adverse economic impact on the state's financial well-being. At this time only two licensees, the University of Arizona and Arizona State University are required to address decommissioning requirements. The universities are self funded by the state. The two rules involved, R12-1-319 and R12-1-324, list the procedures that must be followed before the Agency will grant a license termination, and similar regulatory entities are listed that should be notified of a pending termination so that other potential safety issues can be addressed, if need be. The potential cost for the new termination requirements should be small compared to addressing the concerns associated with the type, quantity, and form of radioactive material that sets the basis for the cost of a decommissioning plan. As stated earlier, these new rules are required by the NRC and the state has little say in how the rules will be implemented and any associated costs.

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

Name: Aubrey V. Godwin, Director  
Address: Arizona Radiation Regulatory Agency  
4814 S. 40th Street  
Phoenix, AZ 85040  
Telephone: (602) 255-4845  
Fax: (602) 437-0705

**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:**

An oral proceeding at the Agency is scheduled for Tuesday, January 6, 2004, at 10:00 a.m. A person may submit written comments concerning the proposed rules by submitting them no later than 5:00 p.m., on January 6, 2004, to the following person:

Name: Aubrey V. Godwin, Director  
Address: Arizona Radiation Regulatory Agency  
4814 S. 40th Street  
Phoenix, AZ 85040  
Telephone: (602) 255-4845  
Fax: (602) 437-0705

**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:**

<b><u>Rule</u></b>	<b><u>Incorporation</u></b>
R12-1-206	21 CFR 1020.30(d)
R12-1-319(E)(5)	10 CFR 30.35(g)
R12-1-425(A)(7)	29 CFR 1910.134(i)(1)(ii)(A) through (E)
R12-1-518(B)	10 CFR 71
R12-1-1504(A)(1)	49 CFR 170 through 189
R12-1-1506(1)	49 CFR 170 through 149 39 CFR 111.1

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

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 1. RADIATION REGULATORY AGENCY**

**ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES**

Section

R12-1-206. Assembly, Installation, Removal from Service, and Transfer

**ARTICLE 3. RADIOACTIVE MATERIAL LICENSING**

Section

R12-1-319. Modification, Revocation, and Termination of Licenses

R12-1-324. ~~Repeated~~ Public Notification and Public Participation

**ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION**

Section

R12-1-424. Use of Other Controls

R12-1-425. Use of Individual Respiratory Protection Equipment

**ARTICLE 5. INDUSTRIAL RADIOGRAPHIC OPERATIONS**

Section

R12-1-501. Definitions

R12-1-518. ~~Repeated~~ Labeling, Storage, and Transportation

R12-1-523. Personnel Monitoring

**ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS**

Section

R12-1-603. Operational Standards, Shielding, and Darkroom Requirements

R12-1-609. Chest Photofluorographic Systems

R12-1-614. Mammography

**ARTICLE 9. PARTICLE ACCELERATORS**

Section

R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks

**ARTICLE 15. TRANSPORTATION**

Section

R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials

R12-1-1506. Preparation of Radioactive Material for Transport

**ARTICLE 17. RADIATION SAFETY REQUIREMENTS FOR WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES**

Section

- R12-1-1716. Physical inventory
- R12-1-1720. ~~Inspection and Maintenance~~ Inspection, Maintenance, and Opening of a Source or Source Holder
- R12-1-1721. ~~Training Requirements~~
- R12-1-1723. Personnel Monitoring
- R12-1-1742. Documents and Records Required at Field Stations
- R12-1-1743. Documents and Records Required at Temporary Job Sites

**ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES**

**R12-1-206. Assembly, Installation, Removal from Service, and Transfer**

- A. No change
  - 1. No change
  - 2. No change
  - 3. The date each machine was assembled or installed, or the first clinical procedure is performed.
- B. No change
- C. In the case of diagnostic x-ray systems that contain certified components, an assembler shall submit to the Agency a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), ~~2000 Edition~~ 2004 edition, published April 1, ~~2000~~ 2004 by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference and on file with the Agency, containing no future editions or amendments, within 15 days following completion of the assembly. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in ~~subsection (A)(2)~~ subsections (A)(1), (A)(2), and (A)(3).
- D. No change

**ARTICLE 3. RADIOACTIVE MATERIAL LICENSING**

**R12-1-319. Modification, Revocation, and Termination of Licenses**

- A. No change
- B. No change
- C. No change
- D. No change
- E. Specific licenses, including expired licenses, will continue in effect until terminated by written notice to the licensee, when the Agency determines that:
  - 1. Radioactive material has been properly disposed;
  - 2. Reasonable effort has been made to eliminate residual radioactive contamination, if present;
  - 3. A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in R12-1-323;
  - 4. Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning R12-1-323.
  - 5. Records have been provided to the Agency detailing the disposal of all radioactive material in unsealed form, having a half-life greater than 120 days, and copies of the records required by 10 CFR 30.35(g) 2004 edition, published January 1, 2004, incorporated by reference and on file with the Agency and the Office of Secretary of State, have been provided to the Agency. This incorporation by reference contains no future editions or amendments.

**R12-1-324. ~~Repeated~~ Public Notification and Public Participation**

Upon the receipt of an license termination plan (LTP) or decommissioning plan from the licensee, or a proposal by the licensee for release of a site in accordance with R12-1-451 and R12-1-452, or whenever the Agency deems a notice to be in the public interest, the Agency shall:

- 1. Notify and solicit comments from:
  - a. Local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and
  - b. The Arizona Department of Environmental Quality for cases where the licensee proposes to release a site in accordance with R12-1-452.
- 2. Publish a notice in the Arizona Administrative Register and in a forum, such as local newspapers, letters to local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site, and solicit comments from affected parties.

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

**R12-1-424. Use of Other Controls**

**A.** When it is not practical to apply process or other engineering controls to control concentrations of radioactive material in the air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent according to R12-1-407(B), increase monitoring and limit intakes by one or more of the following means:

1. Control access,
2. Limit exposure times,
3. Use respiratory protection equipment, or
4. Use other controls.

**B.** If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee should also consider the impact of respirator use on workers' industrial health and safety.

