

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 10. BOARD OF COSMETOLOGY

PREAMBLE

1. Sections Affected

R4-10-104
R4-10-107
R4-10-112
R4-10-207
R4-10-208
R4-10-302
R4-10-303
R4-10-304
R4-10-305
R4-10-306

Rulemaking Action

Amend
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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. § 32-504(A)(1)

Implementing statutes: A.R.S. §§ 32-510, 32-511, 32-512, 32-514 32-517, 32-531, 32-541, and 32-555.

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 2839 July 9, 2004 (in this issue).

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

Name: Cheryl Adams, Deputy Director and Rules Coordinator

Address: 1721 E. Broadway Road
Tempe, AZ 85215

Telephone: (480) 784-4539, Ext. 227

Fax: (480) 784-4962

E-mail: Cheryl.Adams@cb.state.az.us

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

A.R.S. § 32-504 requires the Arizona State Board of Cosmetology to adopt rules for the regulation of the cosmetology licensing, sanitary and safety standards, examine candidates for licensure, and to prescribe minimum school requirements and curriculum requirements. Further, law changes have been enacted which require updates in several rules to make them comply with the law.

The Board submitted a notice of rulemaking docket opening to the Secretary of State which was published in Volume 7, Issue 38, on September 21, 2001. However, several subsequent changes were made and this notice was allowed to lapse until the issues could be resolved and a correct rewrite accomplished.

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

None

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

Not applicable.

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

The Board of Cosmetology, licensed schools, and students will bear any costs associated with the rules. Because the rules require additional hours for the nail technician course, the Board will require additional time and effort to record hours, the schools will bear the burden of teaching additional classes, and the students will not begin work until the additional hours are completed.

Other rules eliminate the requirement of signing before a notary public which may constitute a savings.

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: Cheryl Adams, Deputy Director and Rules Coordinator
Address: 1721 E. Broadway Road
Tempe, AZ 85215
Telephone: (480) 784-4539 ext, 227
Fax: (480) 784-4962
E-mail: Cheryl.Adams@cb.state.az.us

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

Oral proceedings may be requested by contacting the person listed in #9 above by telephone, fax, email, or in person. A person may submit written comments on the proposed rules no later than the close of record, 5:00 p.m., August 16, 2004, to the individual listed in items #4 and #9.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the individual listed in items #4 and #9. A request should be made as early as possible to allow time to arrange the accommodation.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 10. STATE BOARD OF COSMETOLOGY

ARTICLE 1. GENERAL PROVISIONS

Section

R4-10-104. Application for License by Examination
R4-10-107. License Renewal
R4-10-112. Infection Control and Safety Standards

ARTICLE 2. SCHOOLS

Section

R4-10-207. Nail Technology School Requirements
R4-10-208. Combined School Requirements

ARTICLE 3. STUDENTS

Section

R4-10-302. Instructor Curriculum Required Hours
R4-10-303. Aesthetic Curriculum Required Hours
R4-10-304. Cosmetology Curriculum Required Hours
R4-10-305. Nail Technology Curriculum Required Hours

R4-10-306. Curriculum Hours

ARTICLE 1. GENERAL PROVISIONS

R4-10-104. Application for License by Examination

- A. An applicant for an aesthetics, a cosmetology, a nail technician, or an instructor license by examination shall submit to the Board the applicable fee required for examination and first license in R4-10-102 and an application provided by the Board, ~~signed by the applicant, and notarized~~ that contains:
1. The applicant's name, address, telephone number, social security number, gender, passport quality photo, and birth date;
 2. The name and address of each school attended by the applicant;
 3. The name of each aesthetics, cosmetology, ~~or~~ nail technician, or instructor course completed by the applicant, and school name and address where completed;
 4. ~~If applicable, the~~ The starting date and date of graduation from a school, type of degree received, and the name and address of the school where received;
 5. If previously licensed by the Board, type of license, license number, license expiration date, and the name used on the license;
 6. ~~If previously licensed in a state other than Arizona or a foreign country, the name of the state or foreign country and type of license;~~
 7. A statement of whether the applicant has ever had an aesthetician, a cosmetologist, a nail technician, or an instructor license suspended or revoked in any state or foreign country; ~~and~~
 8. ~~A sworn~~ statement by the applicant verifying the truthfulness of the information provided by the applicant: and
 8. The applicant's signature.
- B. In addition to submitting the fee and documents in subsection (A), an applicant for an aesthetics, nail technician, or cosmetology license shall:
1. Comply with A.R.S. § 32-510(A)(2) by submitting ~~a copy~~ documentation of ~~± one~~ of the following:
 - a. ~~Documentation of 23 years of age as demonstrated by a government-issued driver's license, identification card, birth certificate, or passport~~ High school equivalency; or
 - b. ~~A high school transcript demonstrating a 10th grade equivalency; .~~
 - e. ~~A high school diploma ;~~
 - d. ~~A high school equivalency.~~
 - e. ~~Documentation of an associate degree or an official transcript from an accredited college that only offers courses to be completed in 2 years that shows completion of 15 credits; or~~
 - f. ~~A bachelor's degree from an accredited college or university.~~
 2. Comply with A.R.S. § 32-510(A)(3), ~~32-511(3)(a), or 32-512(3)(b)~~ by submitting a copy of ~~± one~~ of the following:
 - a. If the applicant graduated from ~~an aesthetician~~ a course presented by a school licensed by the Board, a written statement signed by the administrator of the school that documents proof of graduation and completion of 600 hours for an aesthetician or a nail technician or 1,600 hours for a cosmetologist in the course; or
 - b. If the applicant attended more than ~~± one~~ school in Arizona, a copy of a transfer application or certification of hours from each school attended, ~~including that includes~~ including the starting and ending dates, the total number of hours completed at the school, and the signature of the administrator of ~~the each~~ school; ~~or and proof of hours and graduation as in (2)(a).~~
 - e. If the applicant graduated from or completed hours at a school licensed by a state other than Arizona or a foreign country, a graduation certificate and documentation of:
 - i. ~~Completing the theory of aesthetic as required in R4-10-303(A)(1), and~~
 - ii. ~~Meeting the requirements in R4-10-303(A)(2) and R4-10-303(A)(3).~~
- C. In addition to submitting the fee and documents in subsection (A), an applicant for a cosmetology license shall:
1. ~~Comply with A.R.S. § 32-511(A)(2) by submitting a copy of 1 of the documents in subsection (B)(1).~~
 2. ~~Comply with A.R.S. § 32-511(A)(3) by submitting a copy of 1 of the following:~~
 - a. If the applicant graduated from a cosmetology course presented by a school licensed by the Board, a written statement signed by the administrator of the school that documents proof of graduation and completion of 1600 hours in the course;
 - b. If the applicant attended more than 1 school in Arizona, a copy of a transfer application or certification of hours from each school attended, ~~including the initial and ending dates, the total number of hours completed at the school, and the signature of the administrator of the school;~~ or
 - e. If the applicant graduated from or completed hours at a school licensed by a state other than Arizona or a foreign country, a graduation certificate and documentation of:
 - i. ~~Completing the theory of cosmetology as required in R4-10-304(A)(1), and~~
 - ii. ~~Meeting the requirements in R4-10-304(A)(2) and R4-10-304(A)(3).~~

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- D.** In addition to submitting the fee and documents in subsection (A), an applicant for a nail technician license shall:
1. Comply with A.R.S. § 32-512(A)(2) by submitting a copy of 1 of the documents in subsection (B)(1)-
 2. Comply with A.R.S. § 32-512(A)(3) by submitting a copy of 1 of the following:
 - a. If the applicant graduated from a nail technician's course presented by a school licensed by the Board, a written statement signed by the administrator of the school who documents proof of graduation and completion of 300 hours in the course; or
 - b. For each school attended by the applicant, a copy of a transfer application or certification of hours from each school attended, including the starting and ending dates, the total number of hours completed at the school, and the signature of the administrator of the school;
- E.** In addition to submitting the fee and documents in subsection (A), an applicant for an instructor license by examination shall:
1. Comply with A.R.S. § ~~32-531(A)(2)~~ 32-531(2) by submitting a ~~written copy~~ documentation of ~~+~~ one of the following:
 - a. ~~A high~~ High school diploma ~~equivalency~~; or
 - b. ~~A high school equivalency diploma~~; Attainment of twenty-three years of age.
 - e. ~~Documentation of an associate degree or an official transcript from an accredited college that only offers courses to be completed in 2 years that shows completion of 15 credits; or~~
 - d. ~~Documentation of completion of 15 credits from an accredited college or university.~~
 2. If licensed by the Board, license number Comply with A.R.S. § 32-531(3) by submitting documentation of licensed experience, in the profession applied for, on a form supplied by the Board, that is completed and signed by an owner or manager of a licensed salon or an individual or supplier of cosmetology products with personal knowledge of the applicant's practice for one year, if applying with school hours as provided by A.R.S. § 32-531(3)(a), or five years, if applying through previous work experience as provided by A.R.S. § 32-531(3)(b), that includes the following:
 - a. Profession in which applicant gained the experience;
 - b. Proof of current licensure in the profession in which experience was gained;
 - c. Starting and ending dates of applicant's experience in the profession;
 - d. Name of licensed salon and address where applicant gained experience in the profession; and
 - e. License number and name of the licensed individual completing the form, if licensed by a Board; or
 - f. Name, address, and telephone number of the individual completing the information.
 3. Comply with A.R.S. § ~~32-531(A)(3)~~ by submitting documentation of practical experience in the profession applied for on a notarized form, supplied by the Board, that is completed and signed by an owner or manager of a licensed salon or an individual or supplier of cosmetology products with personal knowledge of the applicant's practice for 1 year, that includes the:
 - a. ~~Name of the applicant;~~
 - b. ~~Occupation in which applicant gained the experience;~~
 - e. ~~Initial and final dates of applicant's experience in the occupation;~~
 - d. ~~Name and address where applicant gained the experience in the occupation;~~
 - e. ~~If licensed by the Board, license number; and~~
 - f. ~~Name, address, and telephone number of the individual completing the information.~~Submit If qualifying under A.R.S. § 32-531(3)(a), submit a copy of + one of the following:
 - a. If the applicant graduated from a school licensed by the Board, documentation of graduation that includes in its course of study:
 - i. If applying for a cosmetology instructor license, completion of a minimum of 650 hours of instructor training;
 - ii. If applying for a nail technician instructor license, completion of a minimum of 350 hours of instructor training; or
 - iii. If applying for an aesthetics instructor license, completion of a minimum of 500 hours of instructor training; or
 - b. ~~If the applicant graduated from or completed hours at a school licensed by in a state, other than Arizona, or a foreign country, a graduation certificate and documentation of meeting the requirements in R4-10-302, except for R4-10-302(A)(6); or~~
 - e. If the applicant attended more than ~~+~~ one school in Arizona, a copy of a transfer application or certification of hours from each school attended, including the ~~initial~~ starting and ending dates, total number of hours completed, and signature of the administrator of the school and the graduation documentation as required in R4-10-104(E)(3)(a).

R4-10-107. License Renewal

- A.** An aesthetician, cosmetologist, nail technician, or instructor licensee shall ~~submit file~~ file an application ~~packet~~ for renewal ~~to~~ with the Board no later than the licensee's birthday.

1. If the applicant mails the application ~~packet~~, the application ~~packet~~ shall be postmarked on or before the applicant's birthday.
 2. If the applicant's birthday falls on a Saturday, Sunday or legal holiday, an applicant may file the application ~~packet~~ on the next business day following the applicant's birthday.
 3. An application ~~packet~~ consists of:
 - a. ~~An application on a form provided by the Board that contains:~~
 - i. ~~The applicant's name, address, signature, Personal Identification Number (PIN) supplied by the Board if filed electronically, and social security number;~~
 - ii. ~~A statement of whether the applicant has changed the applicant's name since the previous initial or renewal application and, if applicable, a copy of a legal document, such as a marriage license or divorce decree, showing the name change; and~~
 - iii. ~~The fee required in R4-10-102; and~~
 - iv. ~~The signature of the applicant; and~~
 - b. ~~A copy of a legal document showing the applicant's name change, such as a marriage license or divorce decree.~~
- B.** An establishment licensee shall annually submit an application for renewal and the fee required in R4-10-102 to the Board no later than June 30 of every year the license renewal date, which is the anniversary date of the initial license as shown on the face of the current license.
1. If the applicant mails the application, the application shall be postmarked on or before June 30 the license renewal date.
 2. If June 30th the license renewal date falls on a Saturday, Sunday, or a legal holiday, an applicant may file the application on the next business day following June 30 the license renewal date.
 3. An application consists of a form provided by the Board that contains:
 - a. ~~The establishment's name, manager's license number, and type of license;~~
 - b. ~~If the establishment is a salon that is no longer in business, the date of closure; and The manager's name and license number ; and type of license;~~
 - c. ~~The date and notarized signature of the owner. If the owner is an individual or partnership, the signature and social security number of the owner; or if the owner is a corporation, the signature of the authorized signer and the Tax ID number; or if filed electronically, the Personal Identification Number (PIN) supplied by the Board may be used in place of the signature; and~~
 - d. The fee required in R4-10-102.
 4. If the establishment is a school, the licensee shall submit the information and documents required in R4-10-201 in addition to the application form.

