

## 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 2. ADMINISTRATION

#### CHAPTER 16. OFFICE OF THE OMBUDSMAN - CITIZENS' AIDE

[R05-495]

#### PREAMBLE

**1. Sections Affected**

R2-16-101  
R2-16-201  
R2-16-203  
R2-16-205  
R2-16-208  
R2-16-209  
R2-16-210  
R2-16-301  
R2-16-302  
R2-16-303  
R2-16-304  
R2-16-305  
R2-16-306  
R2-16-401  
R2-16-403  
R2-16-404  
R2-16-405  
R2-16-501  
R2-16-502  
R2-16-503

**Rulemaking Action**

Amend  
Amend

**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. § 41-1376(A)(3) and (A)(5)

Implementing statute: A.R.S. § 41-1376(A)(3) and (A)(5)

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 5217, December 9, 2005

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

Name: Patrick M. Shannahan, Ombudsman-Citizens' Aide

Address: Office of the Ombudsman-Citizens' Aide  
3737 N. 7th St., Ste. 209  
Phoenix, AZ 85014

Telephone: (602) 277-7292

Fax: (602) 277-7312

E-mail: ombuds@azoca.gov

Notices of Proposed Rulemaking

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

In response to its five-year review report, the Office is updating its rules to make them more clear, concise, and understandable and consistent with current Office practice.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**

The Office does not expect to rely on any study in this rulemaking.

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

Not applicable

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

The Office is making only minor, non-substantive changes to the rules. The only economic cost will be the cost of the rulemaking to the Office. The only benefit will be that which results from having more clear, concise, and understandable rules.

**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: Patrick M. Shannahan, Ombudsman-Citizens' Aide  
Address: Office of the Ombudsman-Citizens' Aide  
3737 N. 7th St., Ste. 209  
Phoenix, AZ 85014  
Telephone: (602) 277-7292  
Fax: (602) 277-7312  
E-mail: ombuds@azoca.gov

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

An oral proceeding regarding the proposed rules will be held as follows:

Date: Monday, February 13, 2006  
Time: 9:00 a.m.  
Location: Office of the Ombudsman-Citizens' Aide  
3737 N. 7th St., Ste. 209  
Phoenix, AZ 85014

The rulemaking record will close at 5:00 p.m. on February 13, 2006.

**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 2. ADMINISTRATION

CHAPTER 16. OFFICE OF THE OMBUDSMAN - CITIZENS' AIDE

ARTICLE 1. GENERAL PROVISIONS

Section  
R2-16-101. Definitions:

**ARTICLE 2. HANDLING CONFIDENTIAL MATERIAL**

Section

- R2-16-201. Protecting the Identity of a Complainant or Witness
- R2-16-203. Requirement to Close Case ~~Before~~ before Violating Confidentiality
- R2-16-205. Protecting Confidential Agency Information
- R2-16-208. Returning a Confidential Document to a Complainant
- R2-16-209. Prohibition ~~Against~~ against Discussing Open Complaint Investigations
- R2-16-210. Summaries of Closed Cases

**ARTICLE 3. RECEIVING AND PROCESSING COMPLAINTS**

Section

- R2-16-301. Exhausting Reasonable Alternatives ~~Within~~ within the Agency
- R2-16-302. Inmate Complaints
- R2-16-303. Resolution ~~Prior to~~ without Investigation
- R2-16-304. Anonymous Complaints
- R2-16-305. Filing Complaints
- R2-16-306. Complaints Alleging Employee Misconduct

**ARTICLE 4. CONDUCTING INVESTIGATIONS**

Section

- R2-16-401. Notice
- R2-16-403. Closing Cases
- R2-16-404. Findings
- R2-16-405. Recommendations

**ARTICLE 5. ACTIONS AFTER AN INVESTIGATION INCORPORATING AGENCY RESPONSES INTO REPORTS AND RECOMMENDATIONS**

Section

- R2-16-501. Preliminary Report
- R2-16-502. Final Report
- R2-16-503. Advising the Complainant

**ARTICLE 1. GENERAL PROVISIONS**

**R2-16-101. Definitions:**

In addition to the definitions provided in A.R.S. § 41-1371, the following apply in this Chapter:

1. "Complainant" means a person who files a complaint with the Office.
2. "Confidential information" means oral or written information, including a record, for which restricted access is required by ~~Federal~~ federal or Arizona law. Confidential information also includes identifying personal information a complainant or witness ~~has requested~~ requests not be disclosed.
3. "Document" means a paper or electronic record, memorandum, form, book, letter, file, drawing, map, or plat.
4. ~~"Hearing" means an investigative tool used to receive sworn testimony or to take a deposition.~~ "Misconduct" means any act or omission by an employee that constitutes a material or substantial breach of the employee's duties or obligations under the contract of employment or that adversely affects a material or substantial interest of the employer.
5. "Office" means the Office of the Ombudsman-Citizens' Aide.
6. "Ombudsman-citizens' aide" means the person appointed to the position of ombudsman-citizens' aide under the provisions of A.R.S. § 41-1373.
7. "Photograph" means a paper or electronic photographic representation, photographic file, motion picture, video tape, microfilm, or microphotograph.

ARTICLE 2. HANDLING CONFIDENTIAL MATERIAL

**R2-16-201. Protecting the Identity of a Complainant or Witness**

~~When a complainant or witness requests that their identity be protected, the~~ The Office shall not release to an agency, the public, or anyone else, information that reveals the person's identity to an agency, the public, or anyone else, of a complainant or witness without the person's permission from the complainant or witness.

**R2-16-203. Requirement to Close Case ~~Before~~ before Violating Confidentiality**

The Office shall ~~close~~ stop an investigation and close a case if it cannot proceed further without revealing the identity of a complainant who ~~has~~ requested confidentiality. ~~Before closing~~ stopping the investigation and closing the case for this reason, the Office shall ask the complainant for permission to release identifying information.

**R2-16-205. Protecting Confidential Agency Information**

The Office shall give confidential information received from an agency the same degree of protection ~~by the Office~~ as provided by the agency ~~itself~~. The Office shall not release confidential agency information to the complainant, or any other person, without the agency's prior authorization, unless ordered by a court or other lawful authority.

**R2-16-208. Returning a Confidential Document to a Complainant**

~~The~~ When requested, the Office shall return a confidential document received from a complainant ~~only~~ to the complainant; ~~The Office shall not release a confidential document to anyone other than the complainant unless the complainant provides written authorization for release of the document to a third party or the Office determines that the document was not lawfully in the possession of the complainant.~~

**R2-16-209. Prohibition ~~Against~~ against Discussing Open Complaint Investigations**

The Office shall not discuss an open complaint investigations investigation ~~of the Office~~ with the general public or the media.

**R2-16-210. Summaries of Closed Cases**

The Office shall make available to the public a summary of a closed case if the Office determines that the summary will assist in the management of a state government program, ~~to~~ respond to an inquiry about the performance of a state program, or ~~to~~ inform the public about the activity and performance of the Office. ~~The~~ summary Office shall ~~not~~ ensure that the summary does not disclose identifying information about a complainant or witness whose identity is protected, confidential investigator notes, or confidential information received from an agency.

ARTICLE 3. RECEIVING AND PROCESSING COMPLAINTS

**R2-16-301. Exhausting Reasonable Alternatives ~~Within~~ within the Agency**

- A. The Office shall make inquiry of the complainant and the agency to determine ~~that~~ whether the complainant has exhausted all reasonable alternatives to resolve a complaint within the agency before initiating an investigation.
- B. If the complainant has not made a reasonable effort to resolve the complaint within the agency, the Office shall refer the complainant to the appropriate person or office within the agency and provide the complainant information about available steps to resolve the complaint.
- C. ~~The~~ office Office shall defer action in a matter that is being litigated in the courts or is the subject of a current formal administrative procedure unless the ombudsman-citizens' aide determines that immediate investigation is necessary to protect the public health, safety, or welfare.

**R2-16-302. Inmate Complaints**

In accordance with A.R.S. § 41-1377, the Office shall refuse ~~complaints~~ a complaint filed by a person in the custody of the Department of Corrections. ~~This refusal shall include complaints filed by another person on behalf of an inmate, or concerning a rule or substantive policy statement concerning about inmates.~~

**R2-16-303. Resolution ~~Without~~ without Investigation**

If a complaint can be resolved quickly by mutual agreement, the Office shall attempt to resolve the complaint informally, without resorting to an investigation.

**R2-16-304. Anonymous Complaints**

The Office shall ~~decline to~~ not investigate an anonymous ~~complaints~~ complaint unless facts of the matter are compelling and can be reasonably independently verified.

**R2-16-305. Filing Complaints**

- A. A complaint against a ~~state~~ an agency shall be filed with the Office ~~in writing, in person, or by the U. S. Postal Service, by telephone, by~~ electronic facsimile, or ~~by~~ electronic mail.
- B. A complaint that alleges ~~breach of duty, misconduct, or discourtesy by an officer or a state employee of an agency~~ shall be ~~filed with the Office~~ in writing, and signed by the complainant, and filed with the Office in person or by the U. S. Postal

Service or electronic facsimile.

**R2-16-306. Complaints Alleging Employee Misconduct**

- A. Before investigating an allegation of misconduct by a state employee, the Office shall provide written notice of the pending investigation to the employee and the chief executive officer of the employee's agency.
- B. If an investigation of an allegation of misconduct by a state employee results in a preliminary report that contains an adverse opinion or recommendation, the Office shall consult with the employee about the preliminary report before submitting the preliminary report to the agency and shall include the employee's written response, if any, with the preliminary report that is forwarded to the agency.
1. This preliminary consultation with the employee shall be confidential and shall not be publicly disclosed.
  2. The employee shall have 15 working days to respond to the preliminary report, unless the ombudsman - citizens' aide believes a delay will cause significant harm or damage.
  3. An employee may request an extension to the time in which to respond to a the preliminary report for a compelling reason. The Office shall grant the request unless the ombudsman-citizens' aide believes an extension ~~would~~ will cause significant harm or damage.
- C. If an investigation of an allegation of misconduct by a state employee results in a final report that contains an adverse opinion or recommendation, the Office shall consult with the employee about the final report before submitting the final report to the agency and shall include the employee's written response, if any, with the final report that is forwarded to the agency.
1. The employee shall have 15 working days to respond to the final report, unless the ombudsman - citizens' aide believes a delay will cause significant harm or damage.
  2. An employee may request an extension to the time in which to respond to the final report for a compelling reason. The Office shall grant the request unless the ombudsman-citizens' aide believes an extension will cause significant harm or damage.

**ARTICLE 4. CONDUCTING INVESTIGATIONS**

**R2-16-401. Notice**

When ~~it will not compromise the effectiveness of an investigation, the Office shall exercising rights exercise the right~~ of access under the provisions of A.R.S. § 41-1378, ~~whenever possible, and not deemed to compromise the effectiveness of an Office investigation, by providing~~ at least 10 days ~~prior notice shall be given by the Office~~ to the agency concerning information needs, the intent to conduct interviews, or requirements to view necessary records. An agency may request an extension to this period for a compelling reason. The ombudsman-citizens' aide shall grant a request for extension unless the ombudsman-citizens' aide believes a delay ~~would~~ will cause significant harm or damage.

**R2-16-403. Closing Cases**

The Office may close a case for any of the following reasons:

1. Discontinued. The ombudsman-citizens' aide determines that an investigation should be terminated before the investigation is completed because:
  - a. Disclosure of the complainant's identity is necessary to enable full investigation and the complainant refuses to allow the disclosure;
  - b. Information or a record is requested from the complainant and the complainant fails to produce the information or record within the time specified by the Office;
  - c. The complainant withdraws the complaint;
  - d. The complaint relates to a matter that has become the subject of an administrative or judicial proceeding;
  - e. The Office forwards a the complaint to an appropriate prosecutor because it involves possible criminal activity; or
  - f. The ombudsman-citizens' aide determines there is other good cause not to proceed with an investigation.
2. Closed - ~~Not Substantiated not substantiated. The ombudsman-citizens' aide determines that the agency performed appropriately or is not able to substantiate that the agency performed inappropriately. Following an investigation, the ombudsman-citizens' aide makes a finding that the allegations in the complaint are not substantiated.~~
3. Closed - ~~Complaint Resolved complaint resolved~~ (before preliminary report). The Following an investigation, the ombudsman-citizens' aide determines that the complaint has merit, either wholly or in part, and, before a preliminary report is issued, the agency agrees to provide a remedy that is acceptable to the agency and the ombudsman-citizens' aide.
4. Closed - ~~Complaint Resolved complaint resolved~~ (after preliminary report). The Following an investigation, the ombudsman - citizens' aide determines that the complaint has merit, either wholly or in part, and, after a preliminary report is issued, the agency agrees to provide a remedy that is acceptable to the agency and the ombudsman-citizens' aide.

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5. Closed - ~~Complaint Unresolved~~ complaint unresolved. ~~The Following an investigation, the~~ ombudsman - citizens' aide determines that the complaint has merit, either wholly or in part, and the agency does not accept the recommendations of the ombudsman - citizens' aide.
6. Other. A case is closed for a reason that does not meet ~~+~~ one of the other criteria for closure.

**R2-16-404. Findings**

The Office shall ~~refer to~~ make one of the following findings in an investigative report:

1. ~~Justified- Substantiated~~. The investigation establishes that the administrative act did occur and the complainant's criticism of the administrative act is valid.
2. ~~Partially justified- substantiated~~.
  - a. In a complaint having multiple allegations, the investigation establishes that at least ~~+~~ one allegation is ~~justified~~ substantiated and at least ~~+~~ one allegation is not ~~justified~~ substantiated or indeterminate; or
  - b. The investigation establishes there is shared fault between the complainant and agency.
3. ~~Not justified- substantiated~~. The investigation establishes that:
  - a. The administrative act did not occur; or
  - b. The administrative act occurred, but the complainant's criticism of the administrative act is not valid.
4. Indeterminate - ~~+~~. The investigation does not provide sufficient evidence for the Office to determine conclusively:
  - a. Whether the administrative act occurred; or
  - b. If the administrative act occurred, whether the complainant's criticism of the administrative act is valid.

**R2-16-405. Recommendations**

- A. In accordance with A.R.S. §§ 41-1376 and 41-1379, the Office shall recommend a resolution to a complaint when a completed investigation results in a finding of ~~"justified" or "partially justified."~~ "substantiated or partially substantiated."
- B. The Office shall not recommend a specific employee disciplinary action to be imposed.

**ARTICLE 5. INCORPORATING AGENCY RESPONSES INTO REPORTS AND RECOMMENDATIONS**

**R2-16-501. Preliminary Report**

- A. Before issuing an opinion or recommendation, the Office shall consult with the agency and send a confidential preliminary report to the agency.
- B. In accordance with A.R.S. § 41-1379, the Office or ~~affected~~ agency may share a preliminary report with other state officials only if it is necessary to resolve the complaint, but shall not publicly disclose the contents of the preliminary report.
- C. An agency may seek modification of an opinion or recommendation presented in the preliminary report by ~~submitting a written~~ including a request for modification in a written response submitted within 15 working days of ~~the date of receipt of receiving the preliminary~~ report.
- D. An agency may request, for a compelling reason, an extension to the time in which to respond. The Office shall grant an agency's request for extension, unless the ombudsman-citizens' aide believes an extension ~~would~~ will cause significant harm or damage.
- E. ~~If an agency seeks~~ The Office shall consider an agency's request for modification of an opinion or recommendation, the Office shall consider the agency's request before it prepares the final report and shall notify the agency of the acceptance or rejection of ~~that~~ the request within 15 working days of receiving the request.
- F. If an agency does not request modification, the preliminary report becomes the final report 15 working days after ~~the date~~ the agency ~~received~~ receives the preliminary report.

**R2-16-502. Final Report**

- A. After the Office receives an agency's response, if any, to a preliminary report and makes accepted modifications to the preliminary report, or if no timely response is filed, the Office shall send the final report to the chief executive officer of the ~~affected~~ agency.
- B. If ~~requested to the Office~~ requests that an agency respond to a final report, the ~~affected~~ agency shall respond to the Office, in writing, within 20 working days ~~from the date of receipt of~~ after receiving the final report. The agency shall include in the response ~~shall advise the Office of the~~ agency's decision to accept or reject a recommendation. If the agency accepts a recommendation, the ~~response~~ agency shall specify a date by which the recommendation will be implemented.
- C. If the ombudsman-citizens' aide determines that an early response to a final report is necessary to protect the public health, safety, or welfare, the Office shall require an agency to respond on a date sooner than 20 working days. Additionally, the ombudsman - citizens' aide may extend a response period for good cause at the request of an agency.

**R2-16-503. Advising the Complainant**

- A. The Office shall provide a final response to ~~the~~ a complainant. If requested by the complainant, the Office shall provide the final response in writing.
  - ~~1. If a complaint is resolved through formal procedures, the Office shall respond in writing;~~

2. If a complaint is resolved through informal procedures, the Office shall respond by either telephone or in writing.
- B. Before releasing a final report to any person not authorized to receive confidential information, the Office shall purge the final report of any confidential information.

## NOTICE OF PROPOSED RULEMAKING

### TITLE 3. AGRICULTURE

#### CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

[R05-491]

#### PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R3-11-105                          | Amend                           |
- 2. The statutory authority for the rulemaking, including the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 32-2207(9)  
Implementing statutes: A.R.S. §§ 32-2244, 32-2250, 32-2272, 32-2273
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 11 A.A.R. 5333, December 16, 2005
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Jenna Jones, Executive Director                    |
| Address:   | 1400 W. Washington, Suite 240<br>Phoenix, AZ 85007 |
| Telephone: | (602) 364-1739                                     |
| Fax:       | (602) 364-1039                                     |
| E-mail     | jenna.jones@vetbd.state.az.us                      |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The purpose of this rulemaking is to increase the Board's fees for issuance of a certificate under A.R.S. §§ 32-2244 and 32-2250 in an odd-numbered year from \$30 to \$50 and in an even-numbered year from \$15 to \$25 and increase the fee for renewal of premises license under A.R.S. §§ 32-2272 and 32-2273 from \$75 to \$200. The Board has not raised these fees since 1998.  
  
The Board is responsible for overseeing the practice of veterinary medicine in Arizona by evaluating applications for a license to practice veterinary medicine in Arizona, for a veterinary medical premises license, or for a certificate to work as a certified veterinary technician; ensuring that licensees and certificate holders conform to the Board's statutes and rules; investigating complaints; and applying appropriate disciplinary action to licensees and certificate holders who violate the Board's statutes and rules. The Board performs these oversight and regulatory functions to protect the health and safety of the general public as well as the welfare of animals. From 2000 to 2001 the Board's operating costs began to exceed the revenues it receives through its licensing fees. The Board has determined that it must increase its fees in order to continue its oversight and regulatory functions.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**  
The Board did not review or rely on any study.
- 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:**  
Annual cost/revenue changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when greater than \$10,000.

Notices of Proposed Rulemaking

The rulemaking impacts the Board, veterinary medical premises licensees, and certified veterinary technician applicants, and consumers seeking veterinary services, and the Board. The Board bears moderate costs for writing the rule and related economic, small business, and consumer impact statement and mailing the new rule to interested persons. The Board's administrative costs to implement the rule are minimal. The Board will realize a substantial increase in revenues from the increased fees. It is necessary to raise these fees to continue the Board's licensing and oversight functions.

A veterinary medical premises licensee will be minimally affected by the increase in the license renewal fee.

The increased cost for issuance of a certificate in either an even-numbered year or an odd-numbered year is minimal for each applicant.