**R12-1-425. Use of Individual Respiratory Protection Equipment**

**A.** ~~If a licensee uses respiratory protection equipment to limit intakes according to R12-1-424:~~

1. ~~Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration (NIOSH/MSHA).~~
2. ~~If the licensee wishes to use equipment that has not been tested or certified by NIOSH/MSHA, or for which there is no schedule for testing or certification, the licensee shall submit an application for authorized use of the equipment, including a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.~~
3. ~~The licensee shall implement and maintain a respiratory protection program that includes:~~
  - a. ~~Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures;~~
  - b. ~~Surveys and bioassays, as appropriate, to evaluate actual intakes;~~
  - e. ~~Testing of respirators for operability immediately before each use;~~
  - d. ~~Written procedures regarding selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and record keeping; and~~
  - e. ~~Determination by a physician that each individual user is physically fit to use respiratory protective equipment:~~
    - i. ~~Before the initial fitting of a face-sealing respirator with a tight-fitting face piece;~~
    - ii. ~~Before the first field use of non-face-sealing respirator without a tight-fitting face piece, and~~
    - iii. ~~Every 12 months after initial fitting or first use, or periodically, at a frequency determined by the physician.~~
4. ~~The licensee shall issue a written policy statement on respirator usage covering:~~
  - a. ~~The use of process or other engineering controls, instead of respirators;~~
  - b. ~~The routine, nonroutine, and emergency use of respirators; and~~
  - e. ~~The length of periods of respirator use and relief from respirator use.~~
5. ~~The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require relief from respirator use.~~
6. ~~The licensee shall use respiratory protection equipment within the equipment manufacturer's expressed limitations for type and mode of use and shall provide proper visual, communication, and other special capabilities, such as adequate skin protection, when needed.~~

**B.** ~~When estimating exposure of individuals to airborne radioactive materials, the licensee may take credit for respiratory protection equipment used to limit intakes as allowed in R12-1-424, provided that the following conditions, in addition to those in subsection (A), are satisfied:~~

1. ~~The licensee selects respiratory protection equipment from Appendix A, that provides a protection factor that will afford the user protection from the peak concentration of airborne radioactive material and requires its use when peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Appendix B, Table I, Column 3. However, if the selection of respiratory protection equipment, with a protection factor greater than the peak concentration, is inconsistent with the goal of maintaining the total effective dose equivalent ALARA as specified in R12-1-407(B), a licensee may select respiratory protection equipment with a lower protection factor, provided the equipment selection and other controls authorized in R12-1-424 result in a total effective dose equivalent that is ALARA as specified in R12-1-407(B). The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in the air, during~~

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each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than initially estimated, the corrected value shall be used; if the exposure is later found to be less than initially estimated, the corrected value may be used.

2. The licensee shall obtain authorization from the Agency before assigning respiratory protection factors in excess of those specified in Appendix A. The Agency may authorize a licensee to use higher protection factors on receipt of an indication that:
  - a. Describes the situation for which a need exists for higher protection factors, and
  - b. Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.
- ~~C.~~ In an emergency, the licensee shall use as emergency equipment only respiratory protection equipment that has been specifically certified or has certification for emergency use by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration NIOSH/MSHA.
- ~~D.~~ A licensee shall apply to the Agency for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
  1. State the reason for the higher protection factors; and
  2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.
- ~~E.~~ The licensee shall notify the Agency in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (B).
- A. If the licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,
  1. The licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH) except as otherwise noted in this part.
  2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the Agency for authorized use of this equipment except as provided in this Section. The application shall include evidence that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use. The licensee shall be able to demonstrate the degree of protection through testing or reliable test information.
  3. The licensee shall implement and maintain a respiratory protection program that includes:
    - a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
    - b. Surveys and bioassays, as necessary, to evaluate actual intakes;
    - c. Testing of respirators for operability (user seal check for face sealing devices and functional check for others) immediately prior to each use;
    - d. Written procedures regarding:
      - i. Monitoring, including air sampling and bioassays;
      - ii. Supervision and training of respirator users;
      - iii. Fit testing;
      - iv. Respirator selection;
      - v. Breathing air quality;
      - vi. Inventory and control;
      - vii. Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;
      - viii. Recordkeeping; and
      - ix. Limitations on periods of respirator use and relief from respirator use;
    - e. Determination by a physician that the individual user is medically fit to use respiratory protection equipment:
      - i. Before the initial fitting of a face sealing respirator;
      - ii. Before the first field use of non-face sealing respirators, and
      - iii. Either every 12 months thereafter, or periodically at a frequency determined by a physician.
    - f. Fit testing, with fit factor [ge] 10 times the APF for negative pressure devices, and a fit factor [ge] 500 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed one year. Fit testing must be performed with the face piece operating in the negative pressure mode.
  4. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require relief.
  5. The licensee shall also consider limitations appropriate to the type and mode of use. When selecting respiratory devices the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in such a way as not to interfere with the proper operation of the respirator.

6. Standby rescue persons are required whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The standby persons shall be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. A sufficient number of standby rescue persons shall be immediately available to assist all users of this type of equipment and to provide effective emergency rescue if needed.
  7. Atmosphere-supplying respirators must be supplied with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 and included in the regulations of OSHA (29 CFR 1910.134(i)(1)(ii)(A) through (E), 2003 edition published July 1, 2003, incorporated by reference and on file with the Agency, containing no future editions or amendments). Grade D quality air criteria include:
    - a. Oxygen content (v/v) of 19.5-23.5%;
    - b. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
    - c. Carbon monoxide (CO) content of 10 ppm or less;
    - d. Carbon dioxide content of 1,000 ppm or less; and
    - e. Lack of noticeable odor.
  8. The licensee shall ensure that no objects, materials or substances, such as facial hair, or any conditions that interfere with the face to face piece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.
  9. In estimating the dose to individuals from intake of airborne radioactive materials, the licensee shall use the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the licensee shall make the calculation using the corrected value. If the dose is later found to be less than the estimated dose, the licensee may use the corrected value.
- B.** The licensee shall use Appendix A when determining which equipment and associated assigned protection factors to use.
- C.** A licensee shall apply to the Agency for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
1. State the reason for the higher protection factors; and
  2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.
- D.** The licensee shall notify the Agency in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (C).

## ARTICLE 5. INDUSTRIAL RADIOGRAPHIC OPERATIONS

### R12-1-501. Definitions

"Access panel" No change

"Annual refresher safety training" No change

"Aperture" No change

"Associated equipment" No change

"Certifying entity" means an independent certifying organization meeting the requirements in Appendix A of this Article, or equivalent requirements of the NRC or another Agreement State, meeting the requirements in parts II and III in Appendix A.