R4-10-112. Infection Control and Safety Standards

- ~~**A.** Establishments, including all areas of employment, passageways, storerooms, and service rooms, shall be well lighted and ventilated. These areas and dispensary fixtures shall be kept in an orderly, clean, and sanitary condition. There shall be a direct entrance into the licensed establishment. The entrance shall not be through living quarters. If connected to a residence, all doors and passageways between living quarters and the licensed establishment shall be closed. A licensed establishment shall not be used for living purposes or other residential use.~~
- ~~**B.** All supplies, equipment, tools, or implements used in performing aesthetics, cosmetology, or nail technology services that contact a person's skin or hair, except wax used for other than depilatory purposes, shall be either discarded, or cleaned and disinfected as provided in subsections (D), (E), and (F), after each contact. The disinfectant used shall be an Environmental Protection Agency registered, hospital grade, bactericidal, virucidal, and fungicidal that is mixed and used according to the manufacturer's directions. A chlorine bleach disinfectant shall be permitted to clean and disinfect counters and linens.~~
- ~~**C.** All supplies, equipment, tools, and implements shall be kept clean, disinfected, free from defects, and in good repair. Cutting equipment shall be kept sharp.~~
- ~~**D.** Each establishment shall have the following set up at all times during business hours:~~
1. ~~A covered, wet disinfectant container made of glass, stainless steel, or the type of container recommended by the manufacturer of the product it contains. The disinfectant shall be the type specified in R4-10-109(B). The solution shall be mixed and used according to manufacturer's instructions for dilution and immersion time. The container shall be large enough to completely immerse all combs, brushes, and other tools or implements used by licensees and shall contain the appropriate amount of solution for the number of items to be disinfected. The disinfectant shall be changed whenever necessary as determined by manufacturer's instructions or when visibly cloudy or contaminated, whichever 1st occurs. A separate covered container with wet disinfectant shall be maintained for each nail technician and aesthetician during nail technology and aesthetic procedures, large enough to completely immerse the contact areas of all nail technology and aesthetic tools or implements. The disinfectant shall be changed between clients.~~
 2. ~~Covered containers that are disinfected and dry to store disinfected tools and implements.~~
 3. ~~Written emergency procedures and a first-aid kit readily accessible to all people working in the establishment. The~~

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- first-aid kit shall contain small bandages, gauze, and antiseptic.
4. Hot and cold running water for work and sanitary purposes. Drinking water shall also be supplied for clients and employees that complies with state and local health department requirements.
 5. Garbage containers, which shall be emptied, cleaned, and disinfected daily. These containers shall not leak.
 6. Soiled linen containers that are ventilated. Clean towels, robes, or gowns shall be provided for each client and shall be laundered after every use. Laundered towels, robes, or gowns shall be stored in cabinets with tight fitting doors, kept closed to protect linens from dust and dirt. All linens shall be disinfected during the wash cycle using detergent and bleach.
 7. Ventilation and air filtration system capable of 4 to 10 air changes per hour. Ventilation shall be designed to provide free flow of air to each room, in proportion to the size, use, and capacity of the room, to prevent the build-up of emissions and particulates, to keep odors and diffusions from chemicals and solutions at a safe level, and to provide sufficient air circulation and oxygen. Ventilation may be by natural or mechanical means.
- E.** Plastic, rubber, natural bristles, nail files, clipper attachments, aesthetic sponges, wood, and pedicure bins shall be thoroughly cleaned, disinfected, and dried between each client, as follows:
1. Pre-clean with soap and water to remove hair, filings, or other debris;
 2. Rinse thoroughly and pat dry with a clean towel;
 3. Disinfect according to R4-10-109(D)(1);
 4. Rinse and dry thoroughly; and
 5. Keep clean according to R4-10-109(D)(2).
- F.** All tools or implements shall be disinfected by complete immersion after each use. Tools or implements shall be removed from the disinfectant using tongs, baskets, or any manner that does not contaminate the disinfectant solution, and placed on a clean dry towel for air drying. Tools or implements that contact skin, but cannot be immersed into disinfectant because they are electrical, shall be wiped or sprayed with a type of disinfectant listed in R4-10-109(A) after each use.
- G.** Separate containers shall be used for soiled linens and for garbage. All clean linens shall be kept in a clean, closed cabinet or container. Only clean linens or new disposable linens shall be used on each client. Clients shall be protected from direct contact with shampoo bowls or items used to protect clients' clothing by the use of clean towels or protective neck strips.
- H.** Counters and work areas shall be disinfected after each client. Hair and nail clippings shall be discarded immediately after each client.
- I.** Each establishment shall have at least 1 rest room for employees' and clients' use. All rest rooms shall be kept clean and sanitary at all times and shall have a wash basin, hot and cold running water, and an adequate supply of toilet paper, liquid soap, and disposable towels. Rest rooms shall not be used for storing materials other than rest room supplies, unless they are placed in a locked cabinet.
- J.** Students, licensees, and employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water, or use a wet disinfectant approved for use on the skin, before providing services to each client, after smoking, drinking, or using the rest room. Services shall not be performed by a licensee who has a contagious disease of a nature that may be transmitted by performing the service unless the licensee takes medically approved measures to prevent transmission of the disease. Services shall not be performed to an individual who has a contagious disease of a nature that may be transmitted by the performing of the services.
1. In the event of a wound, licensees and employees shall stop service and, before returning to service, clean the wound with an antiseptic solution, cover the wound with a sterile bandage, and, if the licensee's or employee's wound is in an area that could be covered by a glove or finger cover, wear a clean, fluid-proof protective glove or finger cover, or wear gloves on both hands if the wound is on the client.
 2. Licensees and employees shall wear, clean, fluid-proof protective gloves while performing any service if any bodily discharge is present from the licensee, employee, or client or if any discharge is likely to occur from the client because of services being performed.
 3. Blood-stained tissue, cotton, or other blood-contaminated material shall be placed in a sealed plastic bag and that plastic bag shall be placed into another plastic bag, which is labeled with a red or orange biohazard warning and discarded.
 4. All equipment, tools, and implements that have come in contact with blood or body fluids shall be disinfected before continued service by complete immersion in an Environmental Protection Agency registered, hospital grade, and tuberculocidal disinfectant that is mixed and used according to the manufacturer's directions.
- K.** All products that are used on more than 1 client shall be stored in a labeled, clean, closed container and dispensed using a disinfected spatula or in another manner that does not contaminate the remaining contents of the product. Once dispensed, a product may not be returned to the original container or used on another client.
- L.** All trays, floors, walls, chairs, headrests, footrests, tools, and other implements shall have a cleanable surface and shall be free from dust, dirt, and other foreign material. Headrests and footrests shall be covered with a clean towel or new disposable towel for each client. Shampoo bowls shall be kept clean and disinfected and drains shall be kept free running.
- M.** Product containers, including water, shall be labeled to identify contents. All chemicals shall be labeled and stored in compliance with state and local laws and manufacturer's instructions to ensure identification and protection against fires,

fumes, contamination, or corrosion of containers. Corroded containers shall be immediately discarded.

- ~~N.~~ Services shall be performed safely to protect the licensee and clients. Double bracing shall be used around the eyes, ears, lips, fingers, and toes. Clips or other implements shall not be placed in mouths or pockets.
- ~~O.~~ Birds and animals, except for fish aquariums and seeing-eye or hearing-ear dogs, shall be prohibited in establishments.
- ~~P.~~ Powder puffs, styptic pencils, lump alum, and the reuse of end papers and depilatory wax are prohibited. Dermaplane procedures, blades, knives, lancets, and any tool that invades the skin shall not be used in a salon or school. Nippers may be used only to remove loose cuticles. Only chemical peels containing a maximum of 2% phenol and 37 to 40% neutralized glycolic acid may be used.
- ~~Q.~~ All establishments shall comply with federal and state occupational safety and health requirements.
- ~~R.~~ A client's personal cosmetology implements or tools are subject to these rules.
- ~~S.~~ All clients' hair and scalp shall be examined before hair services are provided to determine if any conditions are present that warrant shampooing before providing services, or whether to proceed with services.
- ~~T.~~ Leather storage pouches shall not be used to store disinfected tools or implements.
- ~~U.~~ Nail technology licensees and clients shall wash their hands with soap and warm water or wipe with disinfectant, or waterless hand cleanser approved for use on skin, prior to service. Prior to a pedicure, the client's feet shall be cleansed with soap and warm water or wiped with a disinfectant approved for use on skin.
- ~~V.~~ Prior to aesthetics services, licensees shall wash their hands with soap and warm water or wipe with a disinfectant or waterless hand cleanser approved for use on skin.
- ~~W.~~ Instructors in a school shall wash their hands with soap and warm water or wipe with a disinfectant approved for use on skin prior to checking student services on clients.
- ~~X.~~ Sharp cosmetology tools and implements shall be sealed in a rigid, puncture proof container and disposed of in a manner to keep licensees and clients safe.
- A.** Establishments shall have and maintain the following minimum equipment and supplies:
 1. Non-leaking, waste receptacles which shall be emptied, cleaned and disinfected daily;
 2. Ventilated containers for all soiled linens including towels and capes;
 3. Closed, clean containers to hold clean linens including towels and capes;
 4. A covered, wet disinfectant container made of stainless steel or a material recommended by the manufacturer of the product it contains:
 - a. The container shall be large enough to contain sufficient disinfectant solution to allow for the total immersion of tools and implements;
 - b. The container shall be set up with disinfectant at all times the establishment is open; and
 - c. The disinfectant solution shall be changed as determined by manufacturer's instructions or when visibly cloudy or contaminated.
 5. All tools and implements, except those that have come in contact with blood or body fluids must be disinfected, at minimum, by complete immersion in an Environmental Protection Agency (EPA) registered bactericidal, virucidal, fungicidal, and pseudomonacidal (formulated for hospitals) disinfectant that is mixed and used according to manufacturer's directions.
 6. All tools and implements which have come in contact with blood or body fluids must be disinfected, at minimum, by complete immersion in an EPA-registered disinfectant that is effective against HIV-1 and Human Hepatitis B Virus or Tuberculocidal that is mixed and used according to the manufacturer's directions.
- B.** Procedure for disinfecting non-electrical instruments and equipment:
 1. Before use upon a client, all non-electrical instruments shall be disinfected by cleaning with soap or detergent and water, rinsing with clean water, patting dry; and
 2. Totally immersing in the wet disinfectant required by R4-10-112(A)(5) or (6) following manufacturer's recommended directions;
- C.** Procedure for storage of implements:
 1. All instruments that have been used on a client or soiled in any manner shall be placed in a properly labeled receptacle; and
 2. Disinfected implements must be stored in a disinfected, dry, covered container and be isolated from contaminants.
- D.** Procedure for disinfecting electrical instruments, all of which shall be in good repair and disinfected prior to each use:
 1. Remove all foreign matter;
 2. Clean and spray or wipe with a disinfectant, specifically made for electrical equipment, as required in (A)(5) or (6) above;
 3. Disinfect removable parts as in (B) above.
- E.** Instruments and supplies:
 1. All instruments and supplies which come into direct contact with a client and cannot be disinfected (for example, cotton pads, sponges, porous emery boards, and neck strips) shall be disposed of in a waste receptacle immediately after use;
 2. Leather storage pouches shall not be used to store disinfected tools or implements;

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3. Sharp cosmetology tools and implements that are to be disposed of shall be sealed in a rigid, puncture-proof container and disposed of in a manner to keep licensees and clients safe.
4. No licensee or student shall carry any instrument or supplies in or on a garment while practicing in a licensed establishment.
5. Clips or other implements shall not be placed in mouths, pockets, or other unsanitized holders.
6. Pencil cosmetics shall be sharpened before each use.
7. All supplies, equipment, tools, and implements shall be kept clean, disinfected, free from defects, and in good repair.
8. Cutting equipment shall be kept sharp; and
9. A client's personal cosmetology implements or tools are subject to these rules.
- F.** In the event of a blood spill or exposure to body fluids, licensees and students shall stop service and:
 1. Before returning to service, clean the wound with an antiseptic solution;
 2. Cover the wound with a sterile bandage;
 3. If the wound is on the licensee's or student's hand in an area that could be covered by a glove or finger cover, licensee shall wear a clean, fluid-proof protective glove or finger cover, or gloves shall be worn on both hands if the wound is on the client;
 4. Blood-stained tissue, cotton, or other blood-contaminated material shall be placed in a sealed plastic bag and that plastic bag shall be placed into another plastic bag (double bagging), labeled with a red or orange biohazard warning and discarded;
 5. All equipment, tools, and implements that have come in contact with blood or body fluids shall be disinfected as in (A)(6) and (B) above;
 6. Electrical appliances or instruments must be wiped and sprayed as (A)(6), (B) and (D) above; and
 7. Licensees and students shall wear clean, fluid-proof protective gloves while performing any service if any bodily discharge is present from the licensee, student, or client or if any discharge is likely to occur from the client because of services being performed.
- G.** Whirlpool foot spas or pedi bins used for pedicure services shall be cleaned as follows:
 1. Between each customer:
 - a. Drain all water and remove all foreign matter from the foot spa;
 - b. Clean the surfaces and walls of the foot spas with soap or detergent and rinse with clean water;
 - c. Disinfect the surfaces with an EPA registered disinfectant with demonstrated bactericidal, fungicidal, virucidal, and pseudomonacidal (formulated for hospitals) efficacy used according to manufacturer's instructions;
 - d. Rinse by filling the bin with clear water and flushing for three minutes;
 - e. Wipe dry with a clean towel; and
 - f. Disinfect screen and remove foreign matter between each client.
 2. At the end of each day, the foot spas shall be cleaned as follows:
 - a. Remove the screen and clean all debris trapped behind the screen for each foot spa;
 - b. Wash the screen and inlet with soap or detergent and:
 - i. A chlorine solution, consisting of 5% chlorine bleach to 1 gallon water; or
 - ii. Wash the screen with soap or detergent and clean, clear water, then totally immerse in an EPA registered disinfectant with demonstrated bactericidal, fungicidal, virucidal, and pseudomonacidal (formulated for hospitals) efficacy used according to manufacturer's instructions; and
 - c. Flush the system with low sudsing soap and warm water for 10 minutes then rinse, drain, and let air dry.
 3. Each week the foot spa shall be cleaned as follows:
 - a. After following the cleaning procedures in R4-10-112(E)(3)(b), fill the foot spa tub with 5 gallons of water and 4 teaspoons of 5% bleach solution (a dose of 50 parts per million:0.64 oz.);
 - b. Circulate the solution through the foot spa system for 5 to 10 minutes;
 - c. Let the solution sit overnight or at least 6 to 10 hours; and
 - d. Drain and flush the system.
- H.** Personal cleanliness:
 1. Each licensee or student shall thoroughly wash his or her hands with soap and water or any equally effective cleansing agent immediately before providing services to each client, before checking a student's work on a client, or after smoking, drinking, or using the rest room;
 2. Licensees shall wear clothing and shoes; and
 3. Client's hands or feet shall be washed with soap and warm water or wiped with disinfectant or waterless hand cleanser approved for use on skin before a nail or pedicure service.
- I.** Disease and infestation:
 1. Licensees or students having a contagious disease of a nature that may be transmitted, shall not perform services on a client until the licensee or student takes medically approved measures to prevent transmission of the disease;
 2. Services shall not be performed on an individual who has a contagious disease of a nature that may be transmitted by the performing of the services.