A licensee may choose to pass the cost of the increase to consumers of veterinary medical services. However, consumers benefit from the Board's continuing oversight because the Board's mission is to ensure that only competent veterinarians practice and certified veterinary technicians work in Arizona by protecting consumers from improper or inadequate delivery of veterinary medical services.

**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: Jenna Jones, Executive Director  
Address: 1400 W. Washington, Suite 240  
Phoenix, AZ 85007  
Telephone: (602) 364-1739  
Fax: (602) 364-1039  
E-mail: jenna.jones@vetbd.state.az.us

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

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

Date: February 7, 2006  
Time: 8:00 a.m.  
Location: 1400 W. Washington, Basement Room B1  
Phoenix, AZ 85007

The public record on the proposed rulemaking will close at 5:00 p.m. on February 7.

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

None

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

None

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

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

ARTICLE 1. GENERAL PROVISIONS

Section  
R3-11-105. Fees

ARTICLE 1. GENERAL PROVISIONS

**R3-11-105. Fees**  
A. No change  
1. No change  
2. No change

3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
  9. No change
  10. No change
  11. No change
  12. No change
- B.** Veterinary technician fees are as follows:
1. No change
  2. Certificate issued in odd-numbered year - ~~\$30.00~~ \$50.00
  3. Certificate issued in even-numbered year - ~~\$15.00~~ \$25.00
  4. No change
  5. No change
  6. No change
- C.** Veterinary medical premises fees are as follows:
1. No change
  2. No change
  3. License renewal - ~~\$75.00~~ \$200.00
  4. No change
  5. No change
- D.** No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
- E.** No change
- F.** No change
- G.** No change
- H.** No change

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 15. BOARD OF MASSAGE THERAPY**

[R05-487]

**PREAMBLE**

**1. Sections Affected**

R4-15-101  
R4-15-102  
R4-15-201  
R4-15-205  
Table 1  
Article 3  
R4-15-301  
R4-15-302  
R4-15-303  
Article 4  
R4-15-401

**Rulemaking Action**

Amend  
Amend  
Amend  
New Section  
Amend  
New Article  
New Section  
New Section  
New Section  
New Article  
New Section

Notices of Proposed Rulemaking

**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. § 32-4203(A)(7)

Implementing statute: A.R.S. §§ 32-4203(A)(1), 32-4203(A)(3), 32-4203(A)(5), 32-4205, 32-4222(B)(1), 32-4225, 32-4226, 32-4227, 41-1062, 41-1073

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 5333, December 16, 2005

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

Name: Dr. Craig Runbeck, Executive Director

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

Telephone: (602) 542-8604

Fax: (602) 542-3093

E-mail: craig.runbeck@npbomex.az.gov

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

The Board is changing the entry level educational requirement for a massage therapist as stated in R4-15-201(A)(1)(g) and (B)(3) from 500 hours of classroom hours of supervised training at a Board-approved school to 700 hours. When the statutes for licensing massage therapists were passed, the legislature supported a minimum of 500 hours of education. However, the law included a provision that stated on or after July 1, 2005, the Board may increase the minimum number of classroom hours of supervised instruction at a Board recognized school that an applicant for licensure must successfully have completed to qualify for licensure. The Board received a formal request from the American Massage Therapy Association asking that the hours be increased to 700 classroom hours to enable massage therapists to continue to serve the public safely. The nationwide trend has been to increase to this level or more. The effective date of this change is January 1, 2007.

The Board is establishing standards for continuing education in a new Article 3; adding requirements for renewal applications, including time-frames for Board approval or denial of a license and a fee for license renewal and delinquent license renewal; and adding provisions for rehearing or review in a new Article 4. The Board is also reducing its fee for an application for a regular license. The Board originally established this fee in rules that became effective on June 8, 2004. Because the Board was newly established, the Board projected it would receive 3000 applications for a regular license and charged the application fee that it believed was necessary to sustain operations. The Board actually received over 6900 applications causing revenue surpluses for the Board. Thus, the Board has determined it is appropriate to reduce the fee for a regular license.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**

The Board did not review or rely on any study.

**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:**

As used in this summary, minimal means less than \$1,000, moderate means between \$1,000 and \$10,000, and substantial means greater than \$10,000.

The proposed rules affect the Board, an applicant for a massage therapy license, a licensee, a Board-approved school, a provider of continuing education, a business that

The fee reduction for a regular application affects the Board. In its original rulemaking, which became effective on June 8, 2004, the Board stated it anticipated licensing 3000 individuals and charged the application fee it believed was necessary to sustain operations. The Board received many more license applications than expected, which resulted in more than 6900 individuals being licensed. The fees submitted by these individuals resulted in revenue surpluses for the Board. The Board has determined it is appropriate to reduce its regular application fee. In the future, the Board anticipates receiving 500 applications for a regular license each year. The fee reduction will cause the Board to lose \$425,000 each year. However, the purpose of the fee reduction is to bring the Board in line with the amount needed each year for Board operations.

The fee reduction for a regular application will minimally affect an applicant for a regular license, who will be required to submit a \$165 application fee instead of \$250.

The Board is charging a renewal fee of \$75 and a delinquent renewal fee of \$40.

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Licenses expire every two years on the licensee's birthday. Thus, a licensee will pay \$37.50 a year to retain a license. The Board expects to renew between 3,000 and 4,000 licensees every year.

The change in R4-15-201, which increases the number of classroom hours an applicant must complete to qualify for licensure from 500 to 700, affects an applicant who submits a license application after January 1, 2007 and a Board-approved school that provides the classroom instruction. The amount of the increase depends on how many classroom hours the Board-approved school currently requires to complete a massage therapy program. Many Board-approved schools have already instituted programs that require 700 or more classroom hours of supervised instruction. The rule should not cause an increase in tuition for an applicant attending one of these schools. An applicant attending a Board-approved school that currently requires less than 700 classroom hours of could realize an increase in tuition and the school will benefit from the increase in tuition. The amount will vary depending on the number of classroom hours that need to be increased. An applicant attending a Board-approved school that is currently requiring no more than 500 classroom hours for completion of a massage therapy program could be required to pay as much \$2,600 in additional tuition. A Board-approved school's increased revenue depends on the number of applicants attending the Board-approved school.

Unless a licensee's employer pays for continuing education, the licensee will bear the costs of obtaining a minimum of 25 hours of continuing education for the two-year period immediately preceding license expiration. However, it is the statute in A.R.S. § 32-4225(E) that imposes this requirement. The rule's purpose is to implement the statute. The continuing education requirement benefits a provider of continuing education who should receive moderate revenue from the provision of continuing education. Providers of continuing education charge approximately \$15 to \$30 an hour and each licensee is required to complete 25 hours of continuing education every two years. The amount of the increase in revenue ranges from minimal to substantial, depending on how much continuing education is provided by each provider. Some businesses that hire massage therapists may pay for continuing education.

The Board bears moderate costs for writing rules to implement its statutes and related economic, small business, and consumer impact statement and mailing the new rules to interested persons.

Businesses that hire licensed massage therapists will benefit from the rules because they will have only qualified massage therapists working for them.

A business that chooses to pay for continuing education for its employees may pass the cost onto consumers of massage therapy services. Consumers benefit from the rules because only massage therapists that meet the requirements contained in the rules and statutes will be allowed to practice in Arizona.

**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: Dr. Craig Runbeck, Executive Director  
Address: 1400 W. Washington, Suite 230  
Phoenix, AZ 85007  
Telephone: (602) 542-8604  
Fax: (602) 542-3093  
E-mail: craig.runbeck@npbomex.az.gov

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

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

Date: February 27, 2006  
Time: 1:00  
Location: 1400 W. Washington, B-1 Conference Room  
Phoenix, AZ 85007

The public record on the proposed rulemaking will close at 5:00 p.m. on February 27, 2006.

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

None

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

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 15. BOARD OF MASSAGE THERAPY**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-15-101. Definitions  
R4-15-102. Fees

**ARTICLE 2. LICENSING**

Section  
R4-15-201. Qualifications: Application for a Regular License  
R4-15-205. Application for Renewal of a License  
Table 1. Time-frames (in days)

**ARTICLE 3. CONTINUING EDUCATION**

Section  
R4-15-301. Required Continuing Education Hours  
R4-15-302. Approval of Continuing Education  
R4-15-303. Documentation of Completion of Continuing Education

**ARTICLE 4. REGULATORY PROVISIONS**

Section  
R4-15-401. Rehearing or Review of Board's Decision

**ARTICLE 1. GENERAL PROVISIONS**

**R4-15-101. Definitions**

1. No change
2. "Applicant" means an individual requesting a regular, provisional, temporary, renewal or reciprocity license from the Board.
3. No change
4. No change
5. "Continuing education" means a workshop, seminar, lecture, conference, class, or instruction related to massage therapy.
6. "Correspondence" or "distance learning format" means an instructor of a continuing education and individual receiving the instruction are not located in the same room in which the continuing education is being provided.
- ~~5-7.~~ No change
- ~~6-8.~~ No change
- ~~7-9.~~ No change
- ~~8-10.~~ No change
- ~~9-11.~~ No change
- ~~10-12.~~ No change
- ~~11-13.~~ No change
- ~~12-14.~~ No change
- ~~13-15.~~ No change
- ~~14-16.~~ No change
- ~~15-17.~~ No change
- ~~16-18.~~ No change
- ~~17-19.~~ No change

**R4-15-102. Fees**

- A. The Board shall charge the following fees that are nonrefundable, unless A.R.S. § 41-1077 applies:
1. Application for a license, ~~\$250~~ \$165
  2. No change
  3. No change
  4. License renewal, \$75
  5. Delinquent renewal of a license, \$40
- B. No change  
C. No change  
D. No change

**ARTICLE 2. LICENSING**

**R4-15-201. Qualifications: Application for a Regular License**

- A.** To meet the requirements in A.R.S. § 32-4222(b), an applicant who submits an application:
1. Before January 1, 2007 shall complete 500 classroom hours of supervised instruction at a Board-approved school.
  2. On and after January 1, 2007 shall complete 700 classroom hours of supervised instruction at a Board-approved school.
- ~~**A.B.**~~ No change
1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. Whether the applicant has successfully completed ~~500~~ the classroom hours of supervised instruction required under subsection (A) at a Board-approved school;
    - h. No change
    - i. No change
    - j. No change
    - k. No change
    - l. No change
    - m. No change
    - n. No change
  2. No change
  3. No change
- ~~**B.C.**~~ No change
1. No change
  2. No change
  3. To show proof of completion of ~~500~~ the classroom hours of supervised instruction at a Board-approved school required in subsection (A), academic transcripts from the Board-approved school from which the applicant graduated.

**R4-15-205. Reserved Application for Renewal of a License**

- An applicant for a renewal license shall submit:
1. An application form that contains the applicant's:
    - a. Name.
    - b. Residence and practice addresses, and
    - c. Residence and practice telephone numbers;
  2. The information required in R4-15-303; and
  3. The fee required in R4-15-102(A).

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

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Regular license R4-15-201	A.R.S. § 32-4222	180	90	90
Temporary License R4-15-201	A.R.S. § 32-4224	60	30	30
Provisional License R4-15-202	A.R.S. § 32-4222	180	90	90
License by Reciprocity R4-15-203	A.R.S. § 32-4223	120	60	60
Out-of-state School Approval R4-15-204	A.R.S. § 32-4228	120	60	60
Renewal License	<u>A.R.S. § 32-4225</u>	<u>60</u>	<u>30</u>	<u>30</u>

**ARTICLE 3. CONTINUING EDUCATION**

**R4-15-301. Required Continuing Education Hours**

- A.** During the two-year period immediately preceding license expiration, a licensee applying for a renewal license shall have completed 25 hours or more of continuing education.
- B.** A licensee may complete a maximum of 12 continuing education hours from a correspondence or distance learning format.

**R4-15-302. Approval of Continuing Education**

The following continuing education is approved by the Board:

- 1. Continuing education taught by an individual or provided by an organization that has been designated as an approved provider of continuing education by the:
  - a. NCBTMB.
  - b. International Massage Association.
  - c. American Organization for Bodywork Professionals of Asia.
  - d. Associated Bodywork Massage Professionals, or
  - e. Any organization that is a constituent of the entities in subsections (1) (a), (b), (c), or (d);
- 2. Continuing education sponsored by a massage therapy school or bodywork therapy school that is:
  - a. Affiliated with a community college located in the state of Arizona, or
  - b. Approved by the Arizona State Board for Private Postsecondary Education;
- 3. Continuing education offered by a regionally accredited post-secondary institution in a state other than Arizona; or
- 4. Continuing education offered by an institution approved by a post secondary educational entity in a state other than Arizona.

**R4-15-303. Documentation of Completion of Continuing Education**

When renewing a license, a licensee shall submit with a renewal application documentation of completion of 25 hours of continuing education that includes:

- 1. The name of the licensee.
- 2. The title of the continuing education.
- 3. The subject matter of the continuing education.
- 4. The date of the continuing education.
- 5. The hours completed.
- 6. The location where the continuing education took place.
- 7. The name of the instructor providing the continuing education, and
- 8. Signature of the licensee.

**ARTICLE 4. REGULATORY PROVISIONS**

**R4-15-401. Rehearing or Review of Board's Decision**

- A.** Except as provided in subsection (F), a party who is aggrieved by a decision issued by the Board may file with the Board, not later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the grounds for rehearing or review. For purposes of this Section, a decision is considered served when personally delivered to the party's last known address or mailed by certified mail to the party at the party's last known address or the party's attorney.
- B.** A party filing a motion for rehearing or review under this rule may amend the motion at any time before it is ruled upon by the Board. Other parties may file a response within 15 days after the date the motion for rehearing or review is filed. The Board may require that the parties file supplemental memoranda explaining the issues raised in the motion and may permit oral argument.
- C.** The Board may grant a rehearing or review of the decision for any of the following causes materially affecting the party's rights:
1. Irregularity in the proceedings of the Board, administrative law judge, or any abuse of discretion that deprived the party of a fair hearing;
  2. Misconduct of the Board or administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
  7. That the findings of fact or decision is not supported by the evidence or is contrary to law.
- D.** The Board may affirm or modify its decision or grant a rehearing or review to all or any of the parties on all or part of the issues for the reasons specified in subsection (C). An order modifying a decision or granting a rehearing or review shall specify the grounds for the rehearing or review and the rehearing or review shall cover only those matters specified.
- E.** No later than 30 days after a decision is issued by the Board, the Board may, on its own initiative, grant a rehearing or review of its decision for any reasons in subsection (C). An order granting a rehearing or review shall specify the grounds for the rehearing or review.
- F.** If the Board makes specific findings that the immediate effectiveness of the decision is necessary for the preservation of the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for a rehearing or review. If the Board issues the decision as a final decision without an opportunity for a rehearing or review, the aggrieved party may make an application for judicial review within the time limits permitted for an application for judicial review of the Board's final decision under A.R.S. § 41-1092.02.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 13. DEPARTMENT OF HEALTH SERVICES**

**HEALTH PROGRAMS SERVICES**

[R05-490]

**PREAMBLE**

**1. Sections Affected**

R9-13-201  
R9-13-202  
R9-13-202  
R9-13-203  
R9-13-203  
R9-13-204  
R9-13-204  
R9-13-205  
R9-13-205  
R9-13-206

**Rulemaking Action**

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



The Department will experience a substantial increase in costs associated with: contracting for laboratory services, due to the increase in the number of disorders for which testing will be performed; adequately following up on abnormal test results for the additional congenital disorders and on abnormal hearing screening results; providing an educational program to health care providers, parents, and the general public about the additional congenital disorders being tested for; and expanding the capacity of the current data system to enable the system to capture, store, report, and transfer an increased number of test results and other information about each specimen tested. These costs will be offset by increased fees.

Hospitals are expected to experience an increase in costs due to the increase in fees to perform testing, and may experience an increase in costs for reporting hearing test results. These costs may range from minimal to substantial, depending on the number of specimens submitted for testing and whether a hospital is currently reporting hearing screening results, and may be offset by increases in the negotiated amounts received from AHCCCS, other third-party payors, or parents. Hospitals may benefit from a decrease in liability of missing a baby with a hearing loss since the Department will be assisting in the follow-up on abnormal hearing tests results. Hospitals may also benefit from additional revenue generated from outpatient hearing screening and diagnostic procedures that may be billed to third-party payors.

AHCCCS and other third-party payors will bear significant costs due to the increase in fees. They may also incur additional costs, as a result of the proposed rules, for outpatient hearing screening and diagnostic testing for hearing loss for babies who may not have been tested until they were older. AHCCCS and other third-party payors are expected to benefit from screening for an increased number of congenital disorders through a reduction in the costs associated with diagnosing a disorder in a child once symptoms develop, and in treating the medical problems that late-diagnosed diseases can cause. AHCCCS and other third-party payors are also expected to benefit from an expected decrease in costs for long-term care for a child with one of the additional disorders, who was diagnosed early on the basis of screening results, rather than later when physiological problems had occurred. The benefit to AHCCCS and other third-party payors may range from minimal to substantial, depending on the number of babies with congenital disorders who are covered by a particular payor.

Physicians and outpatient treatment centers may experience minimal to substantial benefit from a decrease in time to diagnose a baby with one of the rare congenital disorders being added to the bloodspot screening, as well as a decrease in liability associated with missing a case of one of the disorders.

If parents have no other payor source for newborn screening fees, they may bear the minimal costs of the fee increase. Parents may also bear minimal costs associated with the outpatient hearing screening and diagnostic hearing testing of a baby for hearing loss. Most parents will benefit from knowing that their babies probably do not have a hearing loss or one of the congenital disorders tested for, while some parents will benefit substantially from early diagnosis of a hearing loss or congenital disorder, and treatment of their babies, saving them from the stress and expense of more physician visits and repeated diagnostic tests to determine the diagnosis, and enabling the babies to grow into healthy children with fewer catastrophic medical bills or learning disabilities.

Schools are expected to receive minimal to substantial benefit from these rules, since children with an early-identified and treated hearing loss or congenital disorder may require less accommodation to enable them to succeed in school. Reduced costs to schools for accommodation may result in a reduced cost to cities, municipalities and school districts, and to the citizens supporting schools through tax monies. Society will benefit substantially from having a healthy and productive member of society because of timely identification and treatment of the added congenital disorders or a hearing loss.

**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: Jan Kerrigan, RN, Program Manager  
Address: Arizona Department of Health Services  
Newborn Screening Program  
150 N. 18th Ave., Suite 320  
Phoenix, AZ 85007-3233  
Telephone: (602) 364-1409  
Fax: (602) 364-1495  
E-mail: kerrigj@azdhs.gov  
Or  
Name: Kathleen Phillips, Rules Administrator  
Address: Arizona Department of Health Services  
1740 W. Adams St., Room 202  
Phoenix, AZ 85007-3233

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Telephone: (602) 542-1264  
Fax: (602) 364-1150  
E-mail: phillik@azdhs.gov

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

Date: February 9, 2006  
Time: 10:00 a.m.  
Location: 150 N. 18th Ave., Room 540A  
Phoenix, AZ 85007-3233  
Close of record: 4:00 p.m., February 9, 2006

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items #4 and #9.