"Collimator" No change

"Control (drive) cable" No change

"Control (drive) mechanism" No change

"Control tube" No change

"Door" No change

"Exposure head" No change

"Ground fault" No change

"Guide tube (projection sheath)" No change

"Hands-on experience" No change

"Independent certifying organization" means an independent organization that meets all of the criteria of Appendix A.

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“Lay-barge radiography” means industrial radiography performed on any water vessel used for laying pipe.

“Port” No change

“Practical examination” No change

“Radiographic exposure device” means any x-ray machine used for purposes of making an industrial radiographic exposure or a device containing a sealed source, in which the sealed source or its shielding may be moved or otherwise changed from a shielded to unshielded position for purposes of making an industrial radiographic exposure.

“Radiographic operations” means all activities associated with the presence of radioactive radiation sources in a radiographic exposure device during use of the device or transport (except when the device is being transported by a common or contract carrier). This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

“S-tube” means a tube through which the radioactive source travels when inside a radiographic exposure device.

“Source assembly” No change

“Underwater radiography” means industrial radiography performed when the radiographic exposure device and/or related equipment are beneath the surface of the water.

**R12-1-518. ~~Repealed Labeling, Storage, and Transportation~~**

- ~~A.~~** ~~A licensee may not use a source changer or a container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol containing conventional colors, i.e., magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording “CAUTION (or DANGER), RADIOACTIVE MATERIAL NOTIFY CIVIL AUTHORITIES (or “NAME OF COMPANY”).”~~
- ~~B.~~** ~~The licensee may not transport licensed material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 10 CFR part 71, 2004 edition, published January 1, 2004, by the Office of the Federal Register National Archives and Records Administration, incorporated by reference and on file with the Agency. This incorporation by reference contains no future editions or amendments.~~
- ~~C.~~** ~~Locked radiographic exposure devices and storage containers shall be physically secured to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner which will minimize danger from explosion or fire.~~
- ~~D.~~** ~~The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.~~

**R12-1-523. ~~Personnel Monitoring~~**

- ~~A.~~** ~~A licensee or registrant shall not permit any individual to act as a radiographer or as a radiographer’s assistant unless, at all times during radiographic operations, each individual wears on the trunk of the body a direct-reading pocket dosimeter, a film badge or a thermoluminescent dosimeter (TLD), and an alarm rate meter at all times during radiographic operations. For permanent radiographic installations where other appropriate alarm warning devices are in routine use, the wearing of an alarm rate meter is not required.~~
- ~~B.~~** ~~Pocket Dosimeters:~~
  - ~~1. Pocket dosimeters shall:~~
    - ~~a. Meet the criteria in American National Standards Publication N13.5-1972, “Performance Specifications For Direct Reading and Indirect Reading Pocket Dosimeters for X and Gamma Radiation,” 1972 Edition, published December 9, 1971, by the American National Standards Institute, incorporated by reference and on file with the Agency and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. The incorporated material may be purchased from the American National Standards Institute, Inc. 1430 Broadway, New York, New York, 10018.~~
    - ~~b. Have a range of 0 to 2 millisieverts (200 mRem).~~
  - ~~2. Pocket dosimeters shall be recharged at the start of each work shift.~~
  - ~~3. At a minimum, pocket dosimeters shall be recharged and initial use readings recorded:~~
    - ~~a. Immediately before checking out any source of radiation from an authorized storage location for the purpose of conducting industrial radiography operations; and~~
    - ~~b. Before beginning radiographic operations on any subsequent calendar day (if the source of radiation has not been checked back into an authorized storage location).~~
  - ~~4. If radiographic operations are concluded for the day, final use readings on pocket dosimeters shall be recorded and the accumulated occupational doses for that day determined and recorded.~~
  - ~~5. If an individual’s pocket dosimeter is discharged beyond its range (for example, goes “off scale”), industrial radiography operations by that individual shall be discontinued until the individual’s film badge or TLD has been processed. The individual shall not return to work with sources of radiation until a determination of the individual’s radiation exposure has been made.~~

6. Pocket dosimeters shall be checked for correct response to radiation at periods not to exceed 1 year. Acceptable dosimeters shall read within plus or minus 20% of the true radiation exposure. Records of pocket dosimeter response shall be maintained for three years after the record is made.
  7. Records of pocket dosimeter readings of personnel exposure shall be maintained for two years after the record is made. If the dosimeter readings were used to determine external radiation dose (for example, no film badge or TLD exposure records exist), the records shall be maintained according to R12-1-419.
- C.** Film badges and TLDs:
1. Each film badge or TLD shall be assigned to and worn by only 1 individual.
  2. Film badges and TLDs shall be replaced monthly. After replacement, each film badge or TLD shall be returned to the supplier for processing within 14 calendar days of the exchange date specified by the personnel monitoring supplier. If a film badge or TLD cannot be processed in 14 days, the circumstances resulting in the delay shall be documented and available for Agency review.
  3. If a film badge or TLD is lost or damaged, the worker affected shall cease work immediately until a replacement film badge or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage.
  4. Records of film badge or TLD personnel monitoring shall be maintained according to R12-1-419.
- D.** Alarm rate meters:
1. Each alarm rate meter shall be tested to ensure that the audible alarm functions properly before use at the start of each work shift.
  2. Each alarm rate meter shall be set to give an alarm at a preset dose rate of 5 millisieverts/hr (500 mRem/hr).
  3. Each alarm rate meter shall require special means to change the preset alarm function.
  4. Each alarm rate meter shall be calibrated at periods not to exceed one year for correct response to radiation. Acceptable rate meters shall give an alarm within plus or minus 20% of the true radiation dose rate.
  5. Records of alarm rate meter calibration shall be maintained for two years for Agency inspection from the date the record is made.
- A.** A licensee or registrant shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarming rate meter is not required. A licensee or registrant shall:
1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems). The dosimeter shall be recharged at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.
  2. Assign a personnel dosimeter that is to be worn only by one individual.
  3. Replaced film badges at periods not to exceed one month and other personnel dosimeters processed and evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.
  4. Process each personnel dosimeter as soon as possible after replacement.
- B.** A licensee or registrant shall read direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters at the beginning and end of each shift. The licensee or registrant shall retain the records of these readings for three years after the Agency terminates the license or registration.
- C.** A licensee or registrant shall check pocket dosimeters and electronic personal dosimeters for correct response to radiation at periods not to exceed 12 months. The licensee or registrant shall maintain a record of results of each check for three years after the dosimeter check is performed. Acceptable dosimeters shall read within plus or minus 20 percent of the true radiation exposure.
- D.** A licensee or registrant shall send an individual's personnel dosimeter for processing within 24 hours, if an individual's pocket chamber is found to be off-scale, or if the individual's electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause. In addition, the licensee or registrant shall not allow an individual to resume work associated with sources of radiation until a determination of the individual's radiation exposure has been made. The licensee's or registrant's RSO or the RSO's designee shall make the determination. The results of this determination shall be included in the personnel monitoring records maintained in accordance with subsection (B).
- E.** If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee or registrant shall ensure that the worker ceases work immediately until a replacement personnel dosimeter meeting the requirements in subsection (A) is provided and the exposure is calculated for the time period from issuance to loss or damage of the personnel dosimeter. The licensee or registrant shall retain the results of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).
- F.** The licensee or registrant shall maintain dosimetry reports received from the accredited NVLAP personnel dosimeter processor in accordance with subsection (B).
- G.** A licensee or registrant shall ensure that each alarm rate meter:
1. Is checked to ensure that the alarm functions sounds properly before using at the start of each shift;