- J. Client protection:**
1. Clients clothing shall be protected from direct contact with shampoo bowls or headrests by the use of clean linens, capes, robes, or protective neck strips;
 2. Infection control must be maintained and services shall be performed safely to protect the licensee, student, and client;
 3. Double bracing shall be used around the eyes, ears, lips, fingers, and toes; and
 4. All clients shall receive a pre- and post-analysis that includes appropriate instructions for follow-up.
- K. Care and storage of linens including towels, robes, and capes:**
1. Clean linens shall be provided for each client and shall be laundered after each use;
 2. Before laundering, the soiled linens shall be stored in a ventilated receptacle;
 3. Laundering shall include disinfecting the linens by using detergent and bleach; and
 4. Clean linens shall be stored in closed containers or closets.
- L. Care and storage of products including liquids, creams, powders, cosmetics, chemicals, and disinfectants:**
1. All products shall be labeled to identify contents and stored in a clean container, free of corrosion, in compliance with state and local laws and manufacturer's instructions;
 2. In addition to (1) above, all products containing poisonous substances shall be distinctly marked as such;
 3. When only a portion of a cosmetic preparation is to be used on a client, it shall be removed from the container in such a way as not to contaminate the remaining portion of the preparation; and
 4. Once dispensed, a product may not be returned to the original container.
- M. Prohibited hazardous substances/use of product:**
1. No establishment or school shall have on the premises cosmetic products containing hazardous substances which have been banned by the U.S. Food and Drug Administration (FDA) for use in cosmetic products, including liquid methyl methacrylate monomer and methylene chloride; and
 2. No product shall be used in a manner that is disapproved by the FDA.
- N. Care of headrests, shampoo bowls, and treatment tables:**
1. Headrests of chairs and treatment tables shall be disinfected at least daily and treatment tables shall be covered with a clean linen or paper sheet for each client;
 2. Shampoo bowls and neck rests must be cleansed with soap and water or other detergent after each use, kept in good repair, and in a sanitary condition at all times; and
 3. Shampoo neck rests shall be disinfected with a solution as in (A)(5) or (6) above before each use.
- O. Invasive Procedures are Prohibited:**
1. Use of any machine, instrument, or chemical that penetrates the dermis, except superfluous hair removal, is prohibited;
 2. Use of laser hair removal devices are prohibited;
 3. Low frequency, low power ultrasonic and sonic devices except those intended for skin cleansing, exfoliating and product applications are prohibited;
 4. Salons providing invasive procedures such as laser hair removal, invasive microdermabrasion, or invasive ultrasound and sonic devices must post a sign as required by R-4-111(E) above and shall be used under appropriate supervision of a medical doctor, nurse practitioner, or doctor of osteopathy as required by the relevant regulatory authority.
- P. Skin Peeling:**
1. Only the non-living, uppermost layers of skin, known as the epidermis, may, by any method or means, be removed, and then only for the purpose of beautification;
 2. Skin removal techniques and practices which affect the dermal layer of the skin are prohibited;
 3. Mixing or combining skin removal products is prohibited except as required by manufacturer instructions and approved by the Food and Drug Administration; and
 4. Only commercially available products for the removal of epidermis for the purpose of beautification may be used.
- Q. Prohibited instruments:**
1. No establishment shall have on the premises any razor-edged or other device or tool which are designed to remove calluses or used to invade the dermis of the skin;
 2. Nippers shall be used only to remove loose cuticles; and
 3. Pre-sterilized, disposal lancets shall be used only to dilate follicles and serve as a release for the sebaceous debris to exit the follicle.
- R. Cleanliness and repair shall be maintained at all times the establishment is open according to the following guidelines:**
1. After each client, hair and nail clippings shall be discarded immediately;
 2. All areas of a licensed establishment, including storerooms and passageways, shall be well lighted, ventilated, and infection control maintained;
 3. Floors, walls, woodwork, ceilings, furniture, furnishings, and fixtures shall be clean and in good repair;
 4. Shampoo bowls shall be kept clean and disinfected and drains shall be kept free running;
 5. Counters and all work areas shall be disinfected after each client; a chlorine bleach disinfectant shall be permitted for

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use as the disinfectant; and

6. No establishment shall permit an accumulation of waste or refuse.

S. Building Standards:

1. There shall be a direct entrance from the outside, not through living quarters, into the licensed establishment;

2. If connected to a residence, all passageways between the living quarters and the licensed establishment must have a door which shall be closed during business hours;

3. A licensed establishment shall not be used for living purposes or other residential use;

4. Each establishment shall have at least one rest room exclusively for employees' and clients' use, during business hours, which shall be kept clean and sanitary at all times and shall have a wash basin, running water, liquid soap, and disposable towels;

5. Mobile units shall have sufficient water at all times;

6. Each establishment shall have hot and cold running water;

7. Any excess material stored in the restroom shall be in a locked cabinet; and

8. All establishments shall have a ventilation and air filtration system designed to provide free flow of air to each room, to prevent the build-up of emissions and particulates, to keep odors and diffusions from chemicals and solutions at a safe level, and to provide sufficient air circulation and oxygen. Ventilation may be by natural or mechanical means.

T. General requirements:

1. Each establishment shall have a first-aid kit readily accessible which contains, at least, small bandages, gauze, anti-septic, and a blood spill kit including double disposable bags, gloves and hazardous waste stickers;

2. Birds and animals, except for fish aquariums and service animals shall be prohibited in establishments; and

3. All establishments shall comply with federal and state requirements.

ARTICLE 2. SCHOOLS

R4-10-207. Nail Technology School Requirements

A. Schools ~~which~~ that provide nail technology ~~300~~ 600 hour training for students, 350-hour training for instructors, or both, shall provide the following minimum records, facilities, equipment, supplies and materials, in addition to that required by R4-10-203 and R4-10-204:

1. A work station to perform ~~of~~ nail technology services for the public for each student ~~enrolled~~, in attendance containing:

a. A nail technology table with a top 32" x 16" or larger;

b. A client chair;

c. A nail technology chair or stool;

d. A disinfected, covered container to store disinfected tools and implements as ~~specified by R4-10-109~~ in R4-10-112(C)(2);

e. A container with wet disinfectant as ~~specified by R4-10-109~~ in R4-10-112(A)(4) and (5);

f. A container for ~~disinfected~~ soiled tools or implements as in R4-10-112(C)(2);

g. A garbage receptacle ~~; and as in R4-10-112(A)(1); and~~

h. ~~A light;~~ A disinfectant for blood or body fluid exposure as in R4-10-112 (A)(6).

2. ~~1~~ electric or battery-operated nail drill for filing and buffing;

3. ~~1~~ One container large enough to completely immerse both feet, for every ~~5~~ five students in attendance during practical training;

4. ~~3~~ Nail products for acrylics, gels, tips, wraps, and polishing; and

5. ~~4~~ One ultraviolet light.

B. Each enrolled nail technology student shall have a training kit containing:

1. ~~1~~ One simulated hand ~~or finger for practice training;~~

2. Disinfected tools, including pusher, nipper, file or porous emery boards, tweezer, nail brush, and finger bowl, ~~buffers artificial nail products kit, wrap kit, 2 dappen dishes, polish kit, nail forms, and 1 brush product applicator to enable the student to perform nail technology;~~

3. ~~1~~ covered container to store disinfected tools and implements as specified by R4-10-109; Artificial nail enhancement kit with remover, wrap kit, two dappen dishes, polish kit, nail forms, finishing tools, and one brush product applicator; and

4. ~~1~~ One covered container ~~for~~ to store disinfected tools and implements as specified by ~~R4-10-109~~ R4-10-112(C)(2);

4. ~~5~~ A container for contaminated tools or implements; ~~and~~

5. ~~6~~ A current instruction manual or textbook of nail technology; and Arizona Cosmetology laws and rules; ~~and~~

7. One electric nail file.

R4-10-208. Combined School Requirements

A. ~~The~~ A licensed school shall teach the following hours ~~are required~~ to a student before allowing the student to graduate:

1. Aesthetics course - 600 hours,

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2. Aesthetic instructor course - 500 hours,
 3. Cosmetology course- 1600 hours,
 4. Cosmetology instructor course - 650 hours,
 5. Nail technology course- ~~300~~ 600 hours, and
 6. Nail technology instructor course - 350 hours.
- B.** Schools that provide training in all of the above courses shall have the minimum records, facilities, equipment, supplies, and materials required by:
1. R4-10-203,
 2. R4-10-204,
 3. R4-10-205(A)(1) through (A) (14) except subsection (A) (1) is + one work station for each ~~2~~ two aesthetics students enrolled in attendance; ~~and~~
 4. R4-10-206 (A), ~~and~~
 5. ~~R4-10-207(A)(1) through (5) except (1) is 1 work station for each 2 nail technology students enrolled.~~
- C.** Schools that provide the curriculum specified in subsections (A)(3), (A) (4), (A) (5), and (A) (6) shall have the minimum records, facilities, equipment, supplies, and materials required by:
1. R4-10-203,
 2. R4-10-204,
 3. R4-10-206(A), and
 4. R4-10-207(A)(1) through (A)(5) except subsection (A)(1) is + one work station for each ~~2~~ two nail technology students enrolled in attendance.
- D.** Schools that provide the curriculum as specified in subsections (A)(1), (A)(2), (A)(3), and (A)(4) shall have the minimum records, facilities, equipment, supplies, and materials required by:
1. R4-10-203,
 2. R4-10-204,
 3. R4-10-205(A)(1) through (A)(14) except subsection (A)(1) is + one work station for each ~~2~~ two aesthetic students enrolled in attendance, and
 4. R4-10-206(A).
- E.** Schools that provide the curriculum as specified in subsections (A)(1), (A)(2), (A)(5) and (A)(6) shall have the minimum records, facilities, equipment, supplies, and material required by:
1. R4-10-203,
 2. R4-10-204,
 3. R4-10-205, and
 4. R4-10-207.

ARTICLE 3. STUDENTS

R4-10-302. Instructor Curriculum Required Hours

- A.** ~~The following number of hours shall be completed by each student in an instructor course of aesthetics, cosmetology, or nail technology:~~ Each student in an aesthetics, cosmetology, or nail technology instructor course shall complete the number of hours listed in Table 1:

Subject	Aesthetics	Cosmetology	Nail-Technology
1. Orientation	16	16	16
2. Theory, principles, or methods of teaching	200	250	125
3. Practical-demonstrations	100	150	80
4. Conducting theory-classes	40	60	30
5. Clinic floor work	100	130	65
6. Arizona cosmetology laws and rules	10	10	5
7. Record preparation	10	10	5
8. Evaluation and-unassigned	24	24	24

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Table 1. Instructor Curriculum (in hours)

<u>Subject</u>	<u>Aesthetics</u>	<u>Cosmetology</u>	<u>Nail Technology</u>
<u>1. Orientation and Arizona laws and rules</u>	<u>8</u>	<u>8</u>	<u>8</u>
<u>2. Theory, Preparation, and Practice</u> <u>Curriculum Development</u> <u>Developing and Using Educational Aids</u> <u>Presentation Principles (Practical and Written)</u> <u>Classroom Management</u> <u>Evaluation, Assessment, and Remediation Methods (Practical and Written)</u> <u>Diversity in learning (including cultural)</u> <u>Methods of Teaching</u> <u>Professional Development (including ethics)</u> <u>Alternative Learning [see subsection (B)]</u>	<u>405</u>	<u>405</u>	<u>270</u>
<u>3. Lab (clinic) oversight</u>	<u>87</u>	<u>237</u>	<u>72</u>
<u>4. Total Hours</u>	<u>500</u>	<u>650</u>	<u>350</u>

- B.** No more than 20% of the total training hours shall be spent checking clinical floor work.
- C.** A maximum of 10% of the hours required for any subject in a course may be spent on another subject in that course. The actual hours spent on each subject in a course shall not be less than 90% of the number of hours required in subsection (A). This does not apply to evaluation and unassigned.
- DB.** Curriculum hours for theory, ~~preparation~~ preparation, and practice, ~~principles, or methods of teaching~~ may be satisfied by ~~credits~~ no more than nine credit hours for cosmetology and aesthetics and no more than six credit hours for nail technology and encompassing the subjects listed under Theory, Preparation, and Practice in R4-10-302(A) obtained from an accredited college or university as defined in R4-10-101(15)(c) and (d) with each college credit hour equaling at least 30 clock hours.
- EC.** All instruction given by a student instructor shall be under the direct supervision and observation of a licensed instructor.
- FD.** ~~Student A student~~ ~~instructors instructor~~ shall be counted as ~~a students student~~ for ~~purposes the purpose~~ of determining the maximum allowed ratio of ~~20 40~~ students during theory class and 20 students during lab or clinic for each ~~teacher licensed~~ instructor in the school.
- GE.** No student instructor shall instruct students or check student services performed on the public until the student instructor has received at least ~~420 80~~ hours of basic instructor training.

R4-10-303. Aesthetic Curriculum Required ~~Hours 600 hours~~

- A.** The following number of hours shall be completed by each student in an aesthetics course:
 1. Theory of aesthetics, Arizona aesthetician laws and rules, ~~75 hours~~;
 2. Practical aesthetics and practical theory involving all skin types:
 - a. Consultation and analysis, ~~25 hours~~;
 - b. Preparation and cleansing, ~~25 hours~~;
 - e. Massage, ~~75 hours~~;
 - d. Manual facial, ~~75 hours~~;
 - e. Electrical facial, ~~100 hours~~;
 - f. Packs and masks, ~~30 hours~~;
 - g. Light therapy, ~~10 hours~~;
 - h. Cosmetics application, ~~75 hours~~;
 - i. Physical and chemical depilatories, ~~30 hours~~;

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- j. Artificial eyelash application, 20 hours;
 - k. Creative preference, 25 hours; and
 - l. Disinfection procedures, 35 hours.
3. The total received shall be at least 600 hours.
- B.** No aesthetics school shall receive remuneration for students performing clinical services to the public until the student has received 120 hours of basic training.
- A.** Each student in an aesthetic course shall complete the following curriculum:
- 1. Theory of Aesthetics, infection control, laws, rules anatomy, physiology, and histology of the body;
 - 2. Practical Aesthetics and practical aesthetics theory involving all skin types totaling:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the skin;
 - c. Morphology and treatment of skin including face and body by hand or machine;
 - d. Interpersonal skills and professional ethics;
 - e. Product pharmacology and chemistry interaction, formulation, composition, and hazards
 - f. Aesthetic machines, tools, and their related uses;
 - g. Alternative skin technology;
 - h. Pre-and post-client consultation, documentation, and analysis;
 - i. Spa body modalities;
 - j. Exfoliation modalities;
 - k. Body and face massage and manipulations;
 - l. Body and facial hair removal except by electrolysis or laser;
 - m. Cosmetic enhancement applications;
 - n. Alternative learning as in R4-10-306(F); and
 - o. Required industry standards and ecology including monitor duties.
- B.** No school shall receive remuneration for students performing clinical services to the public until the student has received at least 120 hours of aesthetic training; and
- C.** Evaluation and remediation.