A person with a disability may request a reasonable accommodation by contacting Ruthann Smejkal at (602) 364-3959 or smejkar@azdhs.gov. Requests 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 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES  
HEALTH PROGRAMS SERVICES

ARTICLE 2. NEWBORN AND INFANT SCREENING

Section

R9-13-201. Definitions  
R9-13-202. ~~Testing of Newborns~~ Tests for Congenital Disorders  
R9-13-203. ~~Persons Responsible for Tests~~ General Requirements for Newborn and Infant Bloodspot Tests  
R9-13-204. ~~Parent or Guardian Education~~ First Specimen Collection  
R9-13-205. ~~Screening Fees~~ Second Specimen Collection  
R9-13-206. ~~Repealed~~ Reporting Requirements for Specimens  
R9-13-207. ~~Repealed~~ Reporting Requirements for Hearing Test Results  
R9-13-208. Fees

ARTICLE 2. NEWBORN AND INFANT SCREENING

**R9-13-201. Definitions**

In this Article, unless otherwise specified:

1. "Administrator" means an individual in charge of the onsite management of a health care facility.
2. "Abnormal" means a result of an analysis performed as part of a newborn screening test that deviates from the range of values established by the Department.
  1. "Abnormal result" means an outcome that deviates from the range of values established by the Department for an analysis performed as part of a bloodspot test, or for a hearing test.
3. ~~2.~~ "Admitted" means a written acceptance of a newborn by a health care facility the same as in A.A.C. R9-10-201.
4. ~~3.~~ "AHCCCS" means the Arizona Health Care Cost Containment System.
4. "Argininosuccinic acidemia" means a congenital disorder characterized by an inability to metabolize the amino acid, argininosuccinic acid, due to defective argininosuccinate lyase activity.
5. "Audiological equipment" means instruments used to measure a physiological response to determine the presence.

- type, or degree of hearing loss.
6. “Audiologist” means an individual licensed under A.R.S. Title 36, Chapter 17.
  7. “Beta-ketothiolase deficiency” means a congenital disorder characterized by an inability to metabolize 2-methylacetoacetyl-CoA due to defective mitochondrial acetoacetyl-CoA thiolase activity.
  - ~~5-8.~~ “Biotinidase deficiency” means a congenital metabolic disorder characterized by defective biotinidase activity that causes abnormal biotin metabolism.
  - ~~6-9.~~ “Birth center” means a health care facility that is not a hospital and is organized for the sole purpose of delivering newborns.
  10. “Blood sample” means capillary or venous blood, but not cord blood, applied to the filter paper of the specimen collection kit.
  11. “Bloodspot test” means multiple laboratory analyses performed on a blood sample to detect the presence of congenital disorders listed in R9-13-202.
  12. “Carnitine uptake defect” means a congenital disorder characterized by a decrease in the amount of free carnitine due to defective sodium ion-dependent carnitine transporter OCTN2 activity.
  13. “Citrullinemia” means a congenital disorder characterized by an inability to convert the amino acid, citrulline, and aspartic acid into argininosuccinic acid due to defective argininosuccinate synthetase activity.
  - ~~7-14.~~ “Classic galactosemia” means a congenital metabolic disorder characterized by abnormal galactose metabolism due to defective galactose-1-phosphate uridylyltransferase activity.
  8. “Committee” means the newborn screening program committee specified in A.R.S. § 36-694.
  - ~~9-15.~~ “Congenital adrenal hyperplasia” means an endocrine a congenital disorder characterized by decreased cortisol production and increased androgen production due to defective 21-hydroxylase activity.
  16. “Congenital disorder” means an abnormal condition present at birth, as a result of heredity or environmental factors, that impairs normal physiological functioning of a human body.
  - ~~10-17.~~ “Congenital hypothyroidism” means an endocrine a congenital disorder characterized by deficient thyroid hormone production.
  18. “Cystic fibrosis” means a congenital disorder caused by defective function of a transmembrane regulator protein and characterized by damage to and dysfunction of various organs, such as the lungs, pancreas, and reproductive organs.
  - ~~11-19.~~ “Department” means the Arizona Department of Health Services.
  - ~~12.~~ “Director” means the Director of the Department of Health Services.
  - ~~13-20.~~ “Discharge” means the release of a patient from medical care by a health care facility the termination of inpatient services to a newborn or infant.
  14. “Disorder” means a disease or medical condition that may be identified by a laboratory analysis.
  - ~~15-22.~~ “Document” means to establish and maintain information in written, photographic, electronic, or other permanent form.
  23. “Educational materials” means printed or electronic information provided by the Department, explaining newborn and infant screening, or any of the congenital disorders listed in R9-13-202.
  - ~~16-24.~~ “Electronic” means relating to technology that has electrical, digital, magnetic, wireless, optical, or electromagnetic capabilities or similar capabilities the same as in A.R.S. § 44-7002.
  - ~~17-25.~~ “First specimen” means the initial satisfactory specimen on which the newborn screening laboratory performs an analysis to detect a disorder listed in R9-14-502(A) specimen that is collected from a newborn, who is less than five days of age, and sent to the screening laboratory for testing and recording of demographic information.
  26. “Glutaric acidemia type I” means a congenital disorder characterized by an accumulation of glutaric acid due to defective glutaryl-CoA dehydrogenase activity.
  - ~~18-27.~~ “Guardian” means an individual appointed by a court under A.R.S. Title 14, Chapter 5, Article 2.
  - ~~19-28.~~ “Health care facility” means a health care institution defined in A.R.S. § 36-401 where obstetrical care or newborn care is provided.
  - ~~20-29.~~ “Health care provider” means a physician, physician assistant, or registered nurse practitioner, or midwife.
  - ~~21-30.~~ “Health-related services” means the same as in A.R.S. § 36-401.
  31. “Hearing test” means an evaluation of both ears of a newborn or infant, using audiological equipment, for the presence, type, or degree of hearing loss.
  32. “Hemoglobin S/Beta-thalassemia” means a sickle cell disease in which an individual has one sickle cell gene and one gene for beta thalassemia, another inherited hemoglobinopathy.
  33. “Hemoglobin S/C disease” means a sickle cell disease in which an individual has one sickle cell gene and one gene for another inherited hemoglobinopathy, called hemoglobin C.
  - ~~22-34.~~ “Hemoglobinopathy” means any inherited abnormality in the production, structure, or function of hemoglobin a congenital disorder characterized by abnormal production, structure, or functioning of hemoglobin.
  - ~~23-35.~~ “Home birth” means delivery of a newborn, outside a health care facility, for which when the newborn is not hospitalized within 72 hours of delivery.
  24. “Homocystinuria” means a congenital metabolic disorder characterized by abnormal methionine and homocysteine

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- metabolism due to defective cystathione- $\beta$ -synthase activity.
- 25- ~~37.~~ "Hospital" means a health care institution that provides hospital services for the diagnosis and treatment of patients the same as in A.A.C. R9-10-201.
38. "Hospital services" means the same as in A.A.C. R9-10-201.
39. "3-Hydroxy-3-methylglutaric aciduria" means a congenital disorder characterized by the accumulation of 3-hydroxy-3-methylglutaric acid due to a defective 3-hydroxy-3-methylglutaryl-CoA lyase activity.
- 26- ~~40.~~ "Identification code" means an account number a unique set of numbers or letters, or a set of both numbers and letters, assigned by the newborn screening laboratory Department to a health care facility, a health care provider, an audiologist, or another person submitting specimen collection kits to the screening laboratory or hearing test results to the Department.
41. "Infant" means the same as in A.R.S. § 36-694.
42. "Inpatient" means an individual who:
- Is admitted to a hospital.
  - Receives hospital services for 24 consecutive hours, or
  - Is admitted to a birth center.
43. "Inpatient services" means medical services, nursing services, or other health-related services provided to an inpatient in a health care facility.
44. "Isovaleric acidemia" means a congenital disorder characterized by an accumulation of isovaleric acid due to defective isovaleryl-CoA dehydrogenase activity.
45. "Long-chain 3-hydroxy acyl-CoA dehydrogenase deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 12 to 16 carbon atoms in length due to defective long-chain 3-hydroxy acyl-CoA dehydrogenase activity.
- 27- ~~46.~~ "Maple syrup urine disease" means a congenital metabolic disorder of branched chain amino acid metabolism due to defective branched chain-keto acid dehydrogenase activity.
- 28- ~~47.~~ "Medical services" means the same as in A.R.S. § 36-401.
48. "Medium chain acyl-CoA dehydrogenase deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 6 to 10 carbon atoms in length due to defective medium-chain acyl-CoA dehydrogenase activity.
49. "3-Methylcrotonyl-CoA carboxylase deficiency" means a congenital disorder characterized by an accumulation of 3-methylcrotonyl-glycine due to defective 3-methylcrotonyl-CoA carboxylase activity.
50. "Methylmalonic acidemia (Cbl A,B)" means a congenital disorder characterized by an accumulation of methylmalonic acid due to defective activity of methylmalonyl-CoA racemase or adenosylcobalamin synthetase.
51. "Methylmalonic acidemia (mutase deficiency)" means a congenital disorder characterized by an accumulation of methylmalonic acid due to defective methylmalonyl-CoA mutase activity.
- 29- ~~52.~~ "Midwife" means an individual licensed under A.R.S. Title 36, Chapter 6, Article 7 or certified under A.R.S. Title 32, Chapter 15.
53. "Multiple carboxylase deficiency" means a congenital disorder characterized by an inability to transport or metabolize biotin that leads to defective activity of propionyl-CoA carboxylase, beta-methylcrotonyl-CoA carboxylase and pyruvate carboxylase.
- 30- ~~54.~~ "Newborn" means a human from birth through 28 days of age for whom a certificate of live birth is required to be filed under A.R.S. § 36-322 the same as in A.R.S. § 36-694.
- 31- ~~55.~~ "Newborn care" means medical services, nursing services, and health-related services provided to a newborn.
32. "Newborn screening laboratory" means an entity contracted with the Department under A.R.S. § 36-694(C) to perform the newborn screening test.
33. "Newborn screening test" means multiple laboratory analyses performed on a first specimen and a second specimen to detect the presence of endocrine disorders, metabolic disorders, or hemoglobinopathies listed in R9-14-502(A).
- 34- ~~56.~~ "Nursing services" means the same as in A.R.S. § 36-401.
- 35- ~~57.~~ "Obstetrical care" means the medical services, nursing services, and health-related services provided to a woman throughout her pregnancy, labor, delivery, and postpartum.
58. "Organ" means a somewhat independent part of a human body, such as a salivary gland, kidney, or pancreas, which performs a specific function.
- 36- ~~59.~~ "Parent" means a natural, adoptive, or custodial mother or father of a newborn or infant.
- 37- ~~60.~~ "Person" means the state, a municipality, district, or other political subdivision, a cooperative, institution, corporation, company, firm, partnership, individual, or other legal entity.
- 38- ~~61.~~ "Phenylketonuria" means a congenital metabolic disorder characterized by abnormal phenylalanine metabolism due to defective phenylalanine hydroxylase activity.
- 39- ~~62.~~ "Physician" means an individual licensed under A.R.S. Title 32, Chapters 13, 14, 17, or 29.
- 40- ~~63.~~ "Physician assistant" means an individual licensed under A.R.S. Title 32, Chapter 25.
64. "Propionic acidemia" means a congenital disorder characterized by an accumulation of glycine and 3-hydroxypropi-

- onic acid due to defective propionyl-CoA carboxylase activity.
41. ~~65.~~ "Registered nurse practitioner" means the same as in A.R.S. § 32-1601.
42. ~~"Satisfactory specimen" means a specimen collection kit, on which demographic information has been written and blood applied to the filter paper of that specimen collection kit, that meets the newborn screening test requirements.~~
66. ~~"Screening laboratory" means an entity contracted with the Department under A.R.S. § 36-694(C) to perform the bloodspot test.~~
43. ~~67.~~ "Second specimen" means a satisfactory specimen collected after a first specimen, on which the newborn screening laboratory performs analyses to detect the presence of all of the disorders listed in R9-14-502(A) specimen that is sent to the screening laboratory for testing and recording of demographic information, after being collected:
- ~~a.~~ From a newborn after a first specimen; or
  - ~~b.~~ Between five days and one year of age, regardless of whether a first specimen was collected.
68. ~~"Sickle cell anemia" means a sickle cell disease in which an individual has two sickle cell genes.~~
44. ~~69.~~ "Sickle cell disease" means a hemoglobinopathy characterized by the distortion of the red blood cells an abnormally shaped red blood cell resulting from the abnormal structure of the protein, hemoglobin.
70. ~~"Sickle cell gene" means a unit of inheritance that is involved in producing an abnormal type of the protein, hemoglobin, in which the amino acid valine is substituted for the amino acid glutamic acid at a specific location in the hemoglobin.~~
45. ~~71.~~ "Specimen" means capillary or venous blood, but not cord blood, applied to the filter paper of the specimen collection kit a blood sample obtained from and demographic information about a newborn or infant.
46. ~~72.~~ "Specimen collection kit" means a form supplied by the Department for obtaining information specified in R9-14-502(C), with an attached strip of filter paper for collecting a specimen a strip of filter paper for collecting a blood sample attached to a form for obtaining the information specified in R9-13-203(A)(3) about a newborn or infant.
47. ~~73.~~ "Test" means a laboratory analysis performed on body fluid, tissue, or excretion to determine the presence or absence of a disorder.
48. ~~74.~~ "Transfer" means discharging and relocating a newborn from a health care facility to another health care facility a health care facility discharging a newborn and sending the newborn to a hospital for inpatient medical services without the intent that the patient will be returned to the sending health care facility.
49. ~~75.~~ "Transfusion" means the infusion of blood or blood products into the body of an individual.
76. ~~"Trifunctional protein deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 12 to 18 carbon atoms in length due to defective mitochondrial trifunctional protein activity.~~
77. ~~"Tyrosinemia type I" means a congenital disorder characterized by an accumulation of the amino acid, tyrosine, due to defective fumarylacetoacetate hydrolase activity.~~
50. ~~"Unsatisfactory specimen" means a specimen collection kit, on which demographic information has been written and blood applied to the filter paper of that specimen collection kit that is rejected by the newborn screening laboratory for any of the reasons specified in R9-14-502(B).~~
51. ~~78.~~ "Verify" means to obtain information through sources that include the newborn screening program, a health care provider, a health care facility, or a documented record to confirm by obtaining information through sources that may include the newborn screening program, a health care provider, a health care facility, or a documented record.
79. ~~"Very long-chain acyl-CoA dehydrogenase deficiency" means a congenital disorder characterized by an inability to metabolize fatty acids that are 14 to 18 carbon atoms in length due to defective very long-chain acyl-CoA dehydrogenase activity.~~
52. ~~80.~~ "Working day" means 8:00 a.m. through 5:00 p.m. Monday through Friday, excluding state holidays.

**R9-13-202. Testing of Newborns Tests for Congenital Disorders**

- A.** A newborn screening test shall screen for the presence of the following disorders:
1. Biotinidase deficiency;
  2. Classic galactosemia;
  3. Congenital adrenal hyperplasia;
  4. Congenital hypothyroidism;
  5. Hemoglobinopathy;
  6. Homocystinuria;
  7. Maple syrup urine disease, and
  8. Phenylketonuria.
- B.** A health care facility's designee, a health care provider, or the health care provider's designee shall:
1. Collect a satisfactory specimen;
  2. Complete the information on the specimen collection kit; and
  3. Submit the specimen collection kit to the newborn screening laboratory no later than 24 hours, or the next working day, after the specimen is collected.
- C.** A health care facility's designee, a health care provider, or the health care provider's designee shall provide the following

information on the specimen collection kit provided by the Department:

1. The newborn's name, gender, ethnicity, medical record number, and if applicable, AHCCCS identification number;
  2. The newborn's type of food;
  3. Whether the newborn is a single or multiple birth;
  4. Whether the newborn has a medical condition that may affect the newborn screening test results;
  5. Whether the newborn received antibiotics or a blood transfusion and, if applicable, the date of the last blood transfusion;
  6. The method of specimen collection;
  7. The date and time of birth and newborn's weight at birth;
  8. The date and time of specimen collection and the newborn's weight when the specimen is collected;
  9. The name and identification code of the person submitting the specimen;
  10. The name, identification code, and address of the newborn's health care provider;
  11. The mother's name, date of birth, address, and if applicable, AHCCCS identification number; and
  12. Whether the parent or guardian refused the newborn screening test.
- D.** If a parent or guardian refuses the newborn screening test, a health care facility's designee, a health care provider, or the health care provider's designee shall:
1. Document the refusal in the newborn's medical record; and
  2. Submit the specimen collection kit, with the form completed, to the newborn screening laboratory no later than 24 hours or the next working day after the form is completed.
- E.** A health care facility's designee, a health care provider, or the health care provider's designee shall collect a first specimen according to whichever of the following occurs first:
1. A newborn is 48 to 72 hours old;
  2. Before and proximate to a newborn's discharge time; or
  3. Before a transfusion, unless specified otherwise by a physician, physician assistant, or registered nurse practitioner.
- F.** A birth center is exempt from the requirement in R9-14-502(E)(2) to collect a first specimen before and proximate to a newborn's discharge time.
- G.** After a first specimen is collected, a health care facility's designee, a health care provider, or the health care provider's designee shall collect a second specimen according to whichever of the following occurs first:
1. If a home birth attended by a health care provider, when the newborn is seven through 14 days old;
  2. If a newborn is in a health care facility, when the newborn is seven through 14 days old; or
  3. At the time of a newborn's first visit to a health care provider after discharge.
- H.** Before a newborn is discharged, a health care facility's designee, a health care provider, or the health care provider's designee shall inform the newborn's parent or guardian of the requirement for a second specimen if the second specimen has not been collected.
- I.** If a health care facility's designee, a health care provider, or the health care provider's designee cannot verify that a first specimen has been collected on an individual who is one year old or less, the health care provider or the health care provider's designee shall collect a specimen and submit the specimen to the newborn screening laboratory.
- J.** A specimen is unsatisfactory for the newborn screening test if:
1. There is an insufficient quantity of blood to complete the newborn screening test;
  2. The blood is clotted or layered;
  3. The blood has serum rings;
  4. The blood is diluted or discolored;
  5. The blood will not clute from the filter paper;
  6. The blood has been applied to both sides of the filter paper;
  7. The blood or the filter paper is contaminated;
  8. The filter paper is scratched or abraded; or
  9. The specimen is received by the newborn screening laboratory 14 days or more after the specimen is collected.
- K.** The newborn screening laboratory shall report results from all newborn screening tests:
1. In writing, to the person submitting the specimen and the health care provider identified on the specimen collection kit, and
  2. To the Department.
- L.** A health care facility's designee, a health care provider, or the health care provider's designee who orders a test, shall send the results in writing to the Department, if the test is:
1. Performed by a laboratory other than the newborn screening laboratory, and
  2. In response to an abnormal newborn screening test.
- M.** Newborn screening test results are confidential subject to the disclosure provisions of A.A.C. Title 9, Chapter 1, Article 3. A bloodspot test shall include laboratory analyses for the following congenital disorders:
1. Argininosuccinic acidemia.
  2. Biotinidase deficiency.

3. Citrullinemia.
4. Classic galactosemia.
5. Congenital adrenal hyperplasia.
6. Congenital hypothyroidism.
7. Hemoglobin S/Beta-thalassemia.
8. Hemoglobin S/C disease.
9. Homocystinuria.
10. Maple syrup urine disease.
11. Phenylketonuria.
12. Sickle cell anemia.
13. Tyrosinemia type I.
14. 3-Methylcrotonyl-CoA carboxylase deficiency.
15. 3-Hydroxy-3-methylglutaric aciduria.
16. Beta-ketothiolase deficiency.
17. Carnitine uptake defect.
18. Glutaric acidemia type I.
19. Isovaleric acidemia.
20. Long-chain 3-hydroxy acyl-CoA dehydrogenase deficiency.
21. Medium chain acyl-CoA dehydrogenase deficiency.
22. Methylmalonic acidemia (Cbl A,B).
23. Methylmalonic acidemia (mutase deficiency).
24. Multiple carboxylase deficiency.
25. Propionic acidemia.
26. Trifunctional protein deficiency.
27. Very long-chain acyl-CoA dehydrogenase deficiency, and
28. Cystic fibrosis.