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2. Is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
3. Requires special means to change the preset alarm function; and
4. Is calibrated at periods not to exceed 12 months for correct response to radiation. The licensee or registrant shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

**R12-1-603. Operational Standards, Shielding, and Darkroom Requirements**

- A. No change
- B. No change
  1. No change
  2. No change
  3. No change
- C. No change
  1. No change
  2. No change
  3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  4. No change
- D. No change
  1. ~~The darkroom shall be light tight as determined using one of the following formulas~~
    - a. ~~(Base + Fog) - Base = 0.03 optical density units; or~~
    - b. ~~Using an exposed film, (Base + Fog) - Base = 0.10 optical density units.~~The registrant shall use darkroom conditions such that radiographically-exposed-film is not exposed to sufficient light in the darkroom to cause a fog of greater than or equal to 0.05 optical density. The registrant shall use following procedure for testing of film fog:
    - a. The film shall be exposed radiographically so the processed film will have an optical density of at least 1.0 over Base density but less than an optical density of 1.0 under Dmax;.
    - b. Half of the radiographically-exposed-film shall be exposed in the darkroom for two minutes; and
    - c. The difference in optical densities between the darkroom-exposed half and non-darkroom-exposed half shall be less than 0.05.  
Note: Base is the optical density of unexposed film as used at the facility; (Base + Fog) is the optical density of Base unexposed film exposed in the darkroom for two minutes.
  2. No change

**R12-1-609. Chest Photofluorographic Systems**

- A. ~~Equipment~~
  1. ~~All provisions of R12-1-607(A) and (B) shall apply.~~
  2. ~~A collimator shall restrict the useful beam to the area of the photofluorographic screen.~~
- B. ~~Structural shielding. When a mobile unit is used routinely in 1 location, it shall be considered a fixed installation subject to the shielding requirements specified in R12-1-603(C) and R12-1-607(C).~~
- C. ~~Operating procedures~~
  1. ~~All provisions of R12-1-607(D) apply.~~
  2. ~~All individuals except the patient being examined shall be in shielded positions during exposures.~~
  3. ~~Personnel monitoring shall be worn by persons operating photofluorographic systems and in accordance with R12-1-419(B).~~

Use of chest photofluorographic systems for diagnosis of human disease is prohibited.

**R12-1-614. Mammography**

- A. No change
  1. No change
  2. No change
  3. No change

4. When used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam shall have a half-value layer between the values of: ~~“measured kVp/100 and measured kVp/100 + 0.1 millimeters”~~ of aluminum equivalent “measured kVp/100 and measured kVp/100 + L millimeters” of aluminum equivalent, where L = 0.12 for Mo/Mo, L = 0.19 for Mo/Rh, L = 0.22 for Rh/Rh, L = 0.30 for W/Rh target filtration combinations and L + 0.33 for other target filtration combinations not otherwise specified.
5. No change
6. No change
7. No change
  - a. No change
  - b. No change
  - c. No change
8. No change
  - a. No change
  - b. No change
9. No change
10. No change
11. No change
12. Mammography x-ray systems operating with automatic exposure control are capable of maintaining a film density within +/- ~~0.30~~ 0.15 optical density units over the clinical range of kVp used, for a breast having an equivalent phantom thicknesses from 2 to 6 centimeters. If the film density cannot be maintained to within +/- ~~0.30~~ 0.15 of the average kVp used and phantom thickness from 2 to 6 centimeters cannot be maintained by the automatic exposure control, a technique chart is used that alters kVp and density control settings as a function of breast thickness and density. If a technique chart is used, the operator shall maintain the film density at +/- ~~0.30~~ 0.15 optical density units.
13. No change
14. No change
15. No change
  - a. No change
  - b. No change
16. No change
17. No change
  - a. No change
  - b. No change
  - c. No change
- B.** No change
  1. No change
  2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
    - h. No change
    - i. No change
- C.** No change
  1. No change
    - a. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
    - b. No change
      - i. No change
      - ii. No change
    - c. No change
      - i. No change
      - ii. No change

- iii. No change
- iv. No change
- v. No change
- 2. No change
- D.** No change
  - 1. No change
  - 2. No change

**ARTICLE 9. PARTICLE ACCELERATORS**

**R12-1-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks**

- A.** No change
  - 1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
  - 4. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
      - i. No change
      - ii. No change
      - iii. No change
    - f. No change
    - g. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
  - 5. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
      - i. No change
      - ii. No change
  - 6. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 7. No change
    - a. No change
    - b. No change
    - c. No change

- d. No change
- 8. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
- 9. No change
  - a. No change
  - b. No change
  - c. No change
- 10. No change
- B.** No changes
  - 1. No changes
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
    - e. No change
    - f. No change
      - i. No change
      - ii. No change
      - iii. No change
- C.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. Records of spot checks shall be maintained available for inspection by the Agency for 2 ~~three~~ years following the spot check measurements. Records of spot checks not performed by a qualified expert shall be signed by a qualified expert within 15 days of the spot check.
- D.** No change
  - 1. No change
  - 2. No change

#### ARTICLE 15. TRANSPORTATION

##### **R12-1-1504. Intrastate Transportation and Storage of Radioactive Materials**

- ~~**A.** A person shall not transport radioactive materials within this state except as provided in this rule.~~
  - ~~1. A general license is issued subject to R12-1-1504(B), (C), (D) and R12-1-1505 to any licensee to transport and store radioactive material incidental to transportation, provided the transportation is incidental to, and is made to further the licensee's operations.~~
  - ~~2. A general license is issued by this rule to any common or contract carrier not exempt pursuant to R12-1-103.~~
- ~~**B.** When transporting or storing radioactive materials, a person shall comply with the regulations of the U.S. Department of Transportation, 49 CFR 171 through 189, 1995 Edition, published October 1, 1995, incorporated by reference and on file~~