R4-10-304. Cosmetology Curriculum Required Hours 1600 Hours

- A.** The following number of hours shall be completed by each student in a cosmetology course:
- 1. Theory of cosmetology, Arizona cosmetology laws and rules, 200 hours;
 - 2. Practical cosmetology and practical theory, involving all hair and skin types:
 - a. Monitor duties, salesmanship, ethics, and salon management, 35 hours;
 - b. Chemical hair restructuring, including permanent waving and chemical hair relaxing, specifically thioglycolate and sodium hydroxide, 230 hours;
 - e. Hair coloring, including tinting and bleaching, 230 hours;
 - d. Haircutting, 230 hours;
 - e. Hairstyling, pressing, thermal curling, and waving, 230 hours;
 - f. Facials and makeup, including massage and physical and chemical depilatories, 100 hours;
 - g. Massage, 100 hours;
 - h. Manicuring, pedicuring, sculpture nails, extensions, wraps, overlays, and related services, 75 hours;
 - i. Shampooing, conditioning, re-conditioning, rinse application, and chemical removal, 50 hours;
 - j. Scalp treatment and brushing, 20 hours;
 - k. Electricity and light therapy as related to the practice of cosmetology, 10 hours;
 - l. Creative preference, 40 hours; and
 - m. Disinfection procedures, 50 hours.
 - 3. The total number of hours received shall be at least 1600.
- B.** No cosmetology school shall receive remuneration for students performing any clinical services, except shampooing, to the public until the student has received at least 300 hours of cosmetology training.
- A.** Each student in a cosmetology course shall complete the following curriculum:
- 1. Theory of cosmetology, infection control, anatomy, physiology and histology of the skin, electricity, diseases and disorders, and Arizona cosmetology laws, and rules;
 - 2. Clinical laboratory cosmetology including theory that involves nail, hair, and skin types:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the hair, skin, and nails;
 - c. Interpersonal skills and professional ethics;
 - d. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
 - e. Cosmetology machines, tools, and their related uses;
 - f. Chemical texturizing.

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- g. Changing existing hair color;
- h. Hair and scalp care;
- i. Fundamentals of hairstyling including braiding and extensions;
- j. Body, scalp, and facial massage and manipulations;
- k. Hair cutting fundamentals;
- l. Fundamental aesthetics of the body and face excluding invasive procedures;
- m. Fundamentals of nail technology;
- n. Alternative hair, skin, and nail technology;
- o. Pre-and post-client consultation, documentation, and analysis;
- p. Body and facial hair removal except by electrolysis and laser;
- q. Cosmetology technology;
- r. Required industry standards and ecology including monitor duties; and
- s. Alternative learning as in R4-10-306(F).

B. No cosmetology school shall receive remuneration for students performing any clinical services, except shampooing, to the public until the student has received at least 300 hours of cosmetology training; and

C. Evaluation and remediation.

R4-10-305. Nail Technology Curriculum Required ~~Hours~~ 600 Hours

A. The following number of hours shall be completed by each student in a nail technology course. Each student in a nail technology course shall complete the following curriculum:

1. Theory of manicuring, Arizona nail technology laws, and rules, 50; Theory of nail technology; infection control; Arizona State Cosmetology laws and rules; diseases and disorders of the nails and skin; and anatomy, physiology and histology of the limbs, nails and skin structures;
2. Practical manicuring and practical theory: Clinical laboratory nail technology including theory that involves nails and limbs:
 - a. Extensions, wraps, and overlays, 50 hours;
 - b. Nail sculpturing, 80 hours;
 - e. Manicuring, 35 hours;
 - d. Pedicuring, 30 hours;
 - e. Massage on hands, arms, legs, and feet, 10 hours;
 - f. Monitor duties, 10 hours;
 - g. Creative preference, 10 hours; and
 - h. Disinfection procedures, 25 hours.
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the nail and skin;
 - c. Prohibition of invasive procedures;
 - d. Interpersonal skills and professional ethics;
 - e. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
 - f. Nail technology machines, tools, and their related uses;
 - g. Pre-and post-client consultation, documentation, and analysis;
 - h. Manicuring (including use of nippers);
 - i. Pedicuring (including use of nippers);
 - j. Artificial nail enhancements (application and removal);
 - k. Alternative nail technology;
 - l. Electric file use; and
 - m. Alternative learning hours as in R4-10-306(F).

B. ~~No~~ A nail technology school shall not receive remuneration for students performing lab or clinical services to the public except manicuring and pedicuring until the student has received at least 80 hours of nail technology training.

C. Evaluation and remediation.

R4-10-306. Curriculum Curricula Hours

- A.** Hours of training received in an aesthetic, cosmetology, or nail technology course ~~shall do~~ not apply toward receiving an instructor's license.
- B.** Hours of training received in an instructor course ~~shall do~~ not apply toward receiving an aesthetician, cosmetologist, or nail technician license but ~~shall can~~ can apply toward reactivation of an aesthetics, cosmetology, or nail technology license if the instructor hours are received after inactive status occurs.
- C.** The following hours ~~shall be applied~~ apply toward licensing:
1. 25% 30% of the hours of training received in a nail technology course toward a cosmetologist license;
 2. 30% of the hours of training received in an aesthetics course toward a cosmetologist license;

3. ~~7%~~ 15% of the hours of training received in a cosmetology course toward a nail technician license;
 4. 15% of the hours of training received in a cosmetology course toward an aesthetician license;
 5. 50% of the hours of training received in a barber course toward a cosmetologist license;
 6. 100% of the hours of training received by a licensed cosmetologist in a nail technology instructor course toward an aesthetics instructor license; however, the remaining required hours shall be received in an aesthetics or cosmetology school;
 7. 100% of the hours of training received by a licensed cosmetologist in a nail technology instructor course toward a cosmetology instructor license; however, the remaining required hours shall be received in a cosmetology school;
 8. 100% of the hours of training received by a licensed cosmetologist in an aesthetics instructor course toward a cosmetology instructor license; however, the remaining required hours shall be received in a cosmetology school; and
 9. 100% of the ~~barber instructor~~ hours of training received in a barber instructor course toward a cosmetology instructor license; however, the remaining required hours shall be received in a cosmetology school. ~~+~~ One year of licensed barber experience is the same as ~~+~~ one year of licensed cosmetology experience for the purpose of qualifying for the cosmetology instructor examination as specified by A.R.S. § 32-531.
 10. Hours transferred to another course shall ~~only~~ be used only once.
- D.** At the completion of a course, the cumulative hours for students for that course shall, at a minimum, conform with R4-10-301, R4-10-302, R4-10-303, R4-10-304, R4-10-305, and R4-10-306 as applicable.
- E.** Infection control, disinfection procedures, and safety issues shall be taught with every subject and every procedure.
- F.** Alternative learning hours are hours that a school may authorize which are spent in the pursuit of knowledge of cosmetology that are earned in school or in an alternative format or location excluding a salon. A school shall not credit a student with more than 20% of the total required hours accrued toward graduation during enrollment at the school as alternative learning hours.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

PREAMBLE

- 1. Sections Affected**
R4-30-307
- Rulemaking Action**
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. §§ 32-106(A)(1) and 32-106(F)
Implementing statute: A.R.S. § 32-128(C)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 2726, July 2, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Sherman Lewis
Address: Board of Technical Registration
1110 W. Washington, Suite 240
Phoenix, AZ 85007
Telephone: (602) 364-4940
Fax: (602) 364-4931
E-mail: sherman.lewis@btr.state.az.us
- 5. An explanation of the rule, including the Agency's reason for initiating the rule:**
Agency staff has reported numerous complaints from members of the public who were disappointed with the results of work performed by certain land surveyors that did not meet customer expectations. The problem seems to stem partially from the fact that the work these land surveyors were supposed to perform, and/or the cost, was not delineated in a written contract prior to commencement of the project.

To deal with this situation, and at the urging of industry participants, the Board decided to propose the subject rule that would require land surveyors to enter into a written contract, or written scope of services agreement, with their clients. According to industry participants, most land surveyors already provide a written contract, as do most simi-

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larly situated professionals in other fields. What the proposed rule would do would be to make mandatory what is a prevalent practice in the field. It would place a necessary regulatory control on the few land surveyors who have been lax in their dealings with clients because of their failure to provide these clients up-front with a written statement of the scope of services to be performed. The proposed requirement will also put both parties on notice as to fees for specific services, which are often the subject of disputes later on.

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

Not applicable

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

Not applicable

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

The rule is designed to inject a level of certainty into the contractual relationships that exist between land surveyors and their clients by requiring that a written scope of service contract be concluded between the two parties prior to commencement of the project. This rule would only affect those cases where land surveyors are not already providing a written scope of services contract for the work they undertake.

This rule will not impose an "added cost to the population as a whole." Only a very minor, incremental cost will be incurred by those consumers who formerly selected registrants that did not provide a scope of work document to their clients.

As far as who ultimately will pay the additional cost, the cost of providing a written contract can readily be passed on to the consumer; and the cost to the consumer, according to industry participants, is expected to be minimal (where minimal is defined as under \$100.00). The benefit of this new proposed rule would be to safeguard all consumers of professional survey services by providing customers with service charge information prior to the start of services.

The cost of actually producing a written scope of proposed service document must be measured against the benefit of having documentation as to what was actually or verbally agreed upon. In the final analysis, the rule may save the professional costs equaling or exceeding the price of the entire survey by providing the professional with protection against unsubstantiated tort claims and/or regulatory complaints. There is an equal benefit to the client who will have acknowledged documentation to assist in proving that the professional registrant may not have provided the requested and agreed-upon services. It will prevent allegations from ripening into complaints and will save the Agency the time and costs by reducing the resources needed for investigating alleged violations of standards of professional conduct.

The number of small businesses affected by the rule is estimated at below 100 statewide; but that number is rather difficult to quantify, because most of those who do not now supply that service are not volunteering this fact to the Agency or to the general public. Even the professional society, Arizona Professional Land Surveyors Association (APLS), does not have meaningful data -- only anecdotal stories about how many individuals or firms are not already providing this service.

The additional administrative costs to other state agencies, such as to the Secretary of State's Office and the Governor's Regulatory Review Council, are not thought to be significant.

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: Sherman Lewis
Address: Board of Technical Registration
1110 W. Washington, Suite 240
Phoenix, AZ 85007
Telephone: (602) 364-4944
Fax: (602) 364-4931
E-mail: sherman.lewis@btr.state.az.us

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

No proceeding is scheduled. Written and/or oral comments will be accepted between 8:00 a.m. and 4:00 p.m., Monday through Friday, at 1110 W. Washington, Suite 240, Phoenix, Arizona 85007.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

ARTICLE 3. REGULATORY PROVISIONS

R4-30-307. Land Surveying Scope of Services

Prior to the commencement of any boundary survey services, a registered land surveyor shall provide each client a written scope of services and statement of fees, which must be acknowledged by the client in writing and returned to the registered land surveyor.

Editor's Note: The following Notice of Proposed Rulemaking contains subsection labeling that does not conform to the rulemaking style prescribed by the Secretary of State's Office. Because of the nature of the material contained in the Notice, it is published as submitted by the Department of Building and Fire Safety.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF BUILDING AND FIRE SAFETY

PREAMBLE

1. Sections Affected

R4-36-201
R4-36-301
R4-36-302
R4-36-303
R4-36-304
R4-36-305
R4-36-306
R4-36-307
R4-36-308
R4-34-309
R4-36-310
R4-36-311

Rulemaking Action

Amend
New Section
New Section

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

Authorizing statute: A.R.S. § 41-2146

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

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 3680, August 24, 2001 (expired)

Notice of Rulemaking Docket Opening: 9 A.A.R. 3060, July 11, 2003

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

Name: John Rowlinson

Address: Department of Building and Fire Safety
1110 W. Washington, Suite #100
Phoenix, Arizona 85007

Telephone: (602) 364-1079

Fax: (602) 364-1084

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

The State Fire Safety Committee reviewed these rules as it committed to do in a five-year rule review report approved by the Governor's Regulatory Review Council on June 5, 2001. Since the last code adoption, requirements for compliance with the American with Disabilities Act and state licensing and permitting time-frames have been enacted. The Uniform Fire Code is consistent with the American with Disabilities Act (ADA) with regards to fire and life

Notices of Proposed Rulemaking

safety and thus inherently provides compliance with the ADA. The agency shall adopt as part of the State Fire Code a provision for a time-frame of 14 days maximum issuance of a permit once plans have been approved.

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

None

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

Not applicable

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

Pursuant to A.R.S. § 41-1056(A)(6), Estimated Review of Economic Impact Statement prepared on the last amendment of the rules.

The following definitions are applicable to all articles: “minimal” means \$5,000 or less; “moderate” means \$5,000 to \$10,000; “substantial” means \$10,000 or more.

The State Fire Code provides for fire and life safety protection throughout the State of Arizona. R4-36-201 has not been amended since our last five-year rule review. The economic impact of code adoption to the agency was and is minimal and consists primarily of printing of rules, the cost of code books, and training, and is consistent with the original Economic Impact Statement. A major benefit is derived from being allowed to use the most recent technologies in construction and fire suppression methods to ensure fire and life safety for the public at reasonable costs. This also leads to consistency with most agencies/jurisdictions that are current with nationally accepted coded.