**R9-13-203. ~~Persons Responsible for Tests~~ General Requirements for Newborn and Infant Bloodspot Tests**

- ~~A. An administrator shall ensure that a first specimen is collected from each newborn born at the health care facility unless the newborn is transferred before the newborn is three days old or the newborn dies before the specimen is collected.~~
- ~~B. If a newborn is admitted to a health care facility or transferred to another health care facility, the administrator of the receiving facility shall verify that the first specimen has been collected before admission or transfer. If the administrator cannot verify that the first specimen has been collected, the administrator shall ensure that a health care provider or the health care provider's designee collects the specimen.~~
- ~~C. Unless an administrator can verify that a second specimen has been collected from a newborn who is seven to 14 days old, the administrator shall ensure that a second specimen is collected from a newborn who is:
  1. Not discharged;
  2. Admitted to the health care facility; or
  3. Transferred to the health care facility.~~
- ~~D. If a specimen is collected, the administrator shall ensure that all the information requested on the specimen collection kit is completed.~~
- ~~E. If a home birth is attended by a health care provider, the health care provider or health care provider's designee shall:
  1. Collect the first specimen from the newborn;
  2. Complete the information requested on the specimen collection kit; and
  3. Submit the specimen collection kit to the newborn screening laboratory within 24 hours after the specimen is collected.~~
- ~~F. If a home birth is not attended by a health care provider and a local or state registrar of vital statistics is notified under A.R.S. § 36-322(D), the local or state registrar shall inform the health officer of the county identified by the address of the newborn's parent or guardian of the birth.~~
- A. When a bloodspot test is ordered for a newborn or an infant, a health care facility's designee, a health care provider, or the health care provider's designee shall:
  1. Only use a specimen collection kit supplied by the Department;
  2. Collect a blood sample from the newborn or infant on a specimen collection kit;
  3. Complete the following information on the specimen collection kit:
    - a. The newborn's or infant's name, gender, race, ethnicity, medical record number, and if applicable, AHCCCS identification number;
    - b. The newborn's or infant's type of food or food source;
    - c. Whether the newborn or infant is from a single or a multiple birth;
    - d. If the newborn or infant is from a multiple birth, the birth order of the newborn or infant;

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- e. Whether the newborn or infant has a medical condition that may affect the bloodspot test results;
- f. Whether the newborn or infant received antibiotics or a blood transfusion and, if applicable, the date of the last blood transfusion;
- g. The method of blood sample collection;
- h. The date and time of birth, and the newborn's or infant's weight at birth;
- i. The date and time of blood sample collection, and the newborn's or infant's weight when the blood sample is collected;
- j. The name and identification code of the health care facility or health care provider submitting the specimen collection kit;
- k. The name, identification code, and address of the health care provider responsible for the management of medical services provided to the newborn or infant;
- l. Except as provided in subsection (A)(3)(m), the mother's first and last names, date of birth, name prior to first marriage, mailing address, phone number, and if applicable, AHCCCS identification number; and
- m. If the newborn's or infant's mother does not have physical custody of the newborn or infant, the first and last names, mailing address, and phone number of the person who has physical custody of the newborn or infant; and
- 4. Submit the specimen collection kit to the screening laboratory no later than 24 hours or the next working day after the blood sample is collected.
- B.** A health care facility or a health care provider submitting a first specimen to the screening laboratory shall pay the Department the fee in R9-13-208(A).
- C.** A person who submits a second specimen to the screening laboratory shall:
  - 1. Pay the fee in R9-13-208(B) to the Department, or
  - 2. Provide the following information to the screening laboratory for billing purposes:
    - a. The name, mailing address, and phone number of the newborn's or infant's parent or the individual responsible for paying, if not the parent; and
    - b. If the individual responsible for paying has health care insurance for the newborn or infant, information about the health care insurance, including:
      - i. The policyholder's name;
      - ii. The name and billing address of the health care insurance company;
      - iii. The member identification number;
      - iv. The group number, if applicable; and
      - v. The effective date of the health care insurance; or
    - c. That the individual responsible for paying has no health care insurance for the newborn or infant.
- D.** When a health care insurance company or an individual responsible for paying is identified as specified in subsection (C)(2), the health care insurance company or the individual responsible for paying shall pay the Department the fee in R9-13-208(B).
- E.** The screening laboratory shall perform a bloodspot test on a blood sample from a specimen collection kit if:
  - 1. The blood sample on the specimen collection kit:
    - a. Contains a sufficient quantity of blood to complete the bloodspot test,
    - b. Is not clotted or layered,
    - c. Does not have serum rings,
    - d. Is not diluted or discolored,
    - e. Will elute from the filter paper,
    - f. Has not been applied to both sides of the filter paper, and
    - g. Is not contaminated;
  - 2. The filter paper is not contaminated, scratched, or abraded;
  - 3. The information on the specimen collection kit is sufficient to identify:
    - a. The newborn or infant, and
    - b. The person who ordered the bloodspot test or caused the bloodspot test to be ordered; and
  - 4. The screening laboratory receives the specimen collection kit within 14 days after the blood sample is collected.
- F.** When a home birth not attended by a health care provider is reported to a local registrar, a deputy local registrar, or the state registrar under A.R.S. § 36-333:
  - 1. The local registrar, deputy local registrar, or state registrar shall notify the local health department of the county where the birth occurred; and
  - 2. The local health department's designee shall collect a specimen from the newborn or infant according to the requirements in R9-13-204(A)(2) or R9-13-205(C).
- G.** A health care facility's designee, a health care provider, or the health care provider's designee shall ensure that:
  - 1. Educational materials are provided to the newborn's or infant's parent or guardian, and
  - 2. The newborn's or infant's parent or guardian is informed of the requirement for a second specimen if the second specimen has not been collected.

H. For a home birth, a health care provider or the health care provider's designee shall provide educational materials to a newborn's or infant's parent or guardian.

**R9-13-204. ~~Parent or Guardian Education~~ First Specimen Collection**

- ~~A. The Department shall provide written educational materials about the newborn screening test to a health care facility or health care provider upon request.~~
- ~~B. An administrator shall ensure that the educational materials provided by the Department are given to a newborn's parent or guardian before the newborn is discharged.~~
- ~~C. For a home birth, a health care provider or health care provider's designee shall give the educational materials provided by the Department to a newborn's parent or guardian before a first specimen is collected.~~
- ~~D. A health care provider or health care provider's designee shall explain the purpose for the newborn screening test, as stated in the educational materials, to a newborn's parent or guardian before a specimen is collected.~~
- A. When a newborn is born in a hospital, the hospital's designee shall collect a first specimen from a newborn according to whichever of the following occurs first:
1. Before a transfusion, unless specified otherwise by a physician, physician assistant, or registered nurse practitioner;
  2. When the newborn is 24 to 72 hours old; or
  3. Before the newborn is discharged, unless the newborn is:
    - a. Transferred to another hospital before the newborn is 48 hours old; or
    - b. Dies before the newborn is 72 hours old.
- B. If a newborn is admitted or transferred to a hospital, the receiving hospital's designee shall:
1. Verify that the first specimen was collected before admission or transfer, or
  2. Collect a first specimen from the newborn, according to the requirements in subsection (A).
- C. When a newborn is born in a birth center, the birth center's designee shall collect a first specimen from the newborn according to subsections (A)(1) or (A)(2).
- D. For a home birth attended by a health care provider, the health care provider or the health care provider's designee shall collect a first specimen from the newborn according to the requirements in subsection (A)(2).

**R9-13-205. ~~Screening Fees~~ Second Specimen Collection**

~~A person who submits a specimen to the newborn screening laboratory shall pay \$20.00 for each specimen analyzed for all the disorders listed in R9-14-502(A).~~

- A. After discharge from a health care facility or after a home birth, a health care provider or the health care provider's designee shall:
1. Collect a second specimen from a newborn or infant:
    - a. When the newborn is 5 to 10 days old; or
    - b. At the time of a newborn's or infant's first visit to the health care provider; or
  2. Verify that another health care provider has collected the second specimen from the newborn or infant.
- B. If a newborn is an inpatient of a health care facility at 5 days of age, the health care facility's designee shall collect a second specimen from the newborn:
1. When the newborn is 5 to 10 days old; or
  2. If the newborn is discharged from the facility when the newborn is between 5 and 10 days of age, before discharge.
- C. For a home birth not attended by a health care provider, a local health department's designee shall collect a specimen from a newborn or infant if a second specimen has not already been collected from the newborn or infant.
- D. A health care provider or the health care provider's designee shall ensure that a subsequent specimen is ordered for a newborn or child less than one year of age, according to the requirements in R9-13-203, when the health care provider or the health care provider's designee:
1. Begins providing health care to the newborn or child; and
  2. Cannot verify the results of a bloodspot test that was conducted on a second specimen from the newborn or a child.

**R9-13-206. ~~Repeated~~ Reporting Requirements for Specimens**

- A. The screening laboratory shall:
1. Report in written or electronic format:
    - a. The results of a bloodspot test on a specimen; and
    - b. For a specimen that does not meet the requirements for testing specified in R9-13-203(E):
      - i. That the bloodspot test was not performed on the specimen; and
      - ii. The reason the bloodspot test was not performed; and
  2. Send the report to:
    - a. The health care provider identified on the specimen collection kit;
    - b. If applicable, the health care facility identified on the specimen collection kit; and
    - c. The Department.
- B. The screening laboratory shall report bloodspot test results for the congenital disorders specified in:

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1. R9-13-202(1) through (13), on the effective date of these rules;
2. R9-13-202(14) through (27), no later than August 31, 2006; and
3. R9-13-202(28), no later than June 30, 2007.

- C.** A health care facility's designee, a health care provider, or the health care provider's designee, who orders a subsequent test on a newborn or infant in response to an abnormal result on a bloodspot test, shall send the results of the subsequent test in writing to the Department, if the subsequent test is not performed by the screening laboratory.
- D.** Bloodspot test results are confidential subject to the disclosure provisions of 9 A.A.C. 1, Article 3, and A.R.S. §§ 12-2801 and 12-2802.

**R9-13-207. Repealed Reporting Requirements for Hearing Test Results**

- A.** When an initial hearing test is performed on a newborn, a health care facility's designee, a health care provider, or the health care provider's designee shall provide to the Department, as specified in subsection (E), the following information:
1. The newborn's name, date of birth, gender, and medical record number;
  2. Whether the newborn is from a single or multiple birth;
  3. If the newborn is from a multiple birth, the birth order of the newborn;
  4. The newborn's mother's first and last names;
  5. The name and identification code of the health care facility or health care provider submitting the hearing test results;
  6. The name and identification code of the health care facility of birth;
  7. The name of the health care provider responsible for the coordination of medical services for the newborn;
  8. The date of the hearing test;
  9. Whether or not the hearing test was performed when the newborn was an inpatient;
  10. The audiological equipment used for the hearing test and the type of hearing test performed;
  11. The hearing test result for each of the newborn's ears; and
  12. The name, address, and phone number of the contact person for the health care facility or health care provider.
- B.** In addition to the information in subsection (A), if the reported results of an initial hearing test on a newborn include an abnormal result, a health care facility's designee, a health care provider, or the health care provider's designee shall provide to the Department, as specified in subsection (E), the following information:
1. The newborn's race, ethnicity, and AHCCCS identification number, if applicable;
  2. Except as provided in subsection (B)(3), the mother's date of birth, name prior to first marriage, mailing address, and phone number;
  3. If the newborn's mother does not have physical custody of the newborn, the first and last names, mailing address, and phone number of the person who has physical custody of the newborn;
  4. The name of the health care provider who will be responsible for the coordination of medical services for the newborn after discharge from the health care facility; and
  5. The name and phone number of the person to whom the newborn's parent was referred for a subsequent hearing test.
- C.** When a subsequent hearing test is performed on a newborn or an infant, the health care facility, health care provider, or other person that performs the subsequent hearing test shall provide to the Department, as specified in subsection (E), the following information:
1. The newborn's or infant's name, date of birth, and gender;
  2. Whether the newborn or infant is from a single or a multiple birth;
  3. If the newborn or infant is from a multiple birth, the birth order of the newborn or infant;
  4. The newborn's or infant's mother's first and last names, and date of birth;
  5. The name of the health care facility where the initial hearing test was performed, or the name and address of the health care provider who performed the initial hearing test;
  6. The name of the health care facility of birth;
  7. The name and identification code of the person submitting the subsequent hearing test results;
  8. The date of the subsequent hearing test;
  9. The audiological equipment used for the subsequent hearing test and the type of hearing test performed;
  10. The result for each of the newborn's or infant's ears on the subsequent hearing test; and
  11. The name, address, and phone number of the contact person for the health care facility, health care provider, or other person that performed the subsequent hearing test.
- D.** In addition to the information in subsection (C), if the reported results of a subsequent hearing test include an abnormal result, the person submitting the report on the subsequent hearing test on a newborn or infant shall provide to the Department, as specified in subsection (E), the following information:
1. Except as provided in subsection (D)(2), the newborn's or infant's mother's mailing address and phone number;
  2. If the newborn's or infant's mother does not have physical custody of the newborn or infant, the first and last names, mailing address, and phone number of the person who has physical custody of the newborn or infant;
  3. The name of the health care provider who is responsible for the coordination of medical services for the newborn or infant; and

4. If applicable, the name and phone number of the person to whom the newborn's or infant's parent was referred for further hearing tests, evaluation services, specialty care, or early intervention.
- E. A health care facility's designee, health care provider, health care provider's designee, or other person required to report under subsections (A), (B), (C), or (D) shall submit, in an electronic format, the information specified in subsections (A), (B), (C), or (D) for the hearing tests performed each week by the sixth day of the subsequent week.

**R9-13-208. Fees**

- A. The fee for a first specimen is \$30.00.
- B. The fee for a second specimen is \$40.00.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

[R05-499]

**PREAMBLE**

1. **Sections Affected** **Rulemaking Action**  
R12-4-102 Amend
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. § 17-231  
Implementing statute: A.R.S. §§ 17-332, 17-333, and 17-345
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 11 A.A.R. 4142, October 21, 2005
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Carlos Ramírez, Rule Writer  
Address: Arizona Game and Fish Department  
2221 W. Greenway Rd DORR  
Phoenix, AZ 85023-4399  
Telephone: (602) 789-3288  
Fax: (602) 789-3677
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

During the First Regular Session of the 47th Arizona State Legislature, the Game and Fish Commission pursued amendments to A.R.S. § 17-333 to increase the maximum amount that may be charged for the licenses, tags, permits, and stamps listed under the statute, and to authorize new fees for new types of licenses and tags. The purpose of the legislation was to address increasing operational expenses at a time of declining agency revenues. Both A.R.S. §§ 17-332 and 17-345 were also amended to raise fees for duplicate licenses and tags and surcharges. The Arizona Game and Fish Department is an agency supported principally on the dedicated funds generated from the sale of these items as well as other sources. Over the past five years sales of licenses, tags, stamps and permits have steadily decreased while operational costs and Department responsibilities have increased or expanded. These costs include but are not limited to: increasing fuel prices, rising agency property expenses, employee insurance and turnover, public access issues, and outdoor and wildlife programs. The agency does not receive money from the state general fund to address these costs.

In addition to these concerns, the Department is facing environmental factors that present obstacles to recreational opportunities and therefore impair the agency's revenue capabilities. The state's extended drought continues to affect wildlife habitat, which requires the agency to spend resources to maintain those areas so that they remain functional. The state's forests are recovering after significant damage caused by forest fires, of particular note the Rodeo-Che-diski fire in 2002. Public access is still limited in some areas due to the extent of the damage and the ongoing recovery. Emerging wildlife diseases have the potential to reduce native populations and threaten the state's biological diversity as well as limit recreational opportunities, prompting the agency to adopt a more aggressive stance in monitoring for these conditions.

Notices of Proposed Rulemaking

The Commission's objectives for proposing this rulemaking are to generate revenue to carry out its duties effectively in managing the state's wildlife resources and to provide quality recreational wildlife opportunities and access for the regulated community. The proposed rule prescribes new fees for the licenses, tags, stamps, and permits listed under R12-4-102 and to add new types of licenses and permits authorized by A.R.S. § 17-333. The Department is adding the following licenses and permits:

- The Class J resident family hunting license and the Class K combination resident family hunting and fishing license. The Department's objective is to promote hunting and fishing in families and youth by prescribing in rule group licenses for families at a reduced price. The fees for these licenses are determined by the fees for general hunting and fishing licenses.
- The Class L super conservation fishing license, the Class M super conservation hunting license, and the Class N combination super conservation hunting and fishing license. These licenses give the purchaser the same privileges to hunt and fish as if purchasing each license individually but at a reduced price. The Class L license combines a Class A general fishing license, a Class U urban fishing license, and a trout stamp. The Class M license combines a Class G general hunting license and any stamp authorized by the Commission. The Class N license combines a Class A general fishing license, a Class G general hunting license, a Class U urban fishing license, a trout stamp, and any stamp authorized by the Commission.

Most proposed fees are determined by subtracting the current fee for a license tag, stamp, or permit listed in R12-4-102 from the recently amended statutory fee ceiling. The difference is divided by two, and that amount is then added to the current fee. An additional surcharge of \$3.00 is added if applicable under A.R.S. § 17-345. For those new licenses that have no existing fee, the Commission is proposing to prescribe the statutory maximum as the new fee. The Commission did not use these methods when determining the following fees:

- The fee for a nonresident bighorn sheep hunt permit-tag and nonpermit-tag will be increased to \$1400.
- To encourage youth hunting in this state, the Commission proposes to create four big game hunt permit-tag classifications for youth, both resident and nonresident, at the following fees: junior elk at \$50, junior deer at \$25, junior javelina at \$15, and junior turkey at \$10.
- The fee for a Class F, combination hunting and fishing license, for resident and nonresident youth will remain at the current fee of \$23.50. However, because the attached surcharge increased to \$3, the fee will increase to \$26.50.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**

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:**

Increased fees for the licenses, tags, stamps, and permits will most significantly affect members of the regulated community, both resident and nonresident, and the Game and Fish Department. The Department has applied a common equation to almost all the fees that are being amended, but the percentage increase is not equal. Although fees for nonresidents will increase more than residents, the agency holds that it is in its best interest to maintain opportunities for the resident community not only to generate revenue, but to instill a sense of ownership in the local wildlife resource and to maintain consistently available participation in the management of that resource. Increased fees for certain special licenses, such as the guide license or the taxidermist license, will likely affect individuals who receive income from those activities. However, the Department does not anticipate the fee increase will significantly affect an individual's ability to practice that activity or have a significant impact on income, revenue, or employment in this state related to that activity. The Department does not believe the proposed rulemaking will affect the general fund. The Department holds that there are no alternative means of achieving the objectives of the proposed rulemaking.