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with the Agency and the Office of the Secretary of State, to the extent. This incorporation by reference contains no future editions or amendments:

- ~~C.~~ Any notification of incidents required by those regulations shall in addition be filed with, or made to, the Agency.
- ~~D.~~ Persons who transport and store radioactive material under the general license in this Section are exempt from the requirements of Article 4 and Article 10 of this Chapter with respect to such transport and storage.
- A. A general license is issued to:
  1. Any common or contract carrier not exempt under R12-1-103 to receive, possess, transport, and store radioactive material in the regular course of carriage for others or to store radioactive material incident to the transport activities, provided the transportation or storage is in accordance with applicable requirements, appropriate for the mode of transport of the U.S. Department of Transportation, 49 CFR 170 through 189, 2003 edition, published October 1, 2003, incorporated by reference and on file with the Agency and the Office of Secretary of State. This incorporation by reference contains no future editions or amendments.
  2. Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, 49 CFR 170 through 189, 2003 edition, published October 1, 2003, incorporated by reference and on file with the Agency and the Office of Secretary of State. This incorporation by reference contains no future editions or amendments.
- B. Any notification of incidents required under federal regulations in subsection (A) shall also be filed with, or made to, the Agency.
- C. A person who transports or stores radioactive material according to the general license in this Section is exempt from the requirements of Article 4 and Article 10 of this Chapter to the extent these requirements apply to transportation of radioactive material.

**R12-1-1506. Preparation of Radioactive Material for Transport**

A licensee shall not deliver any package ~~containing that contains~~ radioactive material to a carrier for transport or transport radioactive material, unless the licensee ~~has~~:

1. ~~Complied~~ Complies with the applicable packaging, monitoring, manifesting, marking, and labeling requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 189, ~~2003~~ ~~1995~~ edition, published October 1, ~~2003~~ ~~1995~~, or 39 CFR 111.1, 2003 edition, published July 1, 2003, both incorporated by reference and on file with the Agency and the Office of Secretary of State. This incorporation contains no future editions or amendments; and
2. ~~Established~~ Establishes procedures for safely opening and closing packages in which radioactive material is transported; and
3. ~~Prior Assured, prior to the delivery of a package to a carrier for transport, assures~~ that:
  - a. The package is properly closed; and
  - b. Any special instructions needed to safely open the package, ~~are sent or~~ made available to the consignee.

**ARTICLE 17. RADIATION SAFETY REQUIREMENTS FOR WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES**

**R12-1-1716. Physical inventory**

~~Every 6 months each licensee or registrant shall conduct an inventory to account for all sources of radiation. Records of inventories shall be retained for 3 years from the date of the inventory and shall include the quantities and kinds of sources of radiation, the location where sources of radiation are assigned, the date of the inventory, and the name of the individual conducting the inventory.~~

A licensee shall conduct a physical inventory every six months to account for all licensed material received and possessed under the license. The licensee shall retain records of the inventory for three years from the date of the inventory for inspection by the Agency. The inventory shall indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of the individual conducting the inventory. Physical inventory records may be combined with leak test records.

**R12-1-1720. ~~Inspection and Maintenance~~ Inspection, Maintenance, and Opening of a Source or Source Holder**

- ~~A.~~ At intervals not to exceed 6 months, each licensee shall conduct a program of inspection and maintenance of holders, logging tools, source handling tools, storage containers, transport containers, and injection tools to assure proper labeling and physical condition. A licensee shall retain records of inspection and maintenance for a period of three years.
- ~~B.~~ If an inspection conducted according to subsection (A) reveals damage to labeling or components critical to radiation safety, the licensee shall remove the device from service until repairs have been made.
- ~~C.~~ Only persons specifically authorized by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State may repair, open, or modify a sealed source that contains radioactive material.

- A. Each licensee shall visually check source holders, logging tools, and source handling tools, for defects before each use to ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the licensee shall remove equipment from service until repaired, and make a record listing: the date of check, name of inspector, equipment involved, defects found, and repairs made. The licensee shall retain the records for three years after the defect is found.
- B. Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If defects are found, the licensee shall remove the equipment from service until repaired, and make a record listing: date, equipment involved, inspection and maintenance operations performed, any defects found, and any actions taken to correct the defects. The licensee shall retain the records for three years after the defect is found.
- C. A licensee shall not remove a sealed source from a source holder or logging tool, and do maintenance on sealed sources or holders in which sealed sources are contained without written permission from the Agency.
- D. If a sealed source is stuck in the source holder, the licensee may not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically approved to perform the operation by the Agency.
- E. The opening, repair, or modification of any sealed source is prohibited, unless authorized by the Agency, NRC, or an Agreement State.

**R12-1-1721. Training Requirements**

- A.** A licensee shall not permit any individual to act as a logging supervisor as defined in Article 1 until the individual has:
  - 1. Received, in a course recognized by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State instruction in the following subjects and demonstrated an understanding of:
    - a. Fundamentals of radiation safety
      - i. Characteristics of radiation
      - ii. Units of radiation dose and quantity of radioactivity
      - iii. Significance of radiation dose
        - (1) Radiation protection standards
        - (2) Biological effects of radiation dose
      - iv. Levels of radiation from sources of radiation
      - v. Methods of minimizing radiation dose
        - (1) Working time
        - (2) Working distances
        - (3) Shielding
    - b. Radiation detection instrumentation to be used
      - i. Use of radiation survey instruments
        - (1) Operation
        - (2) Calibration
        - (3) Limitations
      - ii. Survey techniques
      - iii. Use of personnel monitoring equipment
    - e. Equipment to be used
      - i. Handling equipment
      - ii. Sources of radiation
      - iii. Storage and control of equipment
      - iv. Operation and control of equipment
    - d. The requirements of pertinent federal and state regulations
    - e. The licensee's written operating and emergency procedures
    - f. The licensee's record keeping procedures
  - 2. Received, read, and demonstrated an understanding of the rules contained in this Article and the applicable Sections of Articles 1, 4, 10, and 15 of this Chapter or their equivalent, conditions of appropriate license or certificate of registration, and the licensee's operating and emergency procedures; and
  - 3. Demonstrated competence to use sources of radiation, related handling tools, and radiation survey instruments which will be used on the job.
- B.** A licensee shall not permit an individual to assist in the handling of sources of radiation until the individual has:
  - 1. Read or received, and demonstrated an understanding of instruction in the licensee's operating and emergency procedures; and
  - 2. Demonstrated competence to use, under the personal supervision of the logging supervisor, the sources of radiation, related handling tools, and radiation survey instruments that will be used on the job.
- C.** The licensee shall retain employee training records for three years following termination of employment.