Basic economic principles such as inflation and market forces affecting the price of materials have caused a minimal increase in cost to consumers/private persons. Impact on small business has been minimal because the code has lesser requirements for small business based on size of the building and volume of stored material. The public has benefited from the higher product quality and increases to fire safety provided by the updated codes.

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: John Rolwinson
Address: Department of Building and Fire Safety
1110 W. Washington, Suite #100
Phoenix, AZ 85007
Telephone: (602) 364-1079
Fax: (602) 364-1084

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

No oral proceedings are scheduled.

Written comments will be accepted by the Department Monday through Friday, 8:00 a.m. to 5:00 p.m. addressed to the person listed in item #4 no later than 5:00 p.m., Monday, August 9, 2004.

11. Any other matters proscribed 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:

Uniform Fire Code 2000 Edition in R4-36-201
Uniform Fire Code Standards, 2000 Edition in R4-36-201
Uniform Building Code, Volume I, 1997 Edition in R4-36-201
Uniform Building code, Volume III, 1997 Edition in R4-36-201
Uniform Mechanical Code, 1997 Edition in r4-36-201
Uniform Plumbing Code, (IAPMO), 1994 Edition in R4-36-201
National Fire Protection Association, in R4-36-201

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF BUILDING AND FIRE SAFETY

ARTICLE 2. ~~STATE FIRE SAFETY COMMITTEE~~ ARIZONA STATE FIRE CODE

Section

R4-36-201. ~~Arizona State Fire Code~~ Incorporation by Reference of the Uniform Fire Code

ARTICLE 3. UNIFORM FIRE CODE MODIFICATIONS

Section

R4-36-301. Definitions

R4-36-302. National Fire Protection Association Standards

R4-36-303. Liability

R4-36-304. Appendices

R4-36-305. Amendments

R4-36-306. Inspection and Enforcement

R4-36-307. Permits

R4-36-308. Water Supplies and Fire Hydrants

R4-36-309. Periodic Inspection, Testing, and Maintenance of Fire Protection Systems and Equipment

R4-36-310. Mattress Safety Precautions

R4-36-311. Fuel Dispensing

ARTICLE 2. ~~STATE FIRE SAFETY COMMITTEE~~ ARIZONA STATE FIRE CODE

R4-36-201. ~~Arizona State Fire Code~~ Incorporation by Reference of the Uniform Fire Code

~~A.~~ All Any persons residing, doing business, or who are physically present within the state of Arizona shall comply with the provisions and regulations of the Uniform Fire Code (1988 Ed. 2000 Edition) determined published by the ~~International Conference of Building Officials and the Western Fire Chiefs Association, which is declared to be a part of this regulation as if set forth in full herein and incorporated by reference as the State Fire Code, subject to the deletions, modifications and amendments contained in subsection (B) Article 3. Copies of the Uniform Fire Code (1988 Ed.) and copies of the Uniform Fire Code Standards (1988 Ed.), in the absence of an applicable code adopted by a local jurisdiction the following codes are incorporated by reference as part of the State Fire Code: the Uniform Building Code, Volumes 1 & 3 (1988 Ed. 1997 Edition), the Uniform Mechanical Code (1988 Ed. 1997 Edition), the National Electrical Code (2000 Edition), and the Uniform Arizona State Plumbing Code (IAPMO) (1988 Ed. 1994 Edition), referenced in the Uniform Fire Code (1988 Ed.), are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. Copies of these uniform codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601 Western Fire Chiefs Association, 727 Center Street, #300, Salem, OR 97301. The Uniform Building Code, Volumes 1 and 3 (1997 Edition) including any applicable standards shall hereafter be referred to as the "Building Code." The Uniform Mechanical Code (1997 Edition) shall hereafter be referred to as the "Mechanical Code." The Arizona State Plumbing Code, A.R.S. § 41-619, applies where the Uniform Fire Code refers to the "Plumbing Code." Copies of all are on file with Office of the Secretary of State.~~

~~B.~~ The Uniform Fire Code (1988 Ed.) is modified as follows:

1. Pages xxvi, xxvii, xxviii and xxix are deleted.
2. Where the term "Corporation Counsel" is used in the Uniform Fire Code, it shall mean the legal counsel of the jurisdiction or its fire department, or of the State Fire Marshal, as the context requires.
3. Wherever the terms "Chief," "Chief of the Fire Department" or "Building Official" are used in the Uniform Building Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the State Fire Marshal or designated representative, unless the context otherwise requires.
4. Wherever the terms "fire department," "department," "fire prevention engineer," or "bureau of fire prevention" are used in the Uniform Fire Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the Office of State Fire Marshal, unless the context otherwise requires.
5. Sec. 1.102(b) is modified to include "The National Fire Code Standard and its appendices, published by the National Fire Protection Association (NFPA) as listed below, are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. Copies are available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269."
 - i. NFPA #10 Portable Fire Extinguishers (1988 Ed.);
 - ii. NFPA #12A Halon 1301 Fire Extinguishing Systems (1987 Ed.);
 - iii. NFPA #12B Halon 1211 Fire Extinguishing Systems (1985 Ed.);
 - iv. NFPA #13 Installation of Sprinkler Systems (1989 Ed.);
 - v. NFPA #13A Inspection, Testing and Maintenance of Sprinkler Systems (1987 Ed.);

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- “vi. NFPA #13R Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height (1989 Ed.);
 - “vii. NFPA #14 Standpipe & Hose Systems (1986 Ed.);
 - “viii. NFPA #15 Water Spray Fixed Systems (1985 Ed.);
 - “ix. NFPA #16 Foam Water Spray Systems (1986 Ed.);
 - “x. NFPA #17 Dry Chemical Extinguishing Systems (1985 Ed.);
 - “xi. NFPA #17A Wet Chemical Extinguishing Systems (1986 Ed.);
 - “xii. NFPA #20 Centrifugal Fire Pumps (1987 Ed.);
 - “xiii. NFPA #22 Water Tanks for Private Fire Protection (1987 Ed.);
 - “xiv. NFPA #24 Private Fire Service Mains (1987 Ed.);
 - “xv. NFPA #26 Valves Controlling Water Supplies for Fire Protection (1988 Ed.);
 - “xvi. NFPA #51B Cutting & Welding Processes (1984 Ed.);
 - “xvii. NFPA #58 Liquefied Petroleum Gases (1989 Ed.);
 - “xviii. NFPA #70 National Electrical Code (1987 Ed.);
 - “xix. NFPA #71 Installation, Maintenance and Use of Central Station Signaling Systems (1987 Ed.);
 - “xx. NFPA #72A Local Protective Signaling Systems (1987 Ed.);
 - “xxi. NFPA #72B Auxiliary Protective Signaling Systems (1986 Ed.);
 - “xxii. NFPA #72C Remote Station Protective Signaling Systems (1986 Ed.);
 - “xxiii. NFPA #72D Proprietary Protective Signaling Systems (1986 Ed.);
 - “xxiv. NFPA #72E Automatic Fire Detectors (1987 Ed.);
 - “xxv. NFPA #72H Testing Procedures for Local, Auxiliary, Remote Station and Proprietary Protective Signaling Systems (1988 Ed.);
 - “xxvi. NFPA #80 Fire Doors and Windows (1986 Ed.);
 - “xxvii. NFPA #86 Ovens and Furnaces, Design, Location, and Equipment (1985 Ed.);
 - “xxviii. NFPA #90A Air Conditioning and Ventilating Systems (1985 Ed.);
 - “xxix. NFPA #91 Blower and Exhaust Systems (1983 Ed.);
 - “xxx. NFPA #96 Removal of Smoke and Grease laden Vapors from Commercial Cooking Equipment (1987 Ed.);
 - “xxxi. NFPA #231 Indoor General Storage (1987 Ed.);
 - “xxxii. NFPA #231C Rack Storage of Materials (1986 Ed.);
 - “xxxiii. NFPA #303 Fire Protection Standard for Marinas and Boatyards (1986 Ed.);
 - “xxxiv. NFPA #407 Aircraft Fuel Servicing (1985 Ed.);
 - “xxxv. NFPA #409 Aircraft Hangars (1985 Ed.);
 - “xxxvi. NFPA #490 Ammonium Nitrate, Storage of (1986 Ed.);
 - “xxxvii. NFPA #498 Explosives Motor Vehicle Terminals (1986 Ed.);
 - “xxxviii. NFPA #651 Aluminum and Magnesium Powder (1987 Ed.);
 - “xxxix. NFPA #704 Identification of the Fire Hazards of Materials (1985 Ed.);
 - “xxxx. NFPA #1231 Water Supplies for Rural & Suburban Fire Fighting (1984 Ed.)”
6. Sec. 1.102(e) is modified to read “Wherever in the code reference is made to the appendix, only the following appendices shall be part of this code:
 “Appendix I-A with the exception of Section 1(b);
 “Appendix II-A;
 “Appendix II-B;
 “Appendix II-C with the exception of Section 2;
 “Appendix II-E;
 “Appendix IV-A;
 “Appendix V-A;
 “Appendix VI-A;
 “Appendix VI-D;
 “Appendix VI-E”
7. Sec. 2.304(a) is modified by adding the following: “To the extent that the Uniform Fire Code Standards (1988 Ed.) incorporate NFPA Standards which are consistent with NFPA Standards incorporated by reference in Sec. 1.102(b), the version incorporated in Sec. 1.102(b) shall control.”
8. Sec. 4.101 is modified to read: “The authority having jurisdiction may require permits as provided for in Sec. 4.108 of this code.”
9. Sec. 11.204 is modified to include “educational occupancies.”
10. Add Sec. 11.210 to read: “Bed mattresses used in institutional occupancies where the personal liberties of inmates are restrained shall be permanently flame resistant and low smoke producing. Urethane foam materials shall be aged before the following tests are conducted. The method of aging shall be by American Society for Testing and Materials (ASTM) D3574-86 Test J1” (1986 Ed.) which is incorporated by reference herein and on file with the Office of the

Arizona Administrative Register / Secretary of State

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Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. All materials shall meet the following criteria:

<u>TEST</u>	<u>ACCEPTABLE VALUES</u>	<u>TEST METHOD</u>
Oxygen Index %O ₂	50 min.	ASTM D-2863-87
Smoke Density Flaming Ds @ 90 Sec. & nonflaming DS @ 4 minutes	1 in-75 max. 1 in-175 max.	ASTM E-662-83
Radiant Panel	Flame Spread 5 or less- No melt, no drip	ASTM E-162-87"

11. Sec. 12.110 is added to Article 12 to read: "Fire exit drills shall be conducted in accordance with Chapter 31 of the NFPA #101, Life Safety Code" (1988 Ed.), which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269."
12. Sec. 14.102. Modify the definition of alarm system to read: "Alarm system is a combination of a control unit and approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signal in the event of fire or system activation."
13. Sec. 14.103(b) is modified to read: "Fire alarm systems installed in educational, institutional, state or county owned occupancies shall be designed and installed in such a manner that the failure, removal, or destruction of any single alarm actuating or alarm indicating device or a break in the wiring circuit will not interfere with the normal operation of any other such devices."
14. Section 14.103(e) is modified to read: "Equipment. Systems and components shall be listed and approved for the purpose for which installed."
15. Sec. 14.103(d) is modified to read: "Acceptance Test. Upon completion of the installation or alteration, a satisfactory test of the entire fire alarm system shall be made in the presence of the Chief. All functions of the fire alarm system or alteration shall be tested."
16. Sec. 14.103(e) is modified to read: "The permittee shall provide written certification to the Chief that the system has been installed in accordance with the approved plans, component specifications and the manufacturer's minimum requirements."
17. Sec. 14.104(b)(1) is modified to include paragraph D: "Group B, Division 2 occupancies owned by the state or county at the discretion of the Fire Marshal."
18. Sec. 14.104(b)(3) is modified to include paragraph D: "An automatic system shall be required when construction includes internal corridors which serve as egress pathways. Approved smoke detectors shall be installed in internal corridors in accordance with R4-34-1101(B)(5)(xxiv)."
19. Sec. 14.104(e), first paragraph, is modified to read: "Group R, Division 1 Occupancies. A manual and automatic fire alarm system shall be installed in apartment houses three or more stories in height or containing more than 16 dwelling units and in hotels three or more stories in height or containing 20 or more guest rooms." Remaining paragraphs are unchanged.
20. Sec. 14.104(e), fourth paragraph, is modified to read: "An approved and listed system-type heat detector shall be installed within common areas such as recreational rooms, laundry rooms and furnace rooms of buildings containing Group R, Division 1 Occupancies."
21. Sec. 14.104(e) is modified to read: "Smoke detectors in dwelling units and guest rooms. Smoke detectors shall be installed as required by the Building Code Section 1210(a) in dwelling units and hotel or lodging house guest rooms. When such detectors are connected to a fire alarm system, they shall not sound a general alarm."
22. Sec. 14.105(d) is added to read: "Return wires of aboveground fire alarm system wiring shall be physically separated from outgoing wires by a distance of not less than six feet or by a minimum of one-hour fire resistive construction. The six foot separation shall not apply to underground installation. EXCEPTION: When making connections to the panel."