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

Name: Carlos Ramirez, Rule Writer  
Address: Arizona Game and Fish Department  
2221 W. Greenway Rd DORR  
Phoenix, AZ 85023-4399  
Telephone: (602) 789-3288

**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:**

The Game and Fish Commission will hold a public hearing to receive oral comment from the regulated community on:

Date: February 10-11, 2006

Time: TBA

Location: Shilo Inn  
1550 S. Castle Dome Rd.  
Yuma, AZ 85365

Nature: Game and Fish Commission meeting

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rule-making or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Dustin McKissen at (602)789-3288 (Voice); 1-800-367-8939 (TDD); 2221 W. Greenway Road, Phoenix, Arizona 85023. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

**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:**

The base text of the rule reflects the amendments currently being made under a separate rulemaking.

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

Section

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

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

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

~~Persons purchasing the licenses, tags, stamps, or permits~~ An individual who purchases a license, tag, stamp, or permit listed in this Section shall pay ~~the prescribed~~ all applicable fees at the time of application, or ~~the pay~~ pay fees as prescribed by the Director under R12-4-115.

Notices of Proposed Rulemaking

<b>Hunting and Fishing License Fees</b>	<b><del>Fees Effective for Licenses, Tags, Stamps, and Permits to Be Used Until 2005</del></b>	<b><del>Fees Effective for Licenses, Tags, Stamps, and Permits to Be Used Beginning in 2005</del></b>	<b><u>Fees effective for licenses, tags, stamps, and permits to be used beginning in 2007</u></b>
<b>Class A, General Fishing License</b>			
· Resident	\$18.00	\$18.00	\$23.50
· Nonresident Pursuant to <del>Under</del> A.R.S. § 17-333(A)(1), the fee for this license issued in November or December of the year for which the license is valid is half price; that includes half of the surcharge prescribed as authorized by A.R.S. § 17-345.	\$51.50	\$51.50	\$88.00
<b>Class B, Four-month Fishing License</b>			
· Nonresident	\$37.50	\$37.50	\$39.75
<b>Class C, Five-day Fishing License</b>			
· Nonresident	\$26.00	\$26.00	\$32.00 + \$9.00 for each additional day
<b>Class D, One-day Fishing License</b>			
· Resident <del>or Nonresident</del>	\$12.50	\$12.50	\$16.25 + \$8.00 for each additional day
· <u>Nonresident</u>			\$17.25 + 9.00 for each additional day
<b>Class E, Colorado River Only Fishing License</b>			
· Nonresident	\$42.50	\$42.50	\$48.75
<b>Class F, Combination Hunting and Fishing License</b>			
· Resident Adult	\$44.00	\$44.00	\$54.00
· Nonresident Adult	\$177.50	\$177.50	\$225.75
· Resident or Nonresident Youth. Fee applies before and through the calendar year of the applicant's 20th birthday.	\$25.50	\$25.50	\$26.50
<b>Class G, General Hunting License</b>			
· Resident	\$25.50	\$25.50	\$32.25
· Nonresident	\$113.50	\$113.50	\$151.25
<b>Class H, Three-day Hunting License</b>			
· Nonresident	\$51.50	\$51.50	\$61.25
· Resident Youth Group Two-day Fishing License	\$25.00	\$25.00	\$25.00
<b>Class I, Resident Family Fishing License</b>			

*Arizona Administrative Register / Secretary of State*  
**Notices of Proposed Rulemaking**

· For primary adult		\$28.50	\$39.25
· For one additional adult in the immediate family, as prescribed in A.R.S. § 17-333(A)(12)		+ \$22.80	+ \$31.40
· For any additional children in the immediate family, as prescribed in A.R.S. § 17-333(A)(12)		+ \$2.00 per child	+ \$2.00 per child
<b><u>Class J Resident Family Hunting License</u></b>			
· For primary adult			\$32.25
· For one additional adult in the immediate family, as prescribed in A.R.S. § 17-333			+25.80
· For any additional children in the immediate family, as prescribed in A.R.S. § 17-333(A)(12)			+\$15.00 per child
<b><u>Class K Combination Resident Family Hunting and Fishing License</u></b>			
· For primary adult			\$54.00
· For one additional adult in the immediate family, as prescribed in A.R.S. § 17-333			+\$43.20
· For any additional children in the immediate family, as prescribed in A.R.S. § 17-333(A)(12)			+\$20.00 per child
<b><u>Class L Super Conservation Fishing License</u></b>			
· Resident			\$53.00
· Nonresident			\$63.00
<b><u>Class M Super Conservation Hunting License</u></b>			
· Resident			\$118.00
<b><u>Class N Combination Super Conservation Hunting and Fishing License</u></b>			
· Resident			\$163.00
<b><u>Class U, Urban Fishing License</u></b>			
· Resident or Nonresident	\$16.00	\$16.00	\$18.50
<b><u>Hunt Permit-tag Fees</u></b>			
<b>Antelope</b>			
· Resident	\$59.50	\$65.00	\$77.50
· Nonresident	\$299.50	\$325.00	\$477.50
<b>Bear</b>			
· Resident	\$13.00	\$14.50	\$22.25
· Nonresident	\$183.00	\$200.00	\$237.50
<b>Bighorn Sheep</b>			
· Resident	\$179.50	\$195.00	\$265.00
· Nonresident	\$915.00	\$1,000.00	\$1,400.00
<b>Buffalo</b>			

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**Notices of Proposed Rulemaking**

· Adult Bulls or Any Buffalo			
· Resident	\$750.00	\$750.00	\$1,087.50
· Nonresident	\$3,750.00	\$3,750.00	\$5,444.75
· Adult Cows			
· Resident	\$450.00	\$450.00	\$652.00
· Nonresident	\$2,250.00	\$2,250.00	\$3,255.25
· Yearling			
· Resident	\$240.00	\$240.00	\$355.25
· Nonresident	\$1,200.00	\$1,200.00	\$1,747.25
· Yearling or Cow			
· Resident	\$450.00	\$450.00	\$652.00
· Nonresident	\$2,250.00	\$2,250.00	\$3,255.25
Deer and Archery Deer			
· Resident	\$17.50	\$19.50	\$34.75
· Nonresident	\$108.50	\$125.50	\$225.25
· <u>Junior, resident and nonresident</u>			\$25.00
Elk			
· Resident	\$71.50	\$78.00	\$114.00
· Nonresident	\$366.00	\$400.00	\$587.50
· <u>Junior, resident and nonresident</u>			\$50.00
Javelina and Archery Javelina			
· Resident	\$11.00	\$12.50	\$21.25
· Nonresident	\$63.00	\$70.00	\$97.50
· <u>Junior, resident and nonresident</u>			\$15.00
Mountain Lion			
· Resident	\$13.00	\$10.00	\$14.50
· Nonresident	\$183.00	\$200.00	\$225.00
Turkey and Archery Turkey			
· Resident	\$10.00	\$11.00	\$18.00
· Nonresident	\$50.50	\$50.50	\$70.25
· <u>Junior, resident and nonresident</u>			\$10.00
Sandhill Crane			
· Resident or Nonresident	\$5.00	\$5.00	\$7.50
<b>Nonpermit-tag and Restricted Nonpermit-tag Fees</b>			
Antelope			
· Resident	\$59.50	\$65.00	\$77.50

*Arizona Administrative Register / Secretary of State*  
**Notices of Proposed Rulemaking**

· Nonresident	\$299.50	\$325.00	\$477.50
Bear			
· Resident	\$13.00	\$14.50	\$22.25
· Nonresident	\$183.00	\$200.00	\$237.50
Bighorn Sheep			
· Resident	\$179.50	\$195.00	\$265.00
· Nonresident	\$915.00	\$1,000.00	\$1,400.00
Buffalo			
· Adult Bulls or Any Buffalo			
· Resident	\$750.00	\$750.00	\$1,087.50
· Nonresident	\$3,750.00	\$3,750.00	\$5,444.75
· Adult Cows			
· Resident	\$450.00	\$450.00	\$652.00
· Nonresident	\$2,250.00	\$2,250.00	\$3,255.25
· Yearling			
· Resident	\$240.00	\$240.00	\$355.25
· Nonresident	\$1,200.00	\$1,200.00	\$1,747.25
· Yearling or Cow			
· Resident	\$450.00	\$450.00	\$652.00
· Nonresident	\$2,250.00	\$2,250.00	\$3,255.25
Deer and Archery Deer			
· Resident	\$17.50	\$19.50	
· Nonresident	\$108.50	\$125.50	
<u>Deer and Archery Deer, Class A</u>			
· Resident			\$84.75
· Nonresident			\$662.75
<u>Deer and Archery Deer, Class B</u>			
· Resident			\$34.75
· Nonresident			\$225.25
Elk			
· Resident	\$71.50	\$78.00	
· Nonresident	\$366.00	\$400.00	
<u>Elk, Class A</u>			
· Resident			\$214.00
· Nonresident			\$1,800.00
<u>Elk, Class B</u>			

*Arizona Administrative Register / Secretary of State*  
**Notices of Proposed Rulemaking**

· Resident			<u>\$114.00</u>
· Nonresident			<u>\$587.50</u>
Javelina and Archery Javelina			
· Resident	<u>\$11.00</u>	<u>\$12.50</u>	<u>\$21.25</u>
· Nonresident	<u>\$63.00</u>	<u>\$70.00</u>	<u>\$97.50</u>
Mountain Lion			
· Resident	<u>\$13.00</u>	<u>\$10.00</u>	<u>\$14.50</u>
· Nonresident	<u>\$183.00</u>	<u>\$200.00</u>	<u>\$225.00</u>
Turkey and Archery Turkey			
· Resident	<u>\$10.00</u>	<u>\$11.00</u>	<u>\$18.00</u>
· Nonresident	<u>\$50.50</u>	<u>\$50.50</u>	<u>\$70.25</u>
Sandhill Crane			
· Resident or Nonresident		<u>\$5.00</u>	<u>\$7.50</u>
<b>Stamps and Special Use Permit Fees</b>			
Arizona Colorado River Special Use Permit Stamp. For use by California fishing licensees <u>license holders</u> , resident or nonresident.	<u>\$3.00</u>	<u>\$3.00</u>	<u>\$3.00</u>
Arizona Colorado River Special Use Permit Stamp. For use by Nevada fishing licensees, resident or nonresident as prescribed by R12-4-312.	<u>\$3.00</u>	<u>\$3.00</u>	<u>\$3.00</u>
Arizona Lake Powell Stamp. For use by resident Utah licensees.	<u>\$3.00</u>	<u>\$3.00</u>	<u>\$3.00</u>
Bobcat Permit Tag. For resident or nonresident.	<u>\$2.00</u>	<u>\$2.00</u>	<u>\$3.00</u>
State Waterfowl Stamp. <del>Validates a resident or nonresident Class F, G, or H</del> <u>Validates a hunting license for ducks, geese, and swans to allow the license holder to take waterfowl as prescribed in R12-4-203.</u>	<u>\$7.50</u>	<u>\$7.50</u>	<u>\$8.75</u>
State Migratory Bird Stamp, as prescribed in A.R.S. § 17-333.03. <del>Resident, resident</del> or nonresident. <u>Validates a hunting license to allow the license holder to take migratory game birds as prescribed in R12-4-203.</u>	<u>\$3.00</u>	<u>\$3.00</u>	<u>\$4.50</u>
Trout Stamp. <del>When affixed to the back of the license, validates</del> <u>Validates a Class A license to allow the license holder to take for trout.</u>			
· Resident	<u>\$10.50</u>	<u>\$10.50</u>	<u>\$15.75</u>
· Nonresident	<u>\$49.50</u>	<u>\$49.50</u>	<u>\$57.75</u>

*Arizona Administrative Register / Secretary of State*

**Notices of Proposed Rulemaking**

Two-Pole Stamp, <u>resident or nonresident. When affixed to the back of a Class A, B, C, D, E, F, Pioneer or Urban fishing license, allows simultaneous fishing as defined in R12-4-101. Validates a fishing license to allow the license holder to engage in simultaneous fishing, as defined in R12-4-101.</u>	\$4.00	\$4.00 The fee for a two-pole stamp shall be \$4.00 until September 1, 2006. Afterwards, the fee shall be \$5.00.	\$6.00
Unit 12A (North Kaibab) Habitat Management Stamp, resident or nonresident. Sikes Act stamp, validates a hunting license to allow the license holder to take deer in unit 12A as prescribed by R12-4-204.	\$15.00	\$15.00	\$15.00
<b>Other License Fees</b>			
<u>Falconer License</u>	\$75.00	\$75.00	
<u>Game Bird Field Trial License</u>	\$5.00	\$5.00	\$6.00
<u>Game Bird Hobby License</u>		\$5.00	\$7.50
<u>Game Bird Shooting Preserve License</u>		\$100.00	\$115.00
<u>Fur Dealer's License</u>	\$100.00	\$100.00	\$115.50
<u>Guide License</u>			
· Resident or Nonresident	\$100.00	\$100.00	\$300.00
<u>License Dealer's License</u>	\$75.00	\$75.00	\$100.00
<u>License Dealer's Outlet License</u>		\$25.00	\$25.00
<u>Minnow Live Bait Dealer's License</u>	\$30.00	\$30.00	\$35.00
<u>Private Game Farm License</u>	\$40.00	\$40.00	\$57.50
<u>Shooting Preserve License</u>	\$100.00	\$100.00	
<u>Sport Falconry License (3-year license)</u>		\$75.00	\$87.50
<u>Taxidermist License</u>	\$50.00	\$50.00	\$150.00
<u>Trapping License</u>			
· Resident	\$10.00	\$10.00	\$30.00
· Nonresident	\$50.00	\$50.00	\$275.00
· Resident Juvenile	\$10.00	\$10.00	\$10.00
<u>White Amur Stocking and Holding License</u>	\$100.00	\$200.00	
· Non-business. Under R12-4-424, an individual that holds a non-business white amur stocking and holding license does not pay the required fee if renewing the license.		\$200.00	\$250.00
· Business		\$200.00	\$250.00
<u>Wildlife Hobby License</u>	\$5.00	\$5.00	
<u>Zoo License</u>	\$100.00	\$100.00	\$115.00
<b>Administrative Fees</b>			

**Notices of Proposed Rulemaking**

Duplicate Fee. Duplicates are not issued for Trout Stamps, Arizona Colorado River Special Use Permits, Arizona Colorado River Special Use Permit Stamps, Arizona Lake Powell Stamps, State Migratory Bird Stamps, or State Waterfowl Stamps.	\$3.00	\$3.00	\$4.00
Permit Application Fee.	\$5.00	\$5.00	\$7.50

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

[R05-498]

**PREAMBLE**

1. **Sections Affected** **Rulemaking Action**  
New Section  
 R12-4-125
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. § 17-231  
 Implementing statute: A.R.S. § 17-316
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**  
 Notice of Rulemaking Docket Opening: 12 A.A.R. 113, January 6, 2006
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
 Name: Carlos Ramirez, Rule Writer  
 Address: Arizona Game and Fish Department  
 2221 W. Greenway Rd DORR  
 Phoenix, AZ 85023-4399  
 Telephone: (602) 789-3288  
 Fax: (602) 789-3677
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
 The Arizona Game and Fish Department is proposing amendments to designate all game management units in the state as "hunt areas" under A.R.S. § 17-316 and to give the Game and Fish Director the authority to direct peace officers to enforce A.R.S. § 17-316 if it is determined that significant interference or disruption of a lawful hunt is likely to occur. The provisions of A.R.S. § 17-316 shall become effective and enforceable immediately upon the Director's order, and enforcement may last for the period of time associated with a particular interference or disruption. Additional amendments that prescribe a definition of what constitutes a "hunt area" are also included in the proposed rulemaking.  
 The Department's objective is to prevent and reduce the potential for harassment of hunters during hunting seasons. Hunter harassment has become an increasing problem, principally instigated by organizations (some identified as domestic terrorist groups) whose objective in part is to impede recreational sport harvest. The Department holds that this rulemaking will allow the agency to take enforcement measures to address conduct that would likely precipitate physical confrontations between hunters and individuals opposed to hunting.
6. **A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**  
 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 cost to implement this rulemaking will be absorbed into the regular enforcement costs to the agency. The Department does not believe this rulemaking will create a significant impact to the agency, but will create a significant impact to the regulated community by preventing hunter harassment.

**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: Carlos Ramírez, Rule Writer  
Address: Arizona Game and Fish Department  
2221 W. Greenway Rd DORR  
Phoenix, AZ 85023-4399  
Telephone: (602) 789-3288

**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:**

The Game and Fish Commission will hold a public hearing to receive oral comment from the regulated community on:

Date: March 10-11, 2006  
Time: TBA  
Location: Riverpark Inn  
350 S. Freeway  
Tucson, AZ 85745  
Nature: Arizona Game and Fish Commission Meeting

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rule-making or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Dustin McKissen at (602)789-3288 (Voice); 1-800-367-8939 (TDD); 2221 W. Greenway Road, Phoenix, Arizona 85023. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

**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 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

R12-4-125. Designated Hunt Areas

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

**R12-4-125. Designated Hunt Areas**

**A.** For the purposes of this Section, "hunt area" means an area of public land where a peace officer is authorized under A.R.S. § 17-316 to take enforcement actions against individuals that interfere with lawful hunts.

**B.** All game management units, as described in R12-4-108, are designated as hunt areas under A.R.S. § 17-316.

Notices of Proposed Rulemaking

- C. Where the Director determines that significant interference or disruption of a lawful hunt is likely to occur, the Commission authorizes the Director to direct peace officers to enforce A.R.S. § 17-316 in the game management unit or units where such interference or disruption is likely to occur, and for the period of time associated with a particular interference or disruption.
- D. The provisions of A.R.S. § 17-316 shall become effective and enforceable immediately upon the Director taking the actions set forth in subsection (C).

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 15. DEPARTMENT OF WATER RESOURCES**

[R05-489]

**PREAMBLE**

1. **Sections Affected**

R12-15-701	Amend
R12-15-703	Amend
R12-15-717	Amend
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. §§ 45-105(B)(1) and 45-576(H)  
Implementing statute: A.R.S. §§ 45-108 and 45-576
3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Emergency Rulemaking: 11 A.A.R. 2706, July 22, 2005  
Notice of Rulemaking Docket Opening: 11 A.A.R. 5548, December 30, 2005
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Scott Deeny, Deputy Counsel  
Address: 3550 N. Central Ave.  
Phoenix, AZ 85012  
Telephone: (602) 771-8472  
Fax: (602) 771-8683  
E-mail: smdeeny@azwater.gov
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department of Water Resources ("DWR") became aware of a potential "loophole" within its administrative rules that could require DWR to over-allocate groundwater resources, threatening the long-term supply of groundwater within certain areas of the state. DWR now seeks to close the loophole by amending A.A.C. R12-15-701, R12-15-703 and R12-15-717.

Under the Assured Water Supply Program ("AWS Program"), set forth in A.R.S. § 45-576, a person proposing to offer subdivided land for sale or lease in an Active Management Area ("AMA") must first either obtain a certificate of assured water supply from DWR or obtain a written commitment of water service from a water provider that has been designated by DWR as having an assured water supply. Complementing the AWS Program is the Adequate Water Supply Program ("Adequacy Program"), which is set forth in A.R.S. § 45-108, and which applies to subdivided lands outside the AMAs. In 1995, pursuant to a formal rulemaking process, DWR adopted the Assured and Adequate Water Supply Rules (the "Rules"), which govern the application process and set forth the requirements an applicant must meet for satisfying the statutory criteria under both the AWS Program and the Adequate Water Supply Program.