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- A.** A licensee shall not permit an individual to act as a logging supervisor until that person:
  - 1. Has completed training in the subjects outlined in subsection (E);
  - 2. Has received copies of, and instruction in:
    - a. The applicable rules contained in Title 12, Chapter 1;
    - b. The Agency license under which the logging supervisor will perform well logging; and
    - c. The licensee's operating and emergency procedures required by R12-1-1722;
  - 3. Has completed on-the-job training and demonstrated competence in the use of licensed materials, remote handling tools, and radiation survey instruments by a field evaluation; and
  - 4. Has demonstrated understanding of the requirements in subsections (A)(1) and (2) by successfully completing a written test.
- B.** The licensee shall not permit an individual to act as a logging assistant until that person:
  - 1. Has received instruction in applicable rules of Title 12, Chapter 1;
  - 2. Has received copies of, and instruction in, the licensee's operating and emergency procedures required by R12-1-1722;
  - 3. Has demonstrated understanding of the materials listed in subsections (B)(1) and (2) by successfully completing a written or oral test; and
  - 4. Has received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments, as appropriate for the logging assistant's intended job responsibilities.
- C.** A licensee shall provide safety reviews for logging supervisors and logging assistants at least once during each calendar year.
- D.** A licensee shall maintain a record on each logging supervisor's and logging assistant's training and annual safety review. The training records shall include copies of written tests and dates of oral tests given after July 14, 1987. The licensee shall retain the training records for three years following the termination of employment, and records of annual safety reviews shall list the topics discussed and be retained for three years.
- E.** A licensee shall include the following subjects in the training required in subsection (A)(1):
  - 1. Fundamentals of radiation safety including:
    - a. Characteristics of radiation;
    - b. Units of radiation dose and quantity of radioactivity;
    - c. Hazards of exposure to radiation;
    - d. Levels of radiation from licensed material;
    - e. Methods of controlling radiation dose (time, distance, and shielding); and
    - f. Radiation safety practices, including prevention of contamination, and methods of decontamination.
  - 2. Radiation detection instruments including:
    - a. Use, operation, calibration, and limitations of radiation survey instruments;
    - b. Survey techniques; and
    - c. Use of personnel monitoring equipment;
  - 3. Equipment to be used including:
    - a. Operation of equipment, including source handling equipment and remote handling tools;
    - b. Storage, control, and disposal of licensed material; and
    - c. Maintenance of equipment.
  - 4. The requirements of pertinent Federal regulations, and
  - 5. Case histories of accidents in well logging.

**R12-1-1723. Personnel Monitoring**

- A.** A licensee may not permit an individual to act as a logging supervisor or logging assistant unless that person is provided personnel dosimetry in accordance with R12-1-419.
- B.** The licensee shall provide bioassay services to individuals using licensed radioactive material in subsurface tracer studies, if required by license condition.
- C.** Personnel monitoring records shall be maintained in accordance with R12-1-419(C).
- A.** A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.
- B.** Each personnel dosimeter shall be assigned to and worn by only one individual.
- C.** A licensee shall replace film badges at least monthly and other personnel dosimeters replaced at least quarterly. After replacement, a licensee shall promptly process each personnel dosimeter.
- D.** A licensee shall provide bioassay services to individuals using licensed materials in subsurface tracer studies if required by the license.
- E.** A licensee shall retain records of personnel dosimeters required by subsection (A) and bioassay results for three years after the Agency terminates the pertinent radioactive material license.

**R12-1-1742. Documents and Records Required at Field Stations**

Each licensee utilizing a field station shall have the following documents and records available for the specific devices and sources used at the field station:

1. ~~Appropriate license or equivalent document;~~
2. ~~Operating and emergency procedures;~~
3. ~~Applicable rules;~~
4. ~~Record of the latest survey instrument calibration required by R12-1-1714;~~
5. ~~Record of the latest leak tests performed according to R12-1-1715;~~
6. ~~Inventories of sealed sources required by R12-1-1716;~~
7. ~~Utilization records required by R12-1-1717;~~
8. ~~Records of inspection and maintenance required by R12-1-1720; and~~
9. ~~Survey records required by R12-1-1741.~~

Each licensee shall maintain the following documents and records at the field station:

1. A copy of 12 A.A.C. 1;
2. The license authorizing the use of licensed material;
3. Operating and emergency procedures required by R12-1-1722;
4. The record of radiation survey instrument calibrations required by R12-1-1714;
5. The record of leak test results required by R12-1-1715;
6. Physical inventory records required by R12-1-1716;
7. Utilization records required by R12-1-1717;
8. Records of inspection and maintenance required by R12-1-1720;
9. Training records required by R12-1-1721; and
10. Survey records required by R12-1-1741.

**R12-1-1743. Documents and Records Required at Temporary Job Sites**

Each licensee that conducts operations at a temporary job site shall have the following documents and records available at that site:

1. ~~Operating and emergency procedures;~~
2. ~~Survey records required by R12-1-1741 for the period of operation at the site;~~
3. ~~Evidence of current calibration for the radiation survey instruments in use at the site; and~~
4. ~~If operating in Arizona under reciprocity, a copy of the current out of state license, certificate of registration, or equivalent documents; and Agency authorization to enter the state to perform operations governed by this Article.~~

Each licensee conducting operations at a temporary job site shall maintain the following documents and records at the temporary job site until the well logging operation is completed:

1. Operating and emergency procedures required by R12-1-1722;
2. Evidence of latest calibration of the radiation survey instruments in use at the site required by R12-1-1714;
3. Latest survey records required by R12-1-1741.
4. The shipping papers for the transportation of radioactive materials required by license condition; and
5. When operating under reciprocity in accordance with R12-1-320, a copy of the Agency authorization for use of radioactive material in Arizona.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION  
ADMINISTRATION