23. Sec. 14.106(a) is modified to read: "Maintenance and Testing. All fire alarm systems shall be maintained and tested as set forth in this Article and in accordance with nationally recognized standards. All fire alarm and detection systems shall be tested as set forth in R4 34 1101(B)(5)(xxv)."
24. Sec. 14.108 is modified to read: "Accidental Alarms. In the event of temporary failure of the alarm system or an excessive number of accidental alarm activations, the Chief may require the building owner or occupant to provide standby personnel as defined by Sec. 25.117 until the system is restored."
25. "Sec. 14.109 is added to read: "Fire alarm systems installed in buildings used for public accommodation as defined in A.R.S. § 34 402(20) shall meet the requirements of A.R.S. § 34 431."
26. Add a new Division V of Article 25 to Read: "Division V. Grounds of Carnivals and Fairs."
27. Sec. 25.501 is added to read: "Scope. The grounds of carnivals and fairs, including concession booths, shall conform to the requirements of this division and all other applicable requirements of this code."
28. Sec. 25.502 is added to read: "Permits. For a permit to operate a carnival or fair, see Sec. 4.108."
29. Sec. 25.503 is added to read: "General Requirements. Grounds shall comply with the following:
- "1. Fire apparatus access roads shall be provided in accordance with Sec. 32.105.
 - "2. Fire fighting appliances shall be provided for the entire midway, as required by the chief.
 - "3. Maximum travel distance to a portable fire extinguisher shall not exceed 75 feet.
 - "4. All electrical equipment and installations shall comply with the National Electrical Code."
30. Sec. 25.504 is added to read: "Concession stand requirements. Concession stands shall comply with the following:
- "1. Concession stands utilized for cooking shall have a minimum of 10 feet of clearance on two sides and shall not be located within 10 feet of amusement rides or devices.
 - "2. A 40 B:C rated dry chemical fire extinguisher shall be provided where deep fat fryers are in use."
31. Sec. 25.505 is added to read: "Internal combustion power sources, including motor vehicles, generators and similar equipment shall comply with the following:
- "1. Fuel tanks shall be of adequate capacity to permit uninterrupted operation during normal operating hours. Refueling shall be conducted only when the ride is not in use.
 - "2. Internal combustion power sources shall be isolated from contact with the public by either physical guards, fencing or enclosures.
 - "3. At least one fire extinguisher with a rating of not less than 2-A:10B:C shall be provided."
32. Add a new Division VI of Article 25 to read: "Division VI. Liquid or Gas Fueled Vehicles or Equipment Used for Display or Competition Within Assembly Buildings."
33. Sec. 25.602 is added to read: "Scope. Liquid or gas fueled vehicles or equipment used for display competition or demonstration within an assembly building shall comply with the requirements of this division and all other applicable requirements of this code."
34. Sec. 25.602 is added to read: "Permits. For permits to use liquid or gas fueled vehicles or equipment for competition or display inside an assembly building, see Sec. 4.108."
35. Sec. 25.603 is added to read: "Display. Display of liquid or gas fueled vehicles or equipment inside an assembly building shall comply with the following:
- "1. Batteries shall be disconnected in an approved manner.
 - "2. Vehicles or equipment shall not be fueled or defueled within the building.
 - "3. Fuel in the fuel tank shall not exceed one quarter of the tank capacity or five gallons, whichever is less.
 - "4. Fuel systems shall be inspected for leaks.
 - "5. Fuel tank openings shall be locked and sealed to prevent the escape of vapors.
 - "6. The location of such vehicles or equipment shall not obstruct or block exits."
36. Sec. 25.604 is added to read: "Competition or Demonstrations. Liquid or gas fueled vehicles or equipment used for competition or demonstration within an assembly building shall comply with the following:
- "1. Fuel for the vehicles or equipment shall be stored in approved containers in an approved location outside of the building.
 - "2. Refueling shall be performed outside of the building at an approved site.
 - "3. All fuel spills shall be cleaned up immediately."
37. Sec. 80.101. Add a paragraph to read: "For retail display of nonflammable solid and nonflammable or noncombustible liquid hazardous materials in Group B, Division 2 retail sales occupancies, see Sec. 80.109."
38. Sec. 80.109 is added to read: "Retail display. When in accordance with this section, the aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials permitted within a single control area of a Group B, Division 2 retail sales occupancy may exceed the exempt amounts specified in Division III, Tables Nos. 80.306-A, 80.309-A, 80.310-A, 80.312-A, 80.314-A and 80.315-A. The maximum allowable quantity in pounds or gallons permitted within a single control area of a retail sales occupancy shall be the amount derived from the formula:
- "ER = E x p x A
- "WHERE:

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“ER = exempt amount permitted in a single control area of a retail sales occupancy.

“E = exempt amount specified in Division III exempt amount tables.

“p = density factor from Table No. 80.109.

“A = square footage area of the hazardous material retail display or storage.

The maximum aggregate floor area for hazardous material retail display or storage over which the density factor may be applied shall not exceed 1500 square feet per control area.”

“The area of storage or display shall also comply with the following requirements:

- “1. Display of solids shall not exceed 200 pounds per square foot of floor area actually occupied by the solid merchandise.
- “2. Display of liquids shall not exceed 20 gallons per square foot of floor area actually occupied by the liquid merchandise.
- “3. Display height shall not exceed six feet.
- “4. Individual containers less than five gallons or less than 25 pounds shall be stored on pallets, racks or shelves.
- “5. Storage racks and shelves shall be in accordance with the provisions of Sec. 80.301(i).
- “6. Containers shall be approved for the use intended.
- “7. Individual containers shall not exceed 100 pounds or five-gallon capacity.
- “8. Incompatible materials shall be separated in accordance with the provisions of Sec. 80.301(n).
- “9. Floors shall be in accordance with the provisions of Sec. 80.301(z).
- “10. Aisles four feet in width shall be maintained on three sides of the display area.
- “11. Hazard identification signs shall be provided in accordance with the provisions of Sec. 80.104(e).”

39. Add Table No. 80.109 to read:

“TABLE 80.109
DENSITY FACTORS FOR EXEMPT AMOUNTS IN RETAIL SALES

HAZARD CATEGORIES 1	CLASS	DENSITY FACTOR p
PHYSICAL HAZARDS: Oxidizers; unstable (reactive) materials; water-reactive materials	Class 4 Class 3 Class 2 Class 1	N.P. 0.075 0.006 0.003
HEALTH HAZARDS: Toxic or highly toxic solids and liquids; corrosives; other health hazard solids, liquids and gases.	All	0.0013

NP = Not permitted

1-Hazard categories are as specified in Division II. Density factors shall not apply to categories other than those listed.”

40. Sec. 80.306(a)(1). Add an exception to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid Class 1, Class 2 and Class 3 oxidizers, see Sec. 80.109.”

41. Table No. 80.306 A. Revise the footnotes to read:

- “1) No exempt amounts of Class 4 oxidizers are permitted in Group R Occupancies, offices or retail sales portions of Group B Occupancies.
- “2) No exempt amounts of Class 4 oxidizers are permitted in Group A, E, I or M Occupancies, or in classrooms of Group B Occupancies unless storage is within a hazardous material storage cabinet containing no other storage.
- “3) A maximum quantity of 200 pounds of solid or 20 gallons of liquid Class 3 oxidizers may be permitted in Groups I, M and R occupancies when such materials are necessary for maintenance purposes or operation of equipment. The oxidizers shall be stored in approved containers and in a manner approved by the chief.”

42. Sec. 80.309(a). Revise the exceptions to read:

- “1. Detonatable, unstable (reactive) materials shall be stored in accordance with Article 77.
- “2. For retail display of nonflammable solid and nonflammable or noncombustible liquid unstable (reactive) materials, see Sec. 80.109.”

43. Sec. 80.310(a). Add an exception to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid water-reactive materials, see Sec. 80.109.”

44. Sec. 80.312(a)(1). Add an exception to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid toxic or highly toxic materials, see Sec. 80.109.”

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45. ~~Sec. 80.314(a)(1). Add an exception to read: "For retail display of nonflammable solid and nonflammable or non-combustible liquid corrosive materials, see Sec. 80.109."~~
46. ~~Sec. 80.315(a)(1). Add an exception to read: "For retail display of nonflammable solid and noncombustible or non-flammable liquid other than health hazard materials, see Sec. 80.109."~~
47. ~~Sec. 80.401(b)(3F)(v). Add an exception to read: "Automatic shutdown need not be provided for reactors utilized for the production of toxic or highly toxic gases when such reactors are:
"1. Operated at pressures less than 15 psig.
"2. Constantly attended.
"3. Provided with readily accessible emergency shutoff valves."~~
48. ~~Sec. 80.402(c)(8C). Add an exception to read: "Automatic shutdown need not be provided for reactors utilized for the production of toxic or highly toxic gases when such reactors are:
"1. Operated at pressures less than 15 psig.
"2. Constantly attended.
"3. Provided with readily accessible emergency shutoff valves."~~
49. ~~Appendix VI D is modified to include the following after Table 42 B: "Carpeting on walls or ceilings. When used as interior wall or ceiling finish, carpeting and similar materials having napped, tufted, looped or similar surface shall meet the criteria set forth in Enclosed Corner Burn Test, Underwriters Laboratory Subject Outline 1715 (1989 Ed.), which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from Underwriters Laboratory, Inc., Publication Department, 1655 Scott Boulevard, Santa Clara, CA 95050."~~

ARTICLE 3. UNIFORM FIRE CODE MODIFICATIONS

R4-36-301. Definitions

- A.** Wherever the terms "Chief" or "Chief of the Fire Department" are used in the Uniform Fire Code, these terms shall include the State Fire Marshal or designated representative, unless the context otherwise requires.
- B.** Wherever the terms "fire department," "department," "fire prevention engineer," or "bureau of fire prevention" are used in the Uniform Fire Code, these terms shall include the Office of State Fire Marshal, unless the context otherwise requires.
- C.** The term "Building Official" is the State Fire Marshal, the State Fire Marshal's authorized representative or the Officer or other designated authority of the jurisdiction charged with the administration and enforcement of a Building Code, as the context requires.

R4-36-302. National Fire Protection Association Standards

Section 101.3.1 is added to read: "101.3.1 National Fire Protection Association Standards. The National Fire Code Standards including appendices, published by the National Fire Protection Association (NFPA) as listed below, are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. Copies are available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269."

- "i. NFPA #10 Portable Fire Extinguishers (1998 Edition).
- "ii. NFPA #12A Halon 1301 Fire Extinguishing Systems (2000 Edition).
- "iii. NFPA #13 Installation of Sprinkler Systems (1999 Edition).
- "iv. NFPA #13R Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height (1999 Edition).
- "v. NFPA #14 Standpipe & Hose Systems (2000 Edition).
- "vi. NFPA #15 Water Spray Fixed Systems (1996 Edition).
- "vii. NFPA #16 Foam Water Spray Systems (1999 Edition).
- "viii. NFPA #17 Dry Chemical Extinguishing Systems (1998 Edition).
- "ix. NFPA #17A Wet Chemical Extinguishing Systems (1998 Edition).
- "x. NFPA #20 Centrifugal Fire Pumps (1999 Edition).
- "xi. NFPA #22 Water Tanks for Private Fire Protection (1998 Edition).
- "xii. NFPA #24 Private Fire Service Mains (1995 Edition).
- "xiii. NFPA #51B Cutting & Welding Processes (1999 Edition).
- "xiv. NFPA #58 Liquefied Petroleum Gases (2001 Edition).
- "xv. NFPA #70 National Electrical Code (2000 Edition).
- "xvi. NFPA #72 National Fire Alarm Code (1999 Edition).
- "xvii. NFPA #80 Fire Doors and Windows (1999 Edition).
- "xviii. NFPA #86 Ovens and Furnaces, Design, Location, and Equipment (1999 Edition).
- "xix. NFPA #90A Air Conditioning and Ventilating Systems (1999 Edition).
- "xx. NFPA #91 Blower and Exhaust Systems (1999 Edition).
- "xxi. NFPA #96 Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment (1998 Edition).
- "xxii. NFPA #303 Fire Protection Standard for Marinas and Boatyards (2000 Edition).

- “xxiii.NFPA #407 Aircraft Fuel Servicing (1996 Edition).
- “xxiv.NFPA #409 Aircraft Hangars (1995 Edition).
- “xxv.NFPA #490 Ammonium Nitrate, Storage of (1998 Edition).
- “xxvi.NFPA #498 Explosives Motor Vehicle Terminals (1996 Edition).
- “xxvii.NFPA #651 Aluminum and Magnesium Powder (1998 Edition).
- “xxviii.NFPA #704 Identification of the Fire Hazards of Materials (1996 Edition).
- “xxix.NFPA #921 Guide for Fire and Explosion Investigation (2001 Edition).”

R4-36-303. Liability

Section 101.5 first paragraph is deleted.

R4-36-304. Appendices

Section 101.8 References to Appendix. “Wherever in the code reference is made to the appendix, the following appendices are specifically adopted as part of this code:

- “Appendix I-A with the exception of Section 1.2, which is deleted.
- “Appendix I-B.
- “Appendix I-C.
- “Appendix II-A.
- “Appendix II-B.
- “Appendix II-C.
- “Appendix II-D.
- “Appendix II-E.
- “Appendix II-F.
- “Appendix II-K.
- “Appendix III-A.
- “Appendix III-B.
- “Appendix III-C.
- “Appendix III-D.
- “Appendix IV-A.
- “Appendix IV-B.
- “Appendix V-A.
- “Appendix VI-A.
- “Appendix VI-B.
- “Appendix VI-C.
- “Appendix VI-D.
- “Appendix VI-F.
- “Appendix VI-G.
- “Appendix VI-H.
- “Appendix VI-I.
- “Appendix VI-J.
- “Appendix VI-K.”

R4-36-305. Amendments

Section 101.9 is deleted.

R4-36-306. Inspection and Enforcement

- A.** Section 103.1.4 is modified to read: “103.1.4 Appeals. Any person, partnership, corporation, or other legal entity who is aggrieved by a decision of the State Fire Marshal may request a hearing under the provisions of A.R.S. § 41-2181(C).”
- B.** Section 103.2 is modified to read: “103.2 Authority for Inspection and Enforcement. The State Fire Marshal is authorized to administer and enforce this code in accordance with A.R.S. § 41-2163.”
- C.** Section 103.3.1.1 is modified to read: “103.3.1.1 Authority to inspect. The State Fire Marshal shall inspect, as often as necessary, buildings and premises, activities, appliances, and hazards for the purpose causing to be corrected any conditions which would tend to cause fire or contribute to its spread, or any violation of the provisions of this code or any other applicable law or standard affecting fire safety.”
- D.** Section 103.3.2.1 is modified to read: “103.3.2.1 General. A person seeking approval plans and specifications for new construction, remodeling, alterations, and additions for state, county, or public school buildings and grounds, or reviews for alternate materials and methods shall be submitted with an application furnished by the State Fire Marshal under A.R.S. § 41-2163(C) and Section 105. Construction or work for which the State Fire Marshal, permit approval is required shall be subject to inspection by the State Fire Marshal. The permittee shall ensure that such construction or work shall remain accessible and exposed for inspection until approved by the State Fire Marshal.