Under the AWS Program, an applicant must demonstrate, among other things, that the water supply for the proposed use is a continuously available supply sufficient to satisfy the needs of the subdivision or service area for 100 years. A.R.S. § 45-576(I)(1). The AWS Program rule implementing this requirement is R12-15-703. R12-15-703(B)(1)(c) provides that the director of DWR (the "Director") shall consider groundwater to be physically available to an appli-

cant for 100 years only if the groundwater will be withdrawn from depths not to exceed a specified maximum 100-year depth-to-static water level.

R12-15-703(B)(1)(d) sets forth a formula for calculating the 100-year depth-to-static water level for an applicant's proposed use under the AWS Program. The depth-to-static water level for an application is determined by adding together the following: (1) the depth-to-static water level for the area on the date the application is filed; (2) the projected 100-year decline in the depth-to-static water level for the area caused by existing demand; (3) the projected 100-year decline in the depth-to-static water level for the area caused by committed demand (defined by R12-15-701(10) as the estimated demand of all recorded lots in the area that are not yet served water) and the demand of developments for which the Director has issued an analysis of assured water supply, less the projected demand of subdivided lots whose plats have been abandoned; and (4) the projected 100-year decline in depth-to-static water level for the area that the Director projects will result from the applicant's proposed use. Rule R12-15-717 sets forth a similar formula for the Adequacy Program.

One of the primary purposes of R12-15-703(B)(1)(c) and (d) is to prevent an over-allocation of the groundwater supply to subdivisions and water providers. Therefore, if the projected decline in the depth-to-static water level caused by the applicant's proposed use of groundwater over a 100-year period *in combination with the projected decline caused by all existing and previously authorized groundwater uses in the area over the 100-year period* will exceed the maximum 100-year depth-to-static water level for the area, then the Director will determine that the supply is not physically available.

When DWR adopted the Rules in 1995, it intended to include within the depth-to-static water level calculation the projected decline caused by *all* of the groundwater demand within a particular area. During the ten years in which the Rules have been in effect, DWR has consistently applied the Rules in this manner. However, DWR recently discovered that the depth-to-static water level calculations in the Rules do not include all of the groundwater demand of previously granted applications.

The problem lies with the current language in R12-15-701(10), which defines the term "committed demand," the language in R12-15-703(B)(1)(d), which sets forth the method for calculating the projected decline in the depth-to-static water level for applications made pursuant to the AWS Program, and the language in R12-15-717(B)(1)(d), which sets forth the method for calculating the projected decline in the depth-to-static water and for applications made pursuant to the Adequacy Program. Specifically, the demand of lots within subdivisions which have been approved by DWR but that have not yet been recorded with the county recorder's office is *not* included within the projected depth-to-static water level calculations of R12-15-703(B)(1)(d) and R12-15-717(B)(1)(d). These groundwater demands represent the projected demands of future developments for which plats have not yet been recorded, but that have the necessary approvals from DWR and may be built at any time. Additionally, the applicants have the necessary approval from DWR to obtain a public report and to begin offering lots for sale to the public. Accordingly, they *should* be counted when determining whether there is a groundwater supply physically available for new applications; otherwise, once those developments are actually built, their groundwater demands will cause an unaccounted-for decline in the depth-to-static water level in the area.

The solution to this problem is to amend the Rules as follows: (1) amend the definition of "committed demand" in R12-15-701(10) to include the 100-year groundwater demand of those lots included within Certificates of Assured Water Supply and Reports of Adequate Water Supply that are not yet recorded; and (2) amend R12-15-703(B)(1)(d) and R12-15-717(B)(1)(d) to include in the calculation of the depth-to-static water level the projected demand included within Designations of Assured Water Supply (both as to the AWS Program and the Adequacy Program) that is not yet existing demand or committed demand.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**

None

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

Not applicable

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

The proposed rulemaking will amend three rules within DWR's Assured and Adequate Water Supply rules to correct a recently discovered error in the methodology for calculating the depth-to static-water level for new applications for analyses, certificates and designations of assured and adequate water supply. Persons filing these applications include cities, towns, private water companies, domestic water improvement districts, community facilities districts, irrigation districts that supply water for non-irrigation use and subdividers (generally, persons offering six or more lots of less than 36 acres for sale or lease). Because the amendments will conform the rules to the manner in which DWR has been calculating the depth-to-static water level for assured and adequate water supply applications since 1995, DWR does not anticipate that the rulemaking will have a significant impact on applicants. The rulemaking will provide a benefit to all groundwater users within the state, including cities, towns, irrigation districts and individual homeowners, by preventing an over-allocation of groundwater supplies within and outside of active management areas.

Notices of Proposed Rulemaking

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

Name: Kenneth Slowinski  
Address: 3550 N. Central Ave.  
Phoenix, AZ 85012  
Telephone: (602) 771-8482  
Fax: (602) 771-8683  
E-mail: kslowinski@azwater.gov

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

An oral proceeding is not scheduled for these proposed rules. DWR will schedule an oral proceeding on the proposed rules if it receives a written request for an oral proceeding within 30 days after the publication date of this notice. A person may request an oral proceeding by submitting a written request for an oral proceeding to the person listed in item #4. Written comments on the proposed rulemaking, including the preliminary economic, small business and consumer impact statement, may be submitted to the person listed in item #4 until the close of the public record on the proposed rulemaking. If no timely request for an oral proceeding is received by DWR, the public record on this rulemaking will close February 6, 2006, at 5:00 p.m.

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

Not Applicable

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

None

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

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

Section

- R12-15-701. Definitions - Assured and Adequate Water Supply Programs
- R12-15-703. Assured Water Supply Requirement - Physical Availability; Continuous Availability; Legal Availability
- R12-15-717. Adequate Water Supply Requirement-Physical Availability

ARTICLE 7. ASSURED AND ADEQUATE WATER SUPPLY

**R12-15-701. Definitions - Assured and Adequate Water Supply Programs**

In addition to the definitions set forth in A.R.S. §§ 32-2101, 45-101, 45-402, 45-561, 45-576, 45-651, 45-802, 45-851, and 45-1901, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. "Committed demand" means the estimated demand of all ~~recorded lots~~ of the following within the boundaries of the area being evaluated for physical availability:
  - a. All recorded lots which are not yet served water.
  - b. All unrecorded lots included within water reports, as defined in R12-15-715, and certificates of assured water supply.
11. No change

- 12. No change
- 13. No change
- 14. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change
- 20. No change
- 21. No change
- 22. No change
- 23. No change
- 24. No change
- 25. No change
- 26. No change
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
- 32. No change
- 33. No change
- 34. No change
- 35. No change
- 36. No change
- 37. No change
- 38. No change
- 39. No change
- 40. No change
- 41. No change
- 42. No change
- 43. No change
- 44. No change
- 45. No change
- 46. No change
- 47. No change
- 48. No change
- 49. No change
- 50. No change
- 51. No change

**R12-15-703. Assured Water Supply Requirement - Physical Availability; Continuous Availability; Legal Availability**

**A.** No change

**B.** No change

1. No change

a. No change

i. No change

ii. No change

iii. No change

b. No change

c. No change

d. No change

i. No change

ii. No change

iii. The projected decline in the depth-to-static water level for the area from which groundwater withdrawals are proposed to occur during the 100-year period after the date of application, calculated by adding the projected groundwater demand of items (B)(1)(d)(iii)(1), ~~and (2) and (3)~~, and then subtracting the projected demand of item (B)(1)(d)(iii)~~(3)(4)~~:

(1) Committed demand.

Notices of Proposed Rulemaking

- (2) The projected demand included within designations of assured water supply that is not existing demand or committed demand.
- ~~(2)~~(3) Other lots within developments for which the director has issued an analysis of assured water supply pursuant to R12-15-712.
- ~~(3)~~(4) The projected demand of subdivided lots whose plats have been abandoned.
  - iv. No change
- 2. No change
  - a. No change
  - b. No change
    - i. No change
    - ii. No change
- 3. No change
  - a. No change
  - b. No change
  - c. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
  - d. No change
- 4. No change
  - a. No change
  - b. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
  - c. No change
- 5. No change
  - a. No change
    - i. No change
    - ii. No change
  - b. No change
- 6. No change
  - a. No change
  - b. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
- 7. No change
  - a. No change
  - b. No change
  - c. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
  - d. No change
- 8. No change
- 9. No change
- 10. No change
- C.** No change
- D.** No change
- E.** No change
- F.** No change

- G. No change
- H. No change
- I. No change
- J. No change
- K. No change
- L. No change

**R12-15-717. Adequate Water Supply Requirement-Physical Availability**

- A. No change
- B. No change
  - 1. No change
    - a. No change
      - i. No change
      - ii. No change
      - iii. No change
    - b. No change
    - c. No change
    - d. No change
      - i. No change
      - ii. No change
      - iii. The projected decline in the depth-to-static water level for the area from which groundwater withdrawals are proposed to occur during the 100-year period after the date of application, calculated by adding the projected groundwater demand of items in subsections (B)(1)(d)(iii)(1), (2) and (3), and then subtracting the projected demand of item in subsection (B)(1)(d)(iii)~~(3)~~(4):
        - (1) Committed demand.
        - (2) The projected demand included within designations of adequate water supply that is not existing demand or committed demand.
        - ~~(2)(3)~~Other lots within developments for which the director has issued an analysis of adequate water supply pursuant to R12-15-723.
        - ~~(3)(4)~~The projected demand of subdivided lots whose plats have been abandoned.
    - iv. No change
  - e. No change
- 2. No change
  - a. No change
  - b. No change
    - i. No change
    - ii. No change
- 3. No change
  - a. No change
  - b. No change
  - c. No change
    - i. No change
    - ii. No change
    - iii. No change
  - d. No change
- 4. No change
  - a. No change
  - b. No change
    - i. No change
    - ii. No change
    - iii. No change
  - c. No change
- 5. No change
  - a. No change
    - i. No change
    - ii. No change
  - b. No change
- 6. No change
  - a. No change

- b. No change
  - i. No change
  - ii. No change
  - iii. No change
  - iv. No change
- 7. No change
- 8. No change
- C. No change
- D. No change
- E. No change
- F. No change
- G. No change
- H. No change
- I. No change
- J. No change

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY  
TOW TRUCKS**

[R05-496]

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R13-3-101	Amend
R13-3-201	Amend
R13-3-202	Amend
R13-3-203	Amend
R13-3-204	Amend
R13-3-301	Amend
R13-3-302	Amend
R13-3-303	Amend
R13-3-304	Amend
R13-3-305	Amend
R13-3-306	Amend
R13-3-307	Amend
R13-3-308	Amend
R13-3-401	Amend
R13-3-402	Amend
R13-3-501	Amend
R13-3-601	Amend
R13-3-602	Amend
R13-3-603	Amend
R13-3-604	Amend
Article 7	New Article
R13-3-701	New Section
R13-3-702	New Section
R13-3-703	New Section
Article 8	New Article
R13-3-801	New Section
Article 9	New Article
R13-3-901	New Section
R13-3-902	New Section
R13-3-903	New Section
Article 10	New Article
R13-3-1001	New Section
R13-3-1002	New Section

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R13-3-1003	New Section
R13-3-1004	New Section
R13-3-1005	New Section
R13-3-1006	New Section
R13-3-1007	New Section
R13-3-1008	New Section
R13-3-1009	New Section
R13-3-1010	New Section
R13-3-1011	New Section
R13-3-1012	New Section
Article 11	New Article
R13-3-1101	New Section
R13-3-1102	New Section
R13-3-1103	New Section
R13-3-1104	New Section
R13-3-1105	New Section
R13-3-1106	New Section
R13-3-1107	New Section
Article 12	New Article
R13-3-1201	New Section
Article 13	New Article
R13-3-1301	New Section
R13-3-1302	New Section
R13-3-1303	New Section

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

Authorizing statute: A.R.S. § 28-1108 (D)

Implementing statute: A.R.S. § 28-1108

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 113, January 6, 2006

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

Name: Sergeant Tim R. Kvochick

Address: P.O. Box 6638  
Mail Drop 3016  
Phoenix, AZ 85005-6638

Telephone: (602) 223-2522

Fax: (602) 223-2980

E-mail: TKvochick@azdps.gov

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

This rulemaking is authorized by A.R.S. § 28-1108(D). The rule is being initiated to update regulatory information, tow truck specifications, equipment requirements, tow truck company requirements, sanctions for not following the rules, and the process to appeal sanctions. The rules are primarily for use by tow truck companies, and the Arizona Department of Public Safety.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**

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:**

These rules affect the towing industry, the Department of Public Safety, and the motoring public using tow truck services.

No fee is charged towing companies for either the safety inspection or the permit decal. The rules do not impose a change in business practices or require additional equipment. The impact on small tow truck companies operating under rules promulgated in 1985 is mitigated by a grace period to accommodate changes in weight standards.

Notices of Proposed Rulemaking

The motoring public, the primary consumer of tow truck services, will benefit from safer standards and the use of current equipment in a safer manner. The Department of Public Safety will benefit through uniformity of standards among tow truck companies.

**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: Sergeant Tim R. Kvochick  
Address: P.O. Box 6638  
Mail Drop 3016  
Phoenix, AZ 85005-6638  
Telephone: (602) 223-2522  
Fax: (602) 223-2980  
E-mail: TKvochick@azdps.gov

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

A video conference oral proceeding to receive public comment will be held. The primary meeting site will be Phoenix, Arizona with additional sites in Tucson, Flagstaff, Yuma, Prescott, and Globe.

Date: February 21, 2006  
Time: 9:00 a.m.  
Locations: Arizona Department of Transportation  
Administration Building, Room 186  
206 S. 17th Ave.  
Phoenix, AZ 85007  
Phone: (602) 712-7391

Arizona Department of Transportation  
1221 S. 2nd Ave.  
Tucson, AZ 85713  
Phone: (520) 620-5412

Arizona Department of Transportation  
1801 S. Milton Road  
Flagstaff, AZ 86001  
Phone: (928) 779-7542

Arizona Department of Transportation  
2243 E. Gila Ridge Road  
Yuma, AZ 85365  
Phone: (928) 317-2100

Arizona Department of Transportation  
1109 E. Commerce Dr.  
Prescott, AZ 86305  
Phone: (928) 777-5870

Arizona Department of Transportation  
1902 Highway 60/77  
Globe, AZ 85501  
Phone: (928) 402-5600

**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:**

Arizona Administrative Code, R17-5-202 located in Article 12, R12-3-1201A(2) pertaining to the medical exam certificate required of a tow truck operator.

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

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY  
TOW TRUCKS**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R13-3-101. Definitions

**ARTICLE 2. TOW TRUCK PERMITS**

Section

R13-3-201. Permit required  
R13-3-202. Permit application  
R13-3-203. Inspection by the Department  
R13-3-204. Permit suspension and application refusal

**ARTICLE 3. TOW TRUCK SPECIFICATIONS**

Section

R13-3-301. Capacities and specifications of towing equipment  
R13-3-302. Tow truck load limitations  
R13-3-303. Prohibition of unauthorized operation  
R13-3-304. Light duty tow trucks  
R13-3-305. Medium duty tow trucks  
R13-3-306. Heavy duty tow trucks  
R13-3-307. Class "X" tow trucks  
R13-3-308. Service trucks

**ARTICLE 4. TOW TRUCK EQUIPMENT SPECIFICATIONS**

Section

R13-3-401. General tow truck lighting and equipment  
R13-3-402. Tow truck components must be in good operating condition

**ARTICLE 5. QUALIFICATIONS OF TOW TRUCK OPERATORS**

Section

R13-3-501. Chauffeurs license, skills, and knowledge required

**ARTICLE 6. ENFORCEMENT OF RULES AND REGULATIONS**

Section

R13-3-601. Revocation or suspension of permit  
R13-3-602. Grounds for suspension of permit  
R13-3-603. Grounds for revocation of permit  
R13-3-604. Appeals from tow truck enforcement action

**ARTICLE 7. DEFINITIONS, SCOPE, AND ENFORCEMENT DATES**

Section	
<u>R13-3-701.</u>	<u>Definitions</u>
<u>R13-3-702.</u>	<u>Scope of Chapter</u>
<u>R13-3-703.</u>	<u>Enforcement Dates</u>

**ARTICLE 8. TOW TRUCK COMPANY REGISTRATION**

Section	
<u>R13-3-801.</u>	<u>Tow Truck Company Registration</u>

**ARTICLE 9. TOW TRUCK REGISTRATION AND ANNUAL TOW TRUCK COMPLIANCE INSPECTION**

Section	
<u>R13-3-901.</u>	<u>Tow Truck Registration</u>
<u>R13-3-902.</u>	<u>Inspection by the Department</u>
<u>R13-3-903.</u>	<u>Changes in Ownership</u>

**ARTICLE 10. TOW TRUCK SPECIFICATIONS BY CLASS**

Section	
<u>R13-3-1001.</u>	<u>Light-duty Tow Truck</u>
<u>R13-3-1002.</u>	<u>Light-duty Tow Truck with Collision Recovery Capabilities</u>
<u>R13-3-1003.</u>	<u>Light-duty Flatbed Tow Truck</u>
<u>R13-3-1004.</u>	<u>Light-duty Flatbed Tow Truck with Collision Recovery Capabilities</u>
<u>R13-3-1005.</u>	<u>Light-duty Tow Truck-tractor and Semi-trailer Combination</u>
<u>R13-3-1006.</u>	<u>Medium-duty Tow Truck with Collision Recovery Capabilities</u>
<u>R13-3-1007.</u>	<u>Medium-duty Flatbed Tow Truck with Collision Recovery Capabilities</u>
<u>R13-3-1008.</u>	<u>Medium-duty Tow Truck-tractor and Semi-trailer Combination</u>
<u>R13-3-1009.</u>	<u>Heavy-duty Tow Truck</u>
<u>R13-3-1010.</u>	<u>Heavy-duty Tow Truck with Collision Recovery Capabilities</u>
<u>R13-3-1011.</u>	<u>Heavy-duty Flatbed Tow Truck with Collision Recovery Capabilities</u>
<u>R13-3-1012.</u>	<u>Heavy-duty Tow Truck-tractor and Semi-trailer Combination</u>

**ARTICLE 11. TOW TRUCK EQUIPMENT REQUIREMENTS**

Section	
<u>R13-3-1101.</u>	<u>Compliance with Chapter and Identification Requirements</u>
<u>R13-3-1102.</u>	<u>Axle, Wheel and Tire Requirements</u>
<u>R13-3-1103.</u>	<u>Brake Requirements</u>
<u>R13-3-1104.</u>	<u>Required Equipment</u>
<u>R13-3-1105.</u>	<u>Collision Recovery Equipment Requirements</u>
<u>R13-3-1106.</u>	<u>Wire Rope Restrictions</u>
<u>R13-3-1107.</u>	<u>Wire Rope End Specifications and Installation</u>

**ARTICLE 12. REQUIREMENTS FOR TOW TRUCK AGENTS AND COMPANIES**

Section	
<u>R13-3-1201.</u>	<u>Tow Truck Agent and Company Requirements</u>

**ARTICLE 13. ENFORCEMENT**

Section	
<u>R13-3-1301.</u>	<u>Waiver</u>
<u>R13-3-1302.</u>	<u>Suspension or Denial of Tow Truck Permit Decal</u>
<u>R13-3-1303.</u>	<u>Appeals</u>

ARTICLE 1. GENERAL PROVISIONS

**R13-3-101. Definitions**

Words and phrases not defined hereinafter shall be consistent with definitions in Title 28, Arizona Revised Statute. This Section is automatically repealed on June 1, 2010.