PREAMBLE

- 1. Sections Affected**

R17-1-306	Repeal
R17-1-308	Repeal
R17-1-309	Repeal
R17-1-317	Repeal
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366  
Implementing statute: A.R.S. § 28-5618
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 9 A.A.R. 5245, December 5, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Brent P. Heiss, Department Rules Analyst  
Address: Administrative Rules Unit  
Department of Transportation, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5079  
Telephone: (602) 712-7941  
Fax: (602) 241-1624  
E-mail: bheiss@dot.state.az.us  
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.dot.state.az.us/about/rules/index.htm](http://www.dot.state.az.us/about/rules/index.htm).
- 5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The agency is repealing these obsolete Sections. In a separate rulemaking, the agency will create replacement Sections in a new Chapter, 8, that will contain all future tax rules.
- 6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rules or proposes not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The agency will not rely on any study for this rulemaking.
- 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:**

Exempt under A.R.S. § 41-1055(D)(3)
- 9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Brent P. Heiss, Department Rules Analyst  
Address: Administrative Rules Unit  
Department of Transportation, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5079  
Telephone: (602) 712-7941

Fax: (602) 241-1624  
E-mail: bheiss@dot.state.az.us

**10. The time, place, and nature of the proceedings for the making, 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:**

No oral proceeding is scheduled for the rulemaking. A request for an oral proceeding on the repeal action may be made to the agency official listed in item #4. If no oral proceeding is requested, the public record for this rulemaking will close at 4:30 p.m. on Friday, January 23, 2004.

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

Not applicable

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

None

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

TITLE 17. TRANSPORTATION

CHAPTER 1. DEPARTMENT OF TRANSPORTATION

ADMINISTRATION

ARTICLE 3. TAXES

Section

- R17-1-306. ~~Motor Vehicle Fuel—Distributor Reports~~ Repealed  
R17-1-308. ~~Motor Vehicle Fuel—Distributor Exports~~ Repealed  
R17-1-309. ~~Motor Vehicle Fuel—Distributor Reports of Sales by Counties~~ Repealed  
R17-1-317. ~~Motor Vehicle Fuel—Importation Reports~~ Repealed

ARTICLE 3. TAXES

**R17-1-306. Motor Vehicle Fuel—Distributor Reports Repealed**

- ~~A.~~ That all distributors of motor vehicle fuel shall, in addition to the information now required of them as such, furnish to the Motor Vehicle Division of the Arizona Highway Department at the time of making their regular monthly report to the said Motor Vehicle Division, the following information:
- ~~1. Motor vehicle fuel on hand at first of month.~~
  - ~~2. Motor vehicle fuel acquired during month (sources itemized).~~
  - ~~3. Total sales during month.~~
  - ~~4. Total taxable sales during month.~~
  - ~~5. Sales to United States Government during month.~~
  - ~~6. Export sales during month (sources itemized).~~
  - ~~7. Motor vehicle fuel on hand end of month.~~
- ~~B.~~ That sale of motor vehicle fuel to the Federal Government during the month must be supported by affidavit in the case of charge sales, and by submittal of U.S. Form 44 in the case of sales other than charge sales.
- ~~C.~~ That the form on which the information hereby required is furnished and the form of affidavit to be used in supporting charge sales to the United States Government shall be prescribed by the Motor Vehicle Superintendent, and shall be furnished by him.

**R17-1-308. Motor Vehicle Fuel—Distributor Exports Repealed**

~~Each distributor shall, upon forms furnished by the Motor Vehicle Division and designated as "Motor Vehicle Fuel Export Declaration", declare the number of gallons of motor vehicle fuel being exported by him. Such forms shall be made in triplicate and shall show the number of gallons of motor vehicle fuel exported by the distributor, the capacity of the container in which such fuel is exported, the actual content of such container, the number of gallons of such fuel found in the container on return of said distributor to the state of Arizona, the net number of gallons exported by such distributor, the invoice number and amount of gallons of motor vehicle fuel sold or disposed of by such distributor in the foreign state or country to which such fuel was exported, and shall be signed by the operator of the equipment in which such motor vehicle fuel is exported and a member of the Arizona State Highway Patrol, and indicate the date and the hour of export and date and hour of the return of said distributor to the state of Arizona. The original and triplicate copy of such forms shall be retained by the operator and the duplicate to be surrendered to a member of the Arizona State Highway Patrol or an agent of the Motor Vehicle Division, and when a distributor makes a claim for refund based on motor vehicle fuel exported, the original of said "Motor Vehicle Fuel Export Declaration", properly dated, signed and executed, shall accompany such claim.~~

**R17-1-309. Motor Vehicle Fuel—Distributor Reports of Sales by Counties Repealed**

- A.** Each county in the state of Arizona participates in motor vehicle fuel taxes in the proportion that sales in such county bear to the total sales throughout the state.
- B.** The statutes require that the county in which a sale is completed by a distributor (county in which delivery is made, irrespective of the source of supply) shall be credited with the sale.
- C.** It is essential that the accounting office of the distributor and the Motor Vehicle Division shall definitely know the county in which a delivery is made by a distributor.
- D.** On and after November 1, 1936, each distributor's invoice and duplicates covering a sale of motor vehicle fuel in this state shall designate the name of the county in which such fuel is delivered by the distributor. Such designation shall be made at the time the invoice is prepared by writing or stamping the name of the county in a conspicuous place on the invoice and duplicates, preferably following the name or address of the purchaser.