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Neither the State Fire Marshal, the Department of Building and Fire Safety, or the State of Arizona shall be liable for expense entailed in the removal or replacement of any material required to allow inspection. A permittee must request an additional inspection when work is not accessible and exposed and no inspection will be scheduled without receipt of the applicable re-inspection fee.

Approval as a result of an inspection is not an approval of a violation of the provision of this code or of other rules, regulations, or laws. Inspections presuming to give authority to violate or cancel the provisions of this code shall not be valid."

- E.** Section 103.3.2.2 is modified to read: "103.3.2.2 Inspection request. Any person doing the work authorized by a permit issued by the State Fire Marshal shall request an inspection when such work is ready for inspection. Request for inspection may only be made by the permittee. The permittee shall make such request for inspection not less than five working days before such inspection is desired. Such request may be in writing or by telephone at the option of the State Fire Marshal. The permittee is required to provide access to and means for proper inspection of such work."
- F.** Section 103.4.1.4 is modified to read: "103.4.1.4 Time limit for corrective orders. The State Fire Marshal or authorized designee shall issue a notice of corrective order for violation of this code with a time limit for correction of the violation. If the violation does not constitute an immediate and apparent hazard to life or property, the State Fire Marshal or designee shall select one of the following time limits for corrective action. Compliance dates shall be written as follows:
- a. Housekeeping violations, which can reasonable be expected to be corrected the facility personnel: within five days of the notice of violations.
 - b. A violation relating to repairs to fire protection equipment, including alarm or extinguishing systems: within seven days of the notice of violation.
 - c. A violation relating to the installation of fire protection and fire alarm systems: within a time-frame mutually agreed upon by the State Fire Marshal and the person or persons in violation of the State Fire Code not to exceed one year from the date of the violation. The State Fire Marshal must grant a reasonable extension of this time limit if the person in violation provided a letter of intent indicating the course of action and projected date of completion. The request for extension must be filed with the State Fire Marshal 30 days of the original notice of violation.
 - d. A violation relating to construction or installation of fire protection equipment without a valid permit issued as required under Section 105.8: immediate discontinuance of work. Plans and supporting documentation and fees shall be submitted to the State Fire Marshal in accordance with Section 103.3.2.1 or Article 10, as appropriate within five days of the notice of violation. A person receiving such notice may not continue work until all applicable fees are paid and obtains plan approval.
- G.** Because the following violations are an immediate or apparent hazard to life or property, a person receiving a corrective notice will immediately take action to abate the violation or the premises are to be evacuated.
- a. A required exit is unopenable from the direction of exit travel, without special knowledge or the use of special tools.
 - b. Containers of flammable or hazardous gaseous, liquid, or solid materials are leaking.
 - c. The improper use, storage, or handling of flammable gas fumes or hazardous materials.
 - d. Violations or other safety codes or circumstances which present an immediate or apparent hazard to life or property."
- H.** Sections 103.4.4 through 103.4.6 are deleted.
- I.** Section 104.3 is modified to read: "104.3 Fire and Incident Reporting. The State Fire Marshal may prescribe a uniform system of reporting fires and their causes and effects, in accordance with A.R.S. § 41-2163(D)(2)."

R4-36-307. Permits

- A.** Section 105.1 is modified to read: "105.1 Scope. A person shall obtain a permit from the State Fire Marshal as provided for in A.R.S. § 41-2163(C) and Section 105 prior to engaging in any activity, operation, practice, or function listed in Sections 105.8.1, 105.8.2, and 105.8.3."
- B.** Section 105.2.1 is modified to read: "105.2.1 General. A permit constitutes permission to construct, install, maintain, store, use or handle materials, or to conduct processes which produce conditions that may be hazardous to life or property. A permit is not to be construed as authority to violate, cancel, or set aside any of the provisions of this code. A permit issued by the State Fire Marshal does not take the place of any license required by law nor shall they replace permits required by other jurisdictions."
- C.** Section 105.3 is modified to read: "105.3 Application for Permit. To obtain a permit, the applicant shall first file a completed application form furnished by the State Fire Marshal, and pay applicable fees as scheduled in Section 105.9. The State Fire Marshal shall not issue a permit for any construction, installation, event, activity, or operation until the applicant pays required fees and required documentation is approved. Construction permits issued under the provisions of Section 105.8.3 expire automatically if the building or work authorized by such permit is not commenced within 180 days from the date on such permit, or if the building or work is suspended or abandoned at anytime for a period of 180 days. Before work can be re-started the permittee shall obtain a new permit and pay applicable fees. The State Fire Marshal may extend the time for action by the permittee for an additional 180 days when the permittee can show that circumstances beyond the control of the permittee have prevented action from being taken. Permits may be extended only once. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and the plans and other data submitted for review shall be destroyed by the State Fire Marshal."

- D.** Section 105.8.1 is added to read: “105.8.1 Activity Permits. A person shall obtain a permit from the State Fire Marshal prior to engaging in activities as specified in this subsection:
1. Operating a place of assembly, carnival, or fair, see Article 25; or
 2. The displaying of fireworks.
- E.** Section 105.8.2 is added to read: “105.8.2 Installation Permits. A person shall obtain a permit from the State Fire Marshal prior to the installation of any:
1. Automatic fire extinguishing system;
 2. Fire alarm system and appurtenances;
 3. Kitchen exhaust duct and hood-extinguishing system and appurtenances;
 4. Special extinguishing system, including a clean agent extinguishing system and appurtenances;
 5. Standpipe system;
 6. Underground combustible and flammable liquid tank installation or removal;
 7. Liquid petroleum gas tank installation over 2,000 gallons water capacity aggregate;
 8. Water distribution system for fire protection including:
 - a. Hydrants,
 - b. Underground piping,
 - c. Fire protection water storage facilities,
 - d. Fire protection pumping facilities, and
 - e. Backflow prevention assemblies.
 9. A paint spray booth;
 10. Fire department access roadway(s); and
 11. Waste tire storage facility.”
- F.** Section 105.8.2.1 is added to read: “105.8.2.1 Plan Submittals. Plans and supporting documentation shall be submitted for review and approval prior to the issuance of a permit. Such plans shall be submitted in duplicate with an application as specified by the State Fire Marshal and shall be accompanied by plan review fees as required in section 105.9.”
- G.** Section 105.8.3 is added to read: “105.8.3 Construction Approval. Approval shall be obtained to construct buildings as specified in A.R.S. § 41-2163(C). Approvals shall be issued after the review and approval of construction documents and the payment of administrative, plan review, and permit fees.”
- H.** Section 105.8.3.1 is added to read: “105.8.3.1 Construction document submittals. Plans, specifications, diagrams, and other data as required, shall be submitted in 2 sets with an application for plan review and permit as furnished by the State Fire Marshal. Plans shall be prepared by an architect or engineer, acting within their discipline, as appropriate, licensed by the state to practice as such in accordance with A.R.S. § 34-142.
Plans and specifications shall be drawn to scale on substantial paper or other approved material and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show, in detail, that it will conform to the provisions of this code and all other relevant laws ordinances, rules, and regulations.”
- I.** Section 105.9 is added to read: “105.9 Plan review and permit fees. An applicant for plan review shall pay an administrative fee of \$20.00 and a plan review fee of \$40.00 for the first hour of review. Additional time required to review plans shall be invoiced at \$40.00 per hour and shall be paid prior to issuance of an approval and release of plans.
In addition to the plan review fee the applicant shall pay permit fees of \$90.00 before a permit is issued in accordance with Sections 105.8.1, 105.8.2, and 105.8.3.
The State Fire Marshal may authorize the refunding of any fee paid in accordance with Sections 105.8.1, 105.8.2, or 105.8.3 which was erroneously paid or collected providing the permittee makes written application on a form furnished by the State Fire Marshal not later than 180 days after the date of fee payment.”
- J.** Section 105.9.1 is added to read: “105.9.1 Inspection fees. The holder of an installation or construction permit approval is entitled to one inspection and one re-inspection for each approved item. The State Fire Marshal or designee shall not conduct a re-inspection until a fee of \$30.00 per hour, including travel time, is paid.”

R4-36-308. Water Supplies and Fire Hydrants

- A.** Section 903.3 is modified to read: “903.3 Type of Water Supply. An approved water supply may consist of reservoirs, pressure tanks, elevated tanks, water mains, or other fixed systems capable of providing the required fire flow. To determine the requirements for fire flow for isolated buildings or groups of buildings in rural areas or small communities, the State Fire Marshal may consider the availability of water carried by the responding fire authority.”
- B.** Section 903.4.1.2 is modified to read: “903.4.1.2 Testing and Maintenance. The owner of a hydrant system, including backflow prevention devices, shall maintain proof of periodic tests as required by the State Fire Marshal. Hydrant systems and backflow prevention assemblies installed on fire protection systems shall be maintained in an operative condition at all times and shall be repaired where defective. The owner shall test, add, repair, alter, and service the system in accordance approved standards and shall be completed by personnel knowledgeable of fire protection systems.”
- C.** Section 903.4.1.2.1 is added to read: “903.4.1.2.1 Backflow prevention device testing. The owner of a backflow prevention device shall include the design flow of a fire protection system in the forward direction and to include test flows over

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the entire demand curve. The owner shall notify the State Fire Marshal of any defective or malfunctioning backflow prevention assembly located on a water supply for fire protection.”

- D.** Section 903.4.2 is modified to read: “903.4.2 Required installations. The location, number, and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the protected premises or both as required and approved by the State Fire Marshal. Hydrants shall be located in sufficient quantities to ensure coverage throughout the protected buildings by hose lines not more than 500 feet in length. The State Fire Marshal may modify this requirement for rural sites without a water supply capable of providing the required fire flow and to sites where buildings are provided throughout with an approved automatic fire extinguishing system. Fire hydrants shall be accessible to the fire department apparatus by roads meeting the requirements of Section 902.2. Hydrants shall be installed such that the pumper connection is oriented towards the fire department apparatus access roadway and is not more than 8 feet nor less than 3 feet from the roadway surface.”

R4-36-309. Periodic Inspection, Testing, and Maintenance of Fire Protection Systems and Equipment

- A.** Section 1001.5 title is modified to read: “1001.5 Periodic Inspection, Testing and Maintenance.”
- B.** Section 1001.5.2.1 is added to read: “1001.5.2.1 Check Valve Assemblies. The owner of check valve assemblies installed on Class I and II fire protection systems as defined in A.R.S. § 41-2186(E) and installed without an approved double check valve backflow prevention device in the water supply, shall be inspected annually and maintained in accordance with the procedures identified in the National Fire Protection Association Publication #25, 1992 Edition. In addition, the owner of valve assemblies on Class I and II fire protection system shall have an internal inspection of the assembly every five years, as identified in the National Fire Protection Association Publication #25, 1992 Edition.”
- C.** Section 1005.5.1.1 is added to read: “1005.5.1.1 Testing of backflow prevention devices. The owner of backflow prevention devices shall be tested in accordance with Section 903.4.1.2.1 and nationally recognized standards.”

R4-36-310. Mattress Safety Precautions

- A.** Section 1115 is added to read: “1115 Mattresses used in Institutional Occupancies.”
- B.** Section 1115.1 is added to read: “1115.1 Testing. The owner of an institutional occupancy shall not use any mattress unless it has first been subjected to and passed an open-flame test. Mattress shall have the following limited rates of heat release when tested in accordance with nationally recognized standards:
1. The peak rate of heat release for the mattress shall not exceed 100kw;
 2. The total energy released by the mattress during the first five minutes of the test must not exceed 20 MJ; and
 3. The maximum mass loss within the first 10 minutes of the test shall not exceed 2 pounds (4.4 kg).”

R4-36-311. Fuel Dispensing

- A.** Section 7904.5.4.7 is added to read: “7904.5.4.7 Fleet Fuel Dispensing Requirements. The owner of a motor vehicle fleet dispensing fuels from a tank vehicle into tanks of motor vehicles or special equipment shall ensure each of the following requirements are met:
1. The product delivery hose shall not extend more than 50 feet (15 240 mm.). The hose shall be free of crimping, defects, and equipped with a listed emergency breakaway device designed to retain liquid on both sides of the breakaway point, and installed in accordance with the manufacturer’s instructions.
 2. Each dispensing hose shall be approved for petroleum products and shall exceed the tank vehicle pump motor’s working pressure.
 3. Each dispensing nozzle is listed automatic-closing type without a latch-open device.
 4. Each dispensing hose and bonding cable is properly placed on the approved reel or in a compartment before the tank vehicle is moved.
 5. Signs prohibiting smoking or open flame shall be provided within 25 feet (7620 mm) of a tank vehicle and signs prohibiting smoking or open flame shall be prominently posted on the tank vehicle.
 6. Any electrical devices or wiring in areas where fuel dispensing is conducted is installed and maintained in accordance with the Electrical Code.
 7. Tank vehicle fuel dispensing equipment is operated only by designated personnel who are trained to handle and dispense motor fuels.
 8. Provisions are made for controlling and mitigating unauthorized releases.”
- B.** Section 7904.5.4.8 is added to read: “7904.5.4.8 Dispensing Operations. An operator dispensing fuel shall ensure the following requirements are met:
1. Dispensing from tank vehicles is conducted at least 50 feet (15,240 mm) from structures or combustibles storage.
 2. The tank vehicle is located at least 25 feet (7620 mm) from the property lines of the dispensing site.
 3. The dispensing site is illuminated to provide sufficient lighting during fueling. If a portable lighting device is used, the device is marked as explosion proof.
 4. The tank vehicle parking brake is activated.
 5. The tank vehicle’s hazard lights are operational while dispensing operations are conducted.
 6. The motor of the tank vehicle and motor vehicle being fueled are shut off while making and braking hose connec-

- tions, unless the tank vehicle's motor is required to conduct dispensing operations.
7. Before removing the fuel cap, the bond wire cable shall be securely clamped to the vehicle being fueled.
 8. Traffic cones with reflective tape or road reflectors shall be provided around the hose side of the tank vehicle, including the front, back, and motor vehicle being fueled.
 9. Fuel expansion space shall be provided in each tank vehicle compartment to prevent overflow in the event of temperature increase.
 10. The fuel cap of the vehicle being fueled is replaced prior to disconnecting the bonding cable.
 11. The dispensing hose and bonding cable are completely reeled or stored on an approved reel in their compartments prior to moving the tank vehicle."
- C.** 7904.5.4.9 is added to read: "7904.5.4.9 Tank Vehicle Requirements. The owner of tank vehicles shall ensure all the following requirements are met:
1. The tank vehicle must be currently licensed by the Arizona Department of Motor Vehicles and meet all Arizona Department of Transportation requirements.
 2. A daily inspection of the tank vehicle is conducted by the fueling company to ensure proper operation prior to arriving at the dispensing site. Any equipment or device found to be defective, shall be taken the out of service immediately and repaired or replaced.
 3. A minimum of two approved 2-A,20-B:C fire extinguishers shall be provided. The fire extinguisher shall be mounted so as to be readily accessible during dispensing operations.
 4. The tank vehicle is equipped with a readily accessible, operational, remote emergency shut-off valve, and the valve is marked "EVC" (Emergency Valve Control) in letters a minimum of 2 inches (50.8 mm) high and shall be in a contrasting color to the background.
 5. The tank vehicle is equipped with a bond wire reel and a bond wire having functioning tension clamps.
 6. The tank vehicle is equipped with a functioning cellular phone or a constantly attended two-way communication system.
 7. The tank vehicle dispensing Class I liquids is equipped with a vapor recovery system."
- D.** 7904.5.4.10 is added to read: "7904.5.4.10 Fuel Handler Training. Prior to dispensing Class I or II liquids into motor vehicles fuel handlers shall be trained in accordance with Section 7904.4 and any other applicable federal, state, county, or local laws, statutes, or ordinances."
- E.** 7904.5.4.11 is added to read: "7904.5.4.11 Fueling Company Responsibility. The fueling company shall maintain the fuel handler's training records."
- F.** 7904.5.4.12 is added to read: "7904.5.4.12 Prohibition. Tank vehicles and tank trailers shall not be used as onsite storage containers."