1. "Accident recovery work" means the towing or removal of a vehicle involved in an accident upon any highway or roadway and is damaged to the extent that an investigation by a law enforcement agency is required.
2. "Department" means the Arizona Department of Public Safety.
3. "Director" means the Director of the Department of Public Safety.
4. "Permit" means the Department of Public Safety tow truck permit inspection sticker required on all tow trucks.
5. "Power operated winch" means a winch operated by power including, but not limited to, power take-off, hydraulic, or electric.
6. "Tow truck" means a motor vehicle which is altered or designed for, and used in the business of towing vehicles by means of a flat bed or other specially designed truck that is equipped with a tow sling, tow bar, tow plate or wheel lift apparatus, attached to the rear of the truck; or a crane or hoist that is attached to the bed or frame of the tow truck. Wrecker, garage tow truck, and slide back or roll back car carriers are synonymous and shall be termed "Tow Truck".
7. "Towing service" means the transportation upon the public streets and highways of the state of Arizona of damaged, disabled, unattended or abandoned vehicles together with personal effects and/or cargo by tow trucks. Wrecker service, tow car service, and garage tow truck service are synonymous and shall be termed "Towing Service".

ARTICLE 2. TOW TRUCK PERMITS

**R13-3-201. Permit required**

A permit of authorization must be obtained from the Department before a tow truck is operated for the purpose of towing vehicles. This Section is automatically repealed on June 1, 2010.

**R13-3-202. Permit application**

- A. Applications for permits shall be made under oath to the Department of Public Safety in writing upon forms prescribed and furnished by the Department. The application shall contain all information required therein and shall be submitted to the Tow Truck Section, Arizona Department of Public Safety, P.O. Box 6638, Phoenix, Arizona, 85005. The Department shall be notified within ten days of any change of information supplied on the original application.
- B. In filing the application, the applicant expressly agrees, under penalty of suspension or revocation of his/her permit(s), that:
  1. All rules and regulations set forth herein will be followed.
  2. Any person operating a tow truck for his/her company will have the necessary experience and qualifications to operate a tow truck in the manner required by these rules and regulations.
- C. The Department shall issue a permit upon determining that the application was made and filed in good faith, that all submitted information is accurate, that the applicant and the applicant's towing equipment have met the minimum requirement established in law and in these rules and regulations. The Department may deny the application if any of the above conditions are not satisfied.
- D. If at any time a tow truck is sold, leased or otherwise disposed of, the tow truck owner shall notify the Department of the disposition of the truck and the permit issued for said truck shall immediately become null and void. Any person having subsequent control over said truck shall make application to the Department before operating said tow truck as a tow truck within the state.
- E. This Section is automatically repealed on June 1, 2010.

**R13-3-203. Inspection by the Department**

- A. As soon as possible after the tow truck application has been filed, the Department may cause a physical inspection of the tow truck to be conducted. If the tow truck is found to conform to the minimum standards of the class permit requested and the application meets the requirements as set forth in these rules and regulations, and the application is approved, said tow truck shall be issued a permanent identification number by the Director. This identification number shall be affixed inside the cab of the tow truck by the Department inspector.
- B. In addition to the identification number, the tow truck shall be issued an annual permit in the form of an inspection sticker which shall contain such pertinent information as is deemed necessary by the Department. This inspection sticker shall be conspicuously displayed on the outside lower right-hand corner of the truck's front windshield.
- C. Annual inspections shall be conducted to determine the condition of the tow truck. A tow truck meeting the minimum standards for its class may be granted a renewal of the permit.
- D. Nothing in these rules shall serve to prohibit any peace officer from conducting an inspection without notice to determine the fitness of a tow truck at any reasonable time and place.
- E. If at any time a tow truck is found to be in need of repair to meet the minimum standards for its class, the annual permit

shall be suspended and the tow truck shall be removed from service until such repairs are effected and the tow truck is inspected and recertified by the Department.

**F.** This Section is automatically repealed on June 1, 2010.

**R13-3-204. Permit suspension and application refusal**

- A.** A tow truck permit may be suspended or an application may be refused for any one or more of the following conditions:
1. Failure to supply true and accurate information on the permit application and inspection form.
  2. Failure to comply with any of these rules and regulations.
  3. Failure to submit to a tow truck inspection (refer to R13-3-203).
  4. Failure to display on the side of the tow truck, the business name, town and phone number of the tow truck company.
- The lettering used shall be in bold contrasting colors and at least three inches in height.

**B.** This Section is automatically repealed on June 1, 2010.

**ARTICLE 3. TOW TRUCK SPECIFICATIONS**

**R13-3-301. Capacities and specifications of towing equipment**

- A.** The minimum standards for each class of tow truck permits, referred to throughout these rules and regulations, shall be determined solely by the manufacturer's specifications for the capabilities and capacities of the tow trucks and all towing equipment, except that the Department may consider other evidence of such capabilities and capacities when it reasonably believes that the manufacturer's specifications overrate the tow truck's capacity.
- B.** Each tow truck shall be equipped with only those winches and cranes that have been produced and constructed by a manufacturer of such equipment, and which regularly produces winches and cranes of guaranteed quality. However, a winch or crane will not be prohibited by this Section if the tow truck owner submits to the Department certification from one reputable testing laboratory, regularly engaged in the testing of such equipment or similar equipment, indicating that the capacity of the winch or crane is not less than the class for which application has been made. All costs of such testing and certification shall be at the expense of the tow truck owner.

**C.** This Section is automatically repealed on June 1, 2010.

**R13-3-302. Tow truck load limitations**

No tow truck shall tow another vehicle unless the tow truck has a manufacturer's rating of 3/4 ton or higher, and the tow truck has been issued the appropriate permit required by these rules and regulations. Trucks with a manufacturer's rating of less than one ton shall not be permitted to do accident recovery work. This Section is automatically repealed on June 1, 2010.

**R13-3-303. Prohibition of unauthorized operation**

- A.** No person shall stop at the scene of an accident or at or near a disabled vehicle for the purpose of soliciting an engagement for towing service, either directly or indirectly, nor furnish any towing service, unless he/she has been summoned to such scene by the owner or operator of a disabled vehicle or has been requested to perform such services at the request of a law enforcement officer or agency pursuant to that agency's procedures.
- B.** Tow truck operators shall not, without the express authorization of the responsible investigating agency, move any vehicle from a public highway or street or from any public property when such vehicle is abandoned, stolen, damaged, or left unattended, except that, notwithstanding the conditions imposed in R13-3-303(A) of these rules and regulations, operators may, in emergency cases, slide left, right, or otherwise move a vehicle damaged as the result of an accident, if the removal is for the purpose of extracting a person from the wreckage or to remove an immediate hazard to life and/or property. In no event shall the movement be more than is reasonable and necessary.

**C.** This Section is automatically repealed on June 1, 2010.

**R13-3-304. Light duty tow trucks**

- A.** At no time shall any light duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- B.** Light duty minimum specifications:
1. A gross vehicle weight rating of at least 8,000 pounds and rated by the manufacturer as one ton or more.
  2. A four-speed transmission or the equivalent.
  3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
  4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
  5. At least dual rear wheels and tires or the equivalent.
- C.** Wrecker (crane) minimum specifications:
1. Total boom capacity of at least four tons.
  2. Power-operated winch with a capacity of at least four tons.

3. Hand or electric-powered winches will not be used for accident recovery work.
  4. Winch power is determined by a single line pull.
  5. At least 100 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
  6. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
- D.** Light duty one car carrier minimum specifications:
1. A gross vehicle rating of at least 8,000 pounds and rated by the manufacturer as one ton or more.
  2. A four-speed transmission or the equivalent.
  3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
  4. A parking brake system separate from the service brake system which shall be maintained in good working condition.
  5. At least dual rear wheels and tires or the equivalent.
  6. A power-operated winch with a capacity of at least four tons with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
  7. A bed assembly of at least 3/16 inch steel plate or the equivalent and at least 15 feet in length and at least 7 feet in width.
  8. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
  9. If a tow plate (stinger) is attached to the rear of the tow truck bed or frame and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 1,500 pounds.
- E.** This Section is automatically repealed on June 1, 2010.

**R13-3-305. Medium duty tow trucks**

- A.** At no time shall any medium duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- B.** Medium duty minimum specifications:
1. A gross vehicle weight rating of at least 15,000 pounds and rated by the manufacturer as 1 1/2 tons or more.
  2. A four-speed transmission or the equivalent.
  3. A power-assisted service brake system adequate to control the movement of and to stop and hold the combination of vehicles under all conditions and on any grade on which they are operated.
  4. When towing vehicles equipped with an air brake system, shall have the equipment necessary to join the air systems together in order to activate the brakes from the cab of the tow truck.
  5. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
  6. At least dual rear wheels and tires or the equivalent.
  7. At least 35 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
- C.** Double boom wrecker (crane) minimum specifications:
1. Total boom capacity of at least ten tons.
  2. Double booms and lines, each to operate jointly and/or independently.
  3. Power-operated winches with a combined capacity of at least ten tons.
  4. At least two winches of not less than five tons each.
  5. Winch power is determined by a single line pull.
  6. At least 150 feet of 3/8 inch diameter wire rope per winch drum with a breaking strength of 12,200 pounds or more.
- D.** Single boom wrecker (crane) minimum specifications:
1. Boom capacity of at least ten tons.
  2. Boom line winch with a minimum capacity of at least ten tons, with at least 150 feet of 1/2 inch diameter wire rope with a breaking strength of 21,400 pounds or more.
  3. Deck winch minimum capacity of at least ten tons with at least 150 feet of 1/2 inch diameter wire rope with a breaking strength of 21,400 pounds or more.
- E.** Hydraulic wrecker assemblies minimum specifications:
1. Boom capacity of at least ten tons.
  2. Boom line(s) which operate jointly and/or independently.
  3. Hydraulically operated winches with a combined capacity of at least ten tons, with a deck winch minimum capacity of at least ten tons except that one single boom line winch may be used instead, if it has the capacity of at least ten tons and is used with a deck winch with a minimum capacity of at least ten tons.
  4. At least 150 feet of 3/8 inch diameter wire rope per winch drum with a breaking strength of 12,200 pounds or more.
  5. At least 35 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
- F.** Medium duty two car carrier minimum specifications:
1. A gross vehicle weight of at least 15,000 pounds and rated by the manufacturer as two tons or more.
  2. A four-speed transmission or the equivalent.
  3. A power assisted service brake system adequate to control the movement of, and to stop and hold the combination of

vehicles, under all conditions and on any grade on which they are operated.

4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
5. At least dual rear wheels and tires or the equivalent.
6. A hydraulically operated winch of at least 6 tons, with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
7. A bed assembly of at least 1/4 inch steel plate or the equivalent and at least 17 feet in length and at least 7 feet in width.
8. At least 30 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
9. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 3,500 pounds.

**G. Medium duty three car carrier minimum specifications:**

1. A gross vehicle weight of at least 22,000 pounds.
2. A four-speed transmission or the equivalent.
3. A power-assisted service brake system adequate to control the movement of, and to stop and hold the combination of vehicles, under all conditions and on any grade on which they are operated.
4. A parking brake system separate from the service brake system which shall be maintained in good working order at all times.
5. At least dual rear wheels and tires or the equivalent.
6. A hydraulically operated winch of at least 6 tons, with at least 50 feet of 3/8 inch diameter wire rope with a breaking strength of 12,200 pounds or more.
7. A bed assembly of at least 1/4 inch steel plate or the equivalent and at least 17 feet in length and at least 7 feet in width, a bed assembly over the cab of at least 3/16 inch steel plate or the equivalent and at least 10 feet in length and at least 7 feet in width.
8. At least 30 feet of 3/8 inch diameter chain with hooks with a safe working load of 2,450 pounds or more.
9. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the stinger must have a tow bar capacity of at least 3,500 pounds.

**H. This Section is automatically repealed on June 1, 2010.**

**R13-3-306. Heavy duty tow trucks**

- A.** At no time shall any heavy duty tow truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly, provided that the manufacturer's weights are not in excess of the legal limitations of A.R.S. §§ 28-1008 and 28-1009.
- B.** Heavy duty minimum specifications:
  1. A gross vehicle rating of at least 35,000 pounds (usually rated by the manufacturer as 3 1/2 tons).
  2. Tandem rear axles, equipped with dual rear wheels and tires, or the equivalent.
  3. A five-speed main transmission or the equivalent.
  4. A brake system equipped with a truck-tractor protection valve.
  5. Full air brakes so constructed and controlled as to permit locking of all rear wheels (air lock).
  6. A dependable parking brake system separate from the service brake system which shall be maintained in good working order at all times.
  7. Required accessories:
    - a. Trailer hitch: pintle hook type or the equivalent.
    - b. one semi-trailer converter dolly or fifth-wheel mount. Option: If a converter dolly or fifth-wheel mount is not owned by the wrecker owner, he must have one immediately available at all times. Documentary proof must be filed with the Department for the above option when the application for permit is filed.
    - c. Chain with hooks meeting the following specifications:
      - i. At least 35 feet of 3/8 inch diameter chain with a safe working load of 2,450 pounds or more.
      - ii. At least 20 feet of 5/8 inch diameter chain with a safe working load of 6,375 pounds or more.
    - d. Air lines: At least 75 feet of auxiliary air lines with the necessary fittings in two sections of appropriate length. These sections will connect to the air supply of the towed vehicle for the purpose of brake application.
- C.** Double boom wrecker (crane) minimum specifications:
  1. A total capacity of at least 25 tons.
  2. Double booms and lines each to operate jointly and/or independently.
  3. Power-operated winches combined capacity of at least 25 tons.
  4. At least two winches of at least 12 1/2 tons capacity each.
  5. Winch power is determined by a single line pull.
  6. At least 200 feet of 9/16 inch diameter wire rope with a breaking strength of 27,000 pounds or more.
- D.** Single boom wrecker (crane) minimum specifications:

1. Boom line winch with a minimum capacity of at least 25 tons with at least 200 feet of 3/4 inch diameter wire rope with a breaking strength of at least 51,200 pounds or more.
  2. Deck winch with a minimum capacity of at least 15 tons with at least 200 feet of 5/8 inch diameter wire rope with a breaking strength of at least 33,400 pounds or more.
- E.** Hydraulic wrecker assemblies minimum specifications:
1. Boom capacity of at least 25 tons.
  2. Boom line(s) which operate jointly and/or independently.
  3. Hydraulically operated winches with a combined capacity of at least 25 tons, except that one single boom line winch may be used instead if it has a capacity of at least 25 tons and is used with a deck winch with a minimum capacity of 15 tons.
  4. Double winches on a single boom with a minimum of 200 feet of 5/8 inch diameter wire rope per winch with a breaking strength of 27,000 pounds or more.
  5. A single winch on a single boom with a minimum of 200 feet of 3/4 inch diameter wire rope with a breaking strength of 33,400 pounds or more.
- F.** Heavy duty car carrier minimum specifications:
1. Gross vehicle weight of at least 35,000 pounds, rated by the manufacturer as 3 1/2 tons or more.
  2. Tandem rear axles equipped with dual rear wheels and tires or the equivalent.
  3. A five-speed main transmission or the equivalent.
  4. Full air brakes.
  5. Air brakes so constructed and controlled as to permit locking of all rear wheels (air lock).
  6. A brake system equipped with truck-tractor protection valve.
  7. A dependable parking brake system.
  8. A hydraulically operated winch with a minimum capacity of ten tons, and at least 50 feet of 7/16 inch wire rope with a breaking strength of 33,400 pounds or more.
  9. A bed assembly of at least 3/8 inch steel plate or the equivalent, and at least 21 feet in length and at least 7 feet in width. A bed assembly over the cab of at least 3/16 inch steel plate or the equivalent and at least 10 feet in length and at least 7 feet in width.
  10. At least 40 feet of 1/2 inch diameter chain with hooks with a safe working load of 4,240 pounds or more.
  11. If a tow plate (stinger) is attached to the rear of the tow truck structure and used to raise the wheels of the towed vehicle off the ground, the tow plate (stinger) must have a tow bar capacity of at least 5,000 pounds.
- G.** This Section is automatically repealed on June 1, 2010.

**R13-3-307. Class "X" tow trucks**

- A.** Class "X" tow trucks shall not be used to render assistance or for accident recovery work but may be used for the purpose of towing vehicles from one location to another.
- B.** At no time shall any Class "X" tow truck exceed its manufacturer's gross vehicle weight or the rated capacity of the wrecker assembly.
- C.** Class "X" truck minimum specifications:
1. A gross vehicle weight rating of at least 7,500 pounds and rated by the manufacturer as a 3/4 ton or more.
  2. A four-speed transmission or the equivalent.
  3. Dual rear wheels or the equivalent.
  4. A boom (crane) with a boom capacity of at least three tons and a single line winch capacity of at least three tons.
  5. Wire rope of at least 5/16 inch diameter with a breaking strength of 8,520 pounds or more.
  6. At least 20 feet of 5/16 inch diameter chain with hooks, with a safe working load of 1,750 pounds or more.
  7. Any class X roll back or slideback car carriers must meet the minimum specifications consistent with light, medium or heavy duty classes.
  8. Equipment required is that contained in R13-3-401(E) through (P), (R), (V), (X), (Z), (AA) and R13-3-402.

**D.** This Section is automatically repealed on June 1, 2010.

**R13-3-308. Service trucks**

- A.** Service trucks (Class S) shall not be used for accident recovery work but may be used to render assistance to vehicles.
- B.** At no time shall any service truck exceed its manufacturer's gross vehicle weight or the manufacturer's rated capacity for the wrecker assembly.
- C.** Service truck minimum specifications:
1. A gross vehicle weight rating of at least 7,500 pounds and rated by the manufacturer as a three-quarter ton or more.
  2. A four-speed transmission or the equivalent.
  3. Dual rear wheels or the equivalent.
  4. A boom (crane) with a:
    - a. Boom capacity of at least three tons and single line winch capacity of at least three tons.

- b. Wire rope shall be at least 5/16 inch diameter with a breaking strength of at least 8,520 pounds or more.
- c. At least 20 feet of 5/16 inch diameter chain with hooks with a safe working load of 1,750 pounds or more.
- 5. Accessories. Refer to R13-3-401 and R13-3-402 under General Tow Truck Lighting & Equipment Specifications for complete list of accessories required.