**R17-1-317. Motor Vehicle Fuel—Importation Reports Repealed**

- A.** Section 1686, Revised Code of the state of Arizona, as amended, defines motor vehicle fuel as follows: "Motor vehicle fuel shall mean and include any inflammable liquid, by whatsoever name such liquid may be known or sold, which is used or usable in motor vehicles, either alone or when mixed, blended or compounded, for the propulsion thereof upon the public highways . . . ."
- B.** Certain liquid petroleum products having an A.P.I. gravity greater than 24 at 60° F, such as diesel oil, stove oil, etc., not now classed as motor vehicle fuel, are being used to propel motor vehicles over the highways of this state and for mixing, blending or compounding motor vehicle fuel.
- C.** Each person who delivers such products into the fuel tanks of motor vehicles, or who uses such products in mixing, blending or compounding motor vehicle fuels, is required to pay to the state of Arizona the five cent per gallon motor vehicle fuel tax on such fuel so used.
- D.** It is necessary that the Vehicle Superintendent know the sources of supply in this state of such products when used as motor vehicle fuel in order to ascertain that the tax has been paid to the state.
- E.** Each distributor and each person shall, upon receipt of any interstate shipment of liquid petroleum products having an A.P.I. gravity greater than 24 at 60° F, which might be classed as motor vehicle fuel, immediately report the receipt of such shipment to the Vehicle Superintendent in the manner prescribed in sections 1673c and 1674c, R.C.A., as amended by Chapter 70, Legislature of 1935, regular session, for immediately reporting receipt of interstate shipments of motor vehicle fuel.
- F.** Each person transporting such products from a point without this state to a point within this state by means of any vehicle operated over the highways of this state shall immediately report such shipment to the Vehicle Superintendent in the manner prescribed in Section 1675, R.C.A., as amended by Chapter 70, Legislature of 1935, regular session, for immediately reporting such shipments of motor vehicle fuel.
- G.** Every railroad company transporting such products from a point without this state to a point within this state shall report such shipment to the Vehicle Superintendent on or before the 25th of the next succeeding month, in the manner as shipments of motor vehicle fuel are reported.
- H.** Forms 70-3307 "Motor Vehicle Fuel Shipments to Arizona" shall be used for the above mentioned reports in the same manner as prescribed for their use in reporting shipments of motor vehicle fuel.
- I.** Penalties prescribed by the statutes for noncompliance with respect to reporting shipments of motor vehicle fuel shall likewise apply for noncompliance with respect to reporting shipments of liquid petroleum products as above mentioned.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 8. DEPARTMENT OF TRANSPORTATION

TAXES

PREAMBLE

**1. Sections Affected**

Chapter 8  
Article 3  
R17-8-301  
R17-8-302

**Rulemaking Action**

New Chapter  
New Article  
New Section  
New Section

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

Authorizing statute: A.R.S. § 28-366

Implementing statute: A.R.S. § 28-5618

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 5156, November 28, 2003

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

Name: Brent P. Heiss, Department Rules Analyst

Address: Administrative Rules Unit  
Department of Transportation, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5079

Telephone: (602) 712-7941

Fax: (602) 241-1624

E-mail: bheiss@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.dot.state.az.us/about/rules/index.htm](http://www.dot.state.az.us/about/rules/index.htm).

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

There have been many changes to the agency's supplier report forms throughout the years. These Sections define terms and provide updated information and direction to a current or potential motor fuel supplier for routine monthly reporting requirements to the Division.

In a separate rulemaking, the agency is repealing obsolete Sections in 17 A.A.C. 1, Article 3. This rulemaking will create replacement Sections in a new Chapter, 8, that will contain all future tax rules.

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

The agency is not relying on any study for this rulemaking.

**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:**

The only perceived economic impact of these Sections is minimal administrative costs for a motor fuel supplier required to complete the monthly reporting process required under A.R.S. § 28-5618. The benefit to both the agency and supplier is accurate assessment of fuel taxes required under A.R.S. Title 28, Chapter 16, Article 1. Non-supplier businesses and private consumers assume a minimal amount of supplier tax costs as standard practice in motor fuel sales pricing.

Notices of Proposed Rulemaking

**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: Brent P. Heiss, Department Rules Analyst  
Address: Administrative Rules Unit  
Department of Transportation, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5079  
Telephone: (602) 712-7941  
Fax: (602) 241-1624  
E-mail: bheiss@dot.state.az.us

**10. The time, place, and nature of the proceedings for the making, 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:**

No oral proceeding is scheduled for this rulemaking. A request for an oral proceeding may be made to the agency official listed in item #4. If no oral proceeding is requested, the public record for this rulemaking will close at 4:30 p.m. on Friday, January 23, 2004.

**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 17. TRANSPORTATION**

**CHAPTER 8. DEPARTMENT OF TRANSPORTATION  
TAXES**

**ARTICLE 3. REPORTING REQUIREMENTS**

Section

R17-8-301. Definitions  
R17-8-302. Fuel Supplier Reporting Requirements

**ARTICLE 3. REPORTING REQUIREMENTS**

**R17-8-301. Definitions**

The following definitions apply to this Article unless otherwise indicated:

1. “At-the-rack” means the point where motor vehicle fuel leaves a bulk storage system and passes through a mechanism used to dispense the product from a refinery, terminal, or bulk plant into a transport truck, railroad tank car, or other means of transportation.
2. “Below-the-rack” means any transaction that occurs after motor vehicle fuel is dispensed at-the-rack.
3. “Division” means the Arizona Department of Transportation, Motor Vehicle Division.
4. “Supplier” has the meaning prescribed under A.R.S. § 28-5601(30).

**R17-8-302. Fuel Supplier Reporting Requirements**

- A.** A fuel supplier in Arizona shall meet monthly reporting requirements under A.R.S. § 28-5618 or § 28-5732 by completing the Division-provided report form #120 as described under subsection (B).
- B.** A monthly supplier report form #120 shall contain separate schedules requiring specific information disclosure that includes:
  1. A summary schedule of all receipts, dispositions, taxes, fees, penalties, and interest for:
    - a. Aviation fuel;
    - b. Motor vehicle fuel; or
    - c. Use fuel;
  2. A schedule of detailed acquisitions by pipeline or other means;
  3. A per-load schedule of tax-due fuel acquisitions by truck or rail;
  4. A per-load schedule of tax-paid fuel acquisitions by truck or rail;
  5. A per-load schedule of fuel acquisitions for the Navajo Nation reservation;
  6. A schedule of at-the-rack fuel blending;

7. A schedule of below-the-rack fuel blending;
  8. A schedule of two-party exchanges;
  9. A per-load disposition schedule of tax-paid gallons;
  10. A per-load disposition schedule of tax-due gallons;
  11. A per-load disposition schedule of fuel to the Navajo Nation reservation;
  12. A per-load disposition schedule of non-taxable dyed diesel for purposes of A.R.S. § 28-5716(A)(7);
  13. A per-load disposition schedule of motor fuel sales by Arizona county for purposes of A.R.S. § 28-5618(A)(2);
  14. A collection allowance worksheet;
  15. A bad debt allowance worksheet;
  16. A schedule of supplier inventory; and
  17. Other information as required by the Division.
- C.** The supplier shall sign the summary schedule described under subsection (B)(1) certifying that all documentation submitted to the Division is correct and complete.
- D.** The supplier shall submit a completed monthly report form #120 to:  
Motor Vehicle Division  
Supplier Reporting Unit  
P.O. Box 77  
1801 W. Jefferson, Mail Drop 519M  
Phoenix, AZ 85007-3230  
Fax: (602) 712-3230