NOTICE OF PROPOSED RULEMAKING

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE TRANSACTION PRIVILEGE AND USE TAX SECTION

PREAMBLE

1. **Sections Affected**

R15-5-156	<u>Rulemaking Action</u>
R15-5-2343	Amend
	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 42-5061(A)(8)-(13) and 42-5159(A)(16)-(21)
3. **List of all previous notices appearing in the Arizona Administrative Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening, 9 A.A.R. 4086, September 19, 2003

Notice of Rulemaking Docket Opening, 9 A.A.R. 5154-55, November 28, 2003
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Hsin Pai, Tax Analyst

Address: Tax Policy and Research Division

Notices of Proposed Rulemaking

Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007

Telephone: (602) 716-6851
Fax: (602) 716-7995
E-mail: paih@revenue.state.az.us

Please visit the ADOR Web site to track the progress of these rules and any other agency rulemaking matters at www.revenue.state.az.us/tra/draftdoc.htm.

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

A.R.S. § 42-5061 imposes transaction privilege tax on the business of selling tangible personal property at retail, and A.R.S. § 42-5155 imposes use tax on the storage, use, or consumption in this state of tangible personal property purchased from a retailer or utility business. Nevertheless, both provisions provide specific exemptions for prescription drugs, prosthetic appliances, prescription eyewear, insulin and certain related supplies, hearing aids, and durable medical equipment. The agency is amending the rules to: (1) provide clearer guidance to taxpayers on the scope and application of these exemptions and (2) conform the rules to current statutes and rulemaking guidelines.

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 agency expects that the benefits of the amended rules to the public and agency will be greater than the costs. The amendments will benefit the public by making the rules conform to current statutes and rulemaking guidelines, which will make the rules more accurate as well as clearer and easier to understand.

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: Hsin Pai
Address: Tax Policy and Research Division
Department of Revenue
1600 W. Monroe
Phoenix, AZ 85007
Telephone: (602) 716-6851
Fax: (602) 716-7995
E-mail: paih@revenue.state.az.us

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

No oral proceeding is scheduled. Under A.R.S. § 41-1023(C), an oral proceeding will be scheduled if a written request is submitted to the person identified in item 4 within 30 days after publication of this notice.

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 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

ARTICLE 1. RETAIL CLASSIFICATION

Section

R15-5-156. Sales of Prescription Drugs and Prosthetic Appliances

ARTICLE 23. USE TAX

Section

R15-5-2343. Purchases of Prescription Drugs and Prosthetic Appliances

ARTICLE 1. RETAIL CLASSIFICATION

R15-5-156. Sales of Prescription Drugs and Prosthetic Appliances

A. For purposes of this rule, the following definitions apply ~~In this Section:~~

1. "Drug" means an article that, according to federal or state law, is:
 - a. Recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, official National Formulary, or any supplement to these documents; or
 - b. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or
 - c. Not food and is intended to affect the structure or any function of the body of humans or animals; or
 - d. Intended for use as a component of any article specified in subsections (a), (b), or (c).
2. ~~"Drugs Drug on a prescription"~~ means those substances which can only be dispensed on the direction of a member of the medical, dental, or veterinary profession, who is licensed by law to administer such drugs, and which cannot be purchased without such authorization. A legend drug is considered a drug on a prescription drug.
3. "Food" means an article used for food or drink for humans or animals, chewing gum, or an article used as a component of such an article.
4. ~~"Hearing aid"~~ means any wearable device designed ~~for aiding as a remedy or compensating to compensate~~ for defective human hearing, including parts, attachments, accessories, and earmolds.
5. ~~A "legend "Legend drug" is means a drug which bears the statement CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT PRESCRIPTION that 21 U.S.C. 353(b)(4)(A) requires to bear the symbol "Rx only" before dispensing.~~
6. ~~"Nonprescription drugs product"~~ means a ~~substance which drug or other article that~~ can be purchased by the consumer of the drug or article without a prescription, ~~even though recommended by~~ regardless of whether purchased on the advice or recommendation of a member of the medical, dental, or veterinarian profession. Examples include over-the-counter drugs and those dietary supplements, vitamins, minerals, herbs, and other similar supplements that do not qualify as prescription drugs.
7. "Over-the-counter drug" means a drug that is subject to federal labeling requirements in 21 CFR 201.66.
8. "Prescriber" means a member of the medical, dental, or veterinary profession authorized by federal or state law to prescribe a drug.
9. "Prescription" means an order for a drug issued in any form.
- 5.10. ~~"Prescription drugs" are drugs on a prescription drug"~~ means a legend drug or a drug that, according to federal or state law, can be dispensed only:
 - a. Upon a written prescription of a prescriber for the drug;
 - b. Upon an oral prescription by the prescriber for the drug that is reduced promptly to writing and then filed by a pharmacist or the prescriber; or
 - c. By refilling a written or oral prescription if refilling is authorized by the prescriber for the drug either in the original prescription or by oral order that is reduced promptly to writing and then filed by a pharmacist or the prescriber.
- 6.11. ~~"Prescription eyeglasses"~~ includes frames and other component parts of eyeglasses if purchased for use with prescription lenses.
- 7.12. "Prosthetic appliance" means an artificial device ~~which that~~ fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.

B. Gross receipts from sales of the following ~~items~~ kinds of tangible personal property are ~~deductible from the tax base not~~ subject to tax:

1. ~~Drugs on a prescription. Prescription drugs;~~
2. Medical oxygen, pursuant to ~~statute~~ A.R.S. § 42-5061(A)(8);
3. Insulin, insulin syringes, and glucose strips, whether or not prescribed; ;
4. Prosthetic appliances, prescribed or recommended by a statutorily-authorized individual; ;
5. Durable medical equipment, pursuant to ~~statute~~ A.R.S. § 42-5061(A)(13);
6. Prescription eyeglasses and contact lenses; ; and
7. Hearing aids. Batteries and cords ~~do not qualify as exempt~~ are subject to tax.

C. ~~Unless otherwise stated,~~ Gross receipts from the sale of component and repair parts for any tangible personal property

~~included in this rule that is under subsections (B) or (E) is are not taxable subject to tax.~~

- D. ~~If a written prescription or recommendation is required to purchase the tangible personal property, a vendor of the property shall maintain the required prescription or recommendation shall be in writing and shall be maintained as part of the vendor's records. The vendor's records for documenting sales shall provide reasonable detail to allow the Department, upon inspection, to identify property as exempt.~~
- E. ~~Gross receipts from the sale of nonprescription drugs and products or other medical supplies to doctors, dentists, or veterinarians are taxable subject to tax unless otherwise exempt.~~
- ~~1. Gross receipts from the sale of nonprescription drugs and products or other medical supplies to doctors, dentists, and veterinarians are not taxable if the tangible personal property or appliances qualifies as a sale for resale and the doctor, dentist, or veterinarian is a retailer in the business of reselling such the property.~~
 - ~~2. Gross receipts from the sale of prescription drugs, for use in the course of treating patients, are not taxable if the prescription drugs are sold to a doctor, dentist, or veterinarian who is licensed by law to administer prescription drugs.~~
 - ~~3. Gross receipts from the sale of prescription drugs are not taxable if the prescription drugs are sold to an organization where the prescription drugs are used in the course of treating patients and are administered under the direction of a doctor, dentist, or veterinarian who is licensed by law to administer such drugs.~~

ARTICLE 23. USE TAX

R15-5-2343. Purchases of Prescription Drugs and Prosthetic Appliances

- A. ~~For purposes of this rule, the following definitions apply In this Section:~~
- ~~1. "Drug" means an article that, according to federal or state law, is:~~
 - ~~a. Recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, official National Formulary, or any supplement to these documents; or~~
 - ~~b. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or~~
 - ~~c. Not food and is intended to affect the structure or any function of the body of humans or animals; or~~
 - ~~d. Intended for use as a component of any article specified in subsections (a), (b), or (c).~~
 - ~~1-2. "Drugs Drug on a prescription" means those substances which can only be dispensed on the direction of a member of the medical, dental, or veterinary profession, who is licensed by law to administer such drugs and which cannot be purchased without such authorization. A legend drug is considered a drug on a prescription drug.~~
 - ~~3. "Food" means an article used for food or drink for humans or animals, chewing gum, or an article used as a component of such an article.~~
 - ~~2-4. "Hearing aid" means any wearable device designed for aiding as a remedy or compensating to compensate for defective human hearing, including parts, attachments, accessories, and earmolds.~~
 - ~~3-5. A "legend "Legend drug" is means a drug which bears the statement CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT PRESCRIPTION that 21 U.S.C. 353(b)(4)(A) requires to bear the symbol "Rx only" before dispensing.~~
 - ~~4-6. "Nonprescription drugs product" means a substance which drug or other article that can be purchased by the consumer of the drug or article without a prescription, even though it may be recommended by regardless of whether purchased on the advice or recommendation of a member of the medical, dental, or veterinarian profession. Examples include over-the-counter drugs and those dietary supplements, vitamins, minerals, herbs, and other similar supplements that do not qualify as prescription drugs.~~
 - ~~7. "Over-the-counter drug" means a drug that is subject to federal labeling requirements in 21 CFR 201.66.~~
 - ~~8. "Prescriber" means a member of the medical, dental, or veterinary profession authorized by federal or state law to prescribe a drug.~~
 - ~~9. "Prescription" means an order for a drug issued in any form.~~
 - ~~5-10. "Prescription drugs" are drugs on a prescription drug" means a legend drug or a drug that, according to federal or state law, can be dispensed only:~~
 - ~~a. Upon a written prescription of a prescriber for the drug;~~
 - ~~b. Upon an oral prescription by the prescriber for the drug that is reduced promptly to writing and then filed by a pharmacist or the prescriber; or~~
 - ~~c. By refilling a written or oral prescription if refilling is authorized by the prescriber for the drug either in the original prescription or by oral order that is first reduced promptly to writing and then filed by a pharmacist or the prescriber.~~
 - ~~6-11. "Prescription eyeglasses" includes frames and other component parts of eyeglasses if purchased for use with the prescription lenses.~~
 - ~~7-12. "Prosthetic appliance" means an artificial device which that fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.~~
- B. ~~Purchases The storage, use, or consumption in this state of the following items are kinds of tangible personal property is not taxable subject to tax:~~

1. ~~Drugs on a prescription.~~ Prescription drugs;
 2. Medical oxygen, pursuant to ~~statute~~ A.R.S. § 42-5159(A)(16);
 3. Insulin, insulin syringes, and glucose strips, whether or not prescribed; ;
 4. Prosthetic appliances, prescribed or recommended by a statutorily-authorized individual; ;
 5. Durable medical equipment, pursuant to ~~statute~~ A.R.S. § 42-5159(A)(21);
 6. Prescription eyeglasses and contact lenses; ; and
 7. Hearing aids. Batteries and cords ~~do not qualify as exempt~~ are subject to tax.
- C. ~~Unless otherwise stated, purchases~~ The purchase of component and repair parts for any tangible personal property ~~included in this rule that is under subsections (B) or (E) is~~ are not taxable ~~subject to tax.~~
- D. If a written prescription or recommendation is required to purchase ~~the~~ tangible personal property, a taxpayer shall maintain the ~~required~~ prescription or recommendation ~~shall be in writing and maintained~~ as part of the taxpayer's records. The taxpayer's records for documenting purchases shall provide reasonable detail to allow the Department, upon inspection, to identify property as exempt.
- E. Purchases of nonprescription ~~drugs and~~ products or other medical supplies and appliances by doctors, dentists, or veterinarians ~~are taxable.~~ are subject to tax unless
1. ~~Purchases~~ the purchase of nonprescription drugs ~~and or~~ other medical supplies ~~and or~~ appliances ~~by doctors, dentists, and veterinarians~~ are not taxable if the ~~tangible personal property~~ qualifies as a purchase for resale, and the doctor, dentist, or veterinarian is a retailer in the business of reselling ~~such~~ the property.
 2. Purchases of prescription drugs for use in the course of treating patients are not taxable if the prescription drugs are sold to a member of the medical, dental, or veterinarian profession who is licensed by law to administer prescription drugs.
 3. ~~Purchases of prescription drugs are not taxable if the prescription drugs are sold to an organization where the prescription drugs are used in the course of treating patients and are administered under the direction of a member of the medical, dental, or veterinarian profession who is licensed by law to administer such drugs.~~