**D.** This Section is automatically repealed on June 1, 2010.

#### ARTICLE 4. TOW TRUCK EQUIPMENT SPECIFICATIONS

##### **R13-3-401. General tow truck lighting and equipment**

- A.** Tow trucks shall comply with lighting and equipment requirements for trucks contained in Title 28, A.R.S. Additional equipment requirements relating specifically to tow trucks are contained in the following pages. If more detailed information is needed, a copy of Title 28, A.R.S. may be purchased from the Motor Vehicle Division of the Arizona Department of Transportation.
- B.** Warning lamps & lights required: Warning lights are to be used only at the scene of the service or in towing a vehicle which is damaged to the extent that it presents a hazard to other users of the street or highway. No red light shall be visible from in front of a vehicle.
  - 1. Flashing type lamps. (Emergency top mount lights):
    - a. The color shall be amber to the front, amber or red to the rear with at least two lamps of at least 6 inches in diameter having a lens surface of at least 28.26 square inches each.
    - b. These lamps are to be mounted as high as practical and with their light visible from the front and rear for a distance of 500 feet under normal atmospheric conditions.
  - 2. Warning lamps may be wired independently or in conjunction with stop and signal lamps. If tail lamps are also incorporated, then either a separate bulb or a double contact-type bulb shall be used.
- C.** A rotating beacon may be used in lieu of the two flashing lamps.
  - 1. At least one beacon is required with amber lens or amber to the front and red to the rear.
  - 2. The beacon shall be mounted as high as practical with its light visible for 360 degrees for a distance of 500 feet under normal atmospheric conditions.
  - 3. Each beacon shall have at least four seal beams or at least two beacons with two seal beams each.
  - 4. The lens size of the beacon shall be at least 9 inches in diameter at its narrowest point, and 5 inches in height with a lens surface of 141.2 square inches. Two smaller beacons may be used only if the total square inches of both at least equal that required of the one above.
  - 5. Beacons shall be wired independently of all other electrical circuits.
  - 6. Strobe lights may be used in lieu of rotating beacons or flashing lights.
- D.** Work lamps:
  - 1. The lens shall be clear.
  - 2. The lens' diameter shall be at least four inches in diameter.
  - 3. There shall be at least two work lamps used in the system.
  - 4. Lamps shall be mounted so as to illuminate the area directly behind the tow truck for a distance of at least 50 feet.
  - 5. Work lamps shall be wired so they are not dependent on the position of the gear shift.
  - 6. Work lamps shall not be in operation while the tow truck is in forward motion.
- E.** Portable tail, stop and signal lamps required:
  - 1. At least two separate lamps with mounting brackets or mounting clips.
    - a. The lens shall be red in color.
    - b. The lens' diameter shall be at least three inches each.
  - 2. Connections shall be made with suitable male and female connectors and flexible rubber or plastic cord. The portable lamps may be wired permanently to the truck's electrical system if a suitable bracket for both cord and lamp is provided.
    - a. All cord shall be measured from rear of tow truck.
      - i. Light duty, service duty, and Class "X": cord length of at least 25 feet.
      - ii. Medium duty: cord length of at least 30 feet.
      - iii. Heavy duty: cord length of at least 75 feet.
    - b. Lamp cords shall be flexible rubber or plastic containing at least four conductors of at least 16 gauge in a single manufactured cable. Single wires taped together are prohibited.
  - 3. Additional portable lamps required on heavy duty tow trucks.
    - a. Clearance lamps shall be incorporated with the portable lamp system and shall be mounted on the sides at the rear of a towed vehicle.
    - b. Clearance lamps shall have red lens and shall be of the type with a visibility range of at least 180 degrees.
    - c. Clearance lamps may be permanently wired to the portable lamp system or may be connected with suitable male

- and female electrical connectors to the tow truck system.
- d. Electrical ground connections shall be made through the power supply cable in all portable lamp systems. Systems dependent on a towed vehicle for grounding are not acceptable.
- F.** Use of portable lamps:
1. Tow truck operators are required to affix two tail lights, two stop lights and two signal lights to the rear-most vehicle of any train of vehicles any time of day or night that the vehicles are towed or operated, on any street or highway.
  2. When a combination of vehicles is operated during the time that lighted lamps are required, there shall be exhibited on the rear of any towed vehicles at least two red tail lights.
- G.** Head lamps: See A.R.S. § 28-924.
- H.** Tail lamps: See A.R.S. § 28-925.
- I.** Reflectors: See A.R.S. §§ 28-926, 28-929, and 28-932.
1. All tow trucks shall have reflectors and clearance lamps on the front, sides and rear as required as by A.R.S. §§ 28-926, 28-929, and 28-932.
  2. Color mounting and visibility of reflectors, clearance lamps and sidemarker lamps shall be consistent with A.R.S. §§ 28-931, 28-932, and 28-933.
- J.** Stop lamps: two See A.R.S. § 28-927. Meeting with specifications outlined under A.R.S. § 28-93(A)(1).
- K.** Directional signals: See A.R.S. § 28-939.
1. All tow trucks are required to be equipped with electrical flashing directional signals.
  2. Directional signals shall be connected in a manner so as to permit "4-way" flash.
- L.** Horns: See A.R.S. § 28-954.
- M.** Mufflers: See A.R.S. § 28-955.
- N.** Mirrors: See A.R.S. § 28-956.
1. All tow trucks are to be equipped with two side rear-vision mirrors, one at each side.
  2. The minimum size per mirror surface is 24 square inches.
- O.** Windshield and windshield wipers: See A.R.S. § 28-957.
- P.** Certain vehicles must carry flares or other warning devices, i.e. three red fuses (15 minutes), three electric lanterns or three portable reflectors. See A.R.S. § 28-960.
- Q.** Clearance lamps and side reflectors:
1. All tow truck assemblies, regardless of their width, shall have clearance lamps and side reflectors as described in A.R.S. § 28-929(2).
  2. Two amber cab clearance lamps are required, showing amber to the front and mounted on the outside edge of the cab.
  3. Color, mounting, and visibility of reflectors, clearance lamps, and sidemarker lamp shall be consistent with A.R.S. §§ 28-931, 28-932, and 28-933.
- R.** Rear fender splash guards: See A.R.S. § 28-958.01.
- S.** Shovel and broom:
1. All tow trucks shall have as part of their equipment a shovel and a broom, kept in good condition.
  2. The shovel shall be at least a No. 2 and shall be a square point type.
  3. The broom shall be a push broom and have at least a 14- inch head.
- T.** Oil-absorbing material: All trucks operated in metropolitan areas shall have the following: Sand or a commercial oil and grease absorbent, or at least 1155 cubic inches of material or the equivalent of a five-gallon can of material which can be carried in a weatherproof container.
- U.** Electric lantern or flashlight: All tow trucks shall have at all times in good working condition a battery-powered electric lantern, or a two-cell flashlight in lieu of an electric lantern.
- V.** Fire extinguishers: Each tow truck shall be equipped with either:
1. A fire extinguisher having an Underwriters Laboratories rating of 5 B:C or more, or
  2. Two fire extinguishers, each of which has an Underwriters Laboratories rating of 4 B:C or more.
- W.** Steering wheel clamp: A steering wheel clamp or its equivalent shall be of sufficient strength to adequately lock the steering mechanism of a towed vehicle in a straight forward position.
- X.** Tow sling or tow plate:
1. Every tow truck shall be equipped with a tow sling, plate or bar, that is structurally adequate for any weight drawn. Slings or plates shall be properly and securely mounted on the tow truck without excessive slack.
  2. The tow plates, slings and tow-bears shall be securely attached to the tow vehicle by means of chains and hooks. Attachment chains will have a capacity equal to the weight of the towed vehicle. At least two chains shall be used.
  3. There shall be one snatch block of matched size to the rating of the wrecker assembly.
- Y.** Attachment chains ("J" hooks):
1. Every towed vehicle shall be coupled to the tow truck with attachment chains of a structural strength equal to the gross weight of the towed vehicle.
  2. Attachment chains shall be securely attached to the towing and towed vehicle with no more slack left in the chain or cable than is necessary to permit proper turning.

**Z.** Tire chains (skid chains):

1. Tow trucks are to be equipped with one set of tire chains for at least one driving wheel on each side whenever ice or snow makes driving conditions hazardous.
2. Chains shall be maintained in good condition.

**AA.** Tire equipment:

1. Tires supporting the tow truck should be of such size and ply that the sum of their capacity as shown by the particular manufacturer shall at least equal the gross laden weight of the tow truck.
2. Tire wear and replacement:
  - a. No tow truck shall be operated on any tire that has fabric exposed through the tread or sidewall.
  - b. Any tire on the front wheels of the tow truck shall have a tread groove pattern depth of at least 4/32 of an inch when measured at any point on a major tread groove.
  - c. Except as provided in subparagraph (b) of this Section, tires shall have a tread groove pattern depth of at least 2/32 of an inch when measured at any point on a major tread groove.
  - d. The Department tow truck inspector shall make the final decision concerning any question arising under this Section.

**AB.** This Section is automatically repealed on June 1, 2010.

**R13-3-402. Tow truck components must be in good operating condition**

All tow truck components (i.e., winches, booms, cables, cable clamps, thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, and hydraulic components), are to be maintained in good condition at all times. Cable fittings for hooks, slings, etc., shall be assembled by factory recommendations and specifications. All portable equipment (i.e., shovel, broom, reflectors, flashlights, fire extinguisher, etc.), shall be permanent accessories and be available on the truck at all times. This Section is automatically repealed on June 1, 2010.

**ARTICLE 5. QUALIFICATIONS OF TOW TRUCK OPERATORS**

**R13-3-501. Chauffeurs license, skills, and knowledge required**

- A.** No tow truck owner shall operate or permit anyone to operate a tow truck until the following requirements are fulfilled:
1. Tow truck operators shall have a valid Class “4” or “5” Arizona Chauffeurs license. A.R.S. § 28-414(B).
  2. Every operator shall be competent by reason of experience or training to safely operate the type of tow truck or tow trucks allowed by permit.
  3. Every operator shall possess the knowledge and ability to rig, move, pick up and transport vehicles without increasing the original damage insofar as possible.
  4. Every operator shall be free from the influence of alcoholic beverages, narcotics, or dangerous drugs when on duty.
  5. No tow truck company or individual shall operate a tow truck without displaying proof of current insurance in accordance with A.R.S. §§ 28-1251, 28-1253, 28-1255. The tow truck company shall submit proof of current insurance to the Department of Public Safety upon demand.
- B.** Every owner and operator shall be familiar with the laws and rules and regulations pertaining to tow trucks.
- C.** This Section is automatically repealed on June 1, 2010.

**ARTICLE 6. ENFORCEMENT OF RULES AND REGULATIONS**

**R13-3-601. Revocation or suspension of permit**

- A.** Any person who violates any rule or Regulation herein may have his or her tow truck permit(s) revoked or suspended by the Director or his authorized subordinate. Such action shall be pursuant to the provisions of A.R.S. § 41-1013.
- B.** In cases where, in the opinion of the Director or his representative, there is a compelling public necessity, the Director or his authorized representative may waive the enforcement of any of these rules and regulations, but all such waivers shall be treated separately for each party and each rule or regulation, and there shall be no collective waivers.
- C.** This Section is automatically repealed on June 1, 2010.

**R13-3-602. Grounds for suspension of permit**

- A.** A tow truck permit may be suspended for up to one year under the following conditions:
1. If the owner or operator violates any rule or regulation herein which does not warrant revocation. The period of suspension shall be determined according to the severity and frequency of the violation.
  2. If the owner knowingly continues to employ an operator who has been convicted of more than two moving violations under A.R.S. Title 28 during a one-year period. The suspension shall be for a period of one year from the date of the third conviction. There shall be no suspension for a violation of this Section unless it is proven that the owner knew or should have known of the operator’s convictions.
- B.** This Section is automatically repealed on June 1, 2010.

**R13-3-603. Grounds for revocation of permit**

- A.** A tow truck permit may be revoked under the following conditions:
1. If, while engaged in the operation of a tow truck, an owner or operator is convicted of A.R.S. § 28-692 (driving while under the influence of narcotics, dangerous drugs or intoxicating beverages) or A.R.S. § 28-693 (reckless driving), or has had his/her license to drive suspended under A.R.S. § 28-691 (Implied Consent Law), A.R.S. § 28-473 (License Suspension or Revocation) or A.R.S. § 28-1203 (Suspended, No Insurance, FR).
  2. If it is discovered that a permit was issued on information supplied by the applicant that the applicant knew or should have reasonably known was false or inaccurate.
  3. If the owner or operator refuses to make prompt restitution for any avoidable damage caused by his failure to comply with R13-3-501(A)(3) of these rules and regulations.
  4. If the owner or an operator habitually violates any rule or Regulation herein or A.R.S. § 9-499.05.
- B.** This Section is automatically repealed on June 1, 2010.

**R13-3-604. Appeals from tow truck enforcement action**

- A.** Any person who has had a permit denied, or who has suffered any penalty under these rules and regulations, shall have the right to a hearing. A temporary suspension of operation pursuant to Section R13-3-203(E) is not a penalty, and no hearing shall be provided for the persons affected.
- B.** The hearing shall be conducted pursuant to A.R.S. §§ 41-1009, 41-1010, 41-1011, and 41-1013.
- C.** The Director or his authorized representative may, at his discretion, combine requests for hearings into one hearing where there are common parties or issues.
- D.** The hearing shall be conducted by a tow truck hearing board, comprised of the following members: Chairman - Commander of the Special Services Division of the Department, the affected District Commander of the Department, and one representative of the tow truck industry currently permitted and engaged in the business of towing, to be appointed by the Director.
- E.** Any notice required to be given to any party or person shall be in writing pursuant to A.R.S. § 41-1009. Such notice shall be deemed sufficient and complete when deposited in the United States mail, addressed to the last known address of the party to receive the notice as evidenced by the most recent application on file with the Department.
- F.** Within 35 days after the date of the final decision rendered in any hearing, an appeal may be taken to the Superior Court of the county in which any of the conditions of A.R.S. § 12-905(B) apply. Appeals to the Superior Court shall be governed by the provisions of A.R.S. § 12-901 et seq.
- G.** This Section is automatically repealed on June 1, 2010.

**ARTICLE 7. DEFINITIONS, SCOPE, AND ENFORCEMENT DATES**

**R13-3-701. Definitions**

- A.** The definitions in A.R.S. §§ 28-101 and 41-1701 apply to this Chapter.
- B.** In this Chapter:
1. “Alter” means adding, modifying, or removing any equipment or component after a tow truck has received a permit decal from the Department, in a manner that may affect the operation of the tow truck, compliance with A.R.S. § 28-1108 and this Chapter, or the health, safety, or welfare of any individual.
  2. “Bed assembly” means the part of a tow truck that is located behind the cab, is attached to the frame, and is used to mount a boom assembly, hoist, winch, or equipment for transporting vehicles.
  3. “Boom assembly” means a device, consisting of sheaves, one or more winches, and wire rope, that is attached to a tow truck and used to lift or tow another vehicle.
  4. “Collision” means an incident involving one or more moving vehicles resulting in damage to a vehicle or its load that requires the completion of a written report of accident per A.R.S. § 28-667(A)(B).
  5. “Collision recovery” means initial towing or removing a vehicle involved in a collision from the collision scene.
  6. “Denial” means refusal to satisfy a request.
  7. “Department” means the Arizona Department of Public Safety.
  8. “Director” means the Director of the Arizona Department of Public Safety or the Director’s designee.
  9. “Emergency brake” means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle after a failure of the service brake system.
  10. “Flatbed” means an open platform that is located behind the cab and attached to the frame of a truck.
  11. “G.V.W.R.” means Gross Vehicle Weight Rating; the value specified by the manufacturer as the fully assembled weight of a single motor vehicle.
  12. “Hook” means a steel hook attached to an end of a wire rope or chain.
  13. “Parking brake system” means the electrical, mechanical, hydraulic, or air brake components used to hold the tow truck or combination under any condition of loading to prevent movement when parked.
  14. “Permit decal” means the non-transferable decal that a tow truck company is required to obtain from the Department

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- before operating a tow truck for the purpose of towing a vehicle.
15. "Person" means the same as in A.R.S. § 1-215.
  16. "Power-assisted service brake system" means a service-brake system that is equipped with a booster to supply additional power to the service-brake system by means of air, vacuum, electric, or hydraulic pressure.
  17. "Power-operated winch" means a winch that is operated by electrical, mechanical, or hydraulic power.
  18. "Service-brake system" means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle in motion.
  19. "Snatch block" means a metal case that encloses one or more pulleys and can be opened to receive a wire rope and redirect energy from a winch.
  20. "State" means the state of Arizona.
  21. "Steering wheel clamp" means a device used to secure in a fixed position the steering wheel of a vehicle being towed.
  22. "Suspension" is the temporary withdrawal of the tow truck permit decal because the Department determines the tow truck or tow truck agent is not in compliance with one or more requirements of this Chapter.
  23. "Tow bar" means a device attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
  24. "Tow plate" means a solid metal support attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
  25. "Tow sling" means two or more flexible straps attached to the wire rope or boom assembly of a tow truck to hoist a towed vehicle by chains, straps, or hooks.
  26. "Tow truck" means a motor vehicle designed, manufactured, or altered to tow or transport one or more vehicles. The following are tow trucks:
    - a. A truck with a flatbed equipped with a winch;
    - b. A truck drawing a semi-trailer or trailer equipped with a winch;
    - c. A motor vehicle that has a boom assembly or hoist permanently attached to its bed or frame;
    - d. A motor vehicle that has a tow sling, tow plate, tow bar, under-lift, or wheel-lift attached to the rear of the vehicle; and
    - e. A truck-tractor drawing a semi-trailer equipped with a winch.
  27. "Tow truck agent" means an individual who operates a tow truck on behalf of a tow truck company, and includes owners, individuals employed by the tow truck company, and independent contractors.
  28. "Tow truck company" means a person that owns, leases, or operates a tow truck that travels on a street or highway to transport a vehicle, including, but not limited to a vehicle that is damaged, disabled, unattended, repossessed, or abandoned.
  29. "Truck-tractor protection valve" means a device that supplies air to the service brake system of a trailer to release the service brakes while the trailer is being towed by a truck- tractor, or to activate the service brakes if the supply of air from the truck-tractor to the trailer is disconnected or depleted.
  30. "Under-lift" means an electrical, mechanical, or hydraulic device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its axles or frame.
  31. "Vehicle" means the same as in A.R.S. § 28-101.
  32. "Wheel lift" means an electrical, hydraulic, or mechanical device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its tires or wheels.
  33. "Winch" means a device used for winding or unwinding wire rope.
  34. "Wire rope" means flexible steel or synthetic strands that are twisted or braided together and may surround a hemp or wire core.
  35. "Work lamp" means a lighting system that is mounted on a tow truck capable of illuminating an area to the rear of the tow truck.

**R13-3-702. Scope of Chapter**

This Chapter applies only to a tow truck company in the business of towing and a tow truck agent.

**R13-3-703. Enforcement Dates**

As of the effective date of Articles 7 through 13, a tow truck agent shall ensure that a tow truck:

1. Introduced into the state on or after the effective date of Articles 7 through 13 meets the requirements of Articles 7 through 13;
2. Registered and operating as a tow truck in the state before the effective date of Articles 7 through 13, either meets the requirements of Articles 7 through 13 or Articles 1 through 6 until June 1, 2010, at which time the tow truck shall meet the requirements of Articles 7 through 13;
3. Sold to a new owner meets the requirements of Articles 7 through 13 before operating as a tow truck within this state;  
or
4. Not included in the definition of "tow truck" prior to the effective date of Articles 7 through 13, meets the require-

ments of Articles 7 through 13 within six months of the effective date of this Chapter when operating as a tow truck in this state.

### **ARTICLE 8. TOW TRUCK COMPANY REGISTRATION**

#### **R13-3-801. Tow Truck Company Registration**

- A.** A person shall not operate a tow truck to tow a vehicle unless a tow truck agent registers the tow truck company with the Arizona Department of Public Safety. The tow truck agent shall:
- 1.** Obtain an application from the Department and complete the registration form by including the following information:
    - a.** The name, address, and telephone number of the tow truck company;
    - b.** The tow truck owner's name, address, telephone number and date of birth. If the owner is a corporation, the corporation's name, address, and telephone number;
  - 2.** Obtain and keep in effect at all times the minimum limits of financial responsibility required by A.R.S. §§ 28-4009, 28-4032, 28-4033, 28-4131, and 28-4135, as applicable, for each tow truck owned, leased, or operated by the company; and
  - 3.** Sign the application in the presence of a Notary Public or Department Officer certifying under penalty of suspension of the permit decal that the tow truck company and the tow truck agent shall:
    - a.** Comply with this Chapter; and
    - b.** Have the necessary experience and qualifications to operate a tow truck in the manner required by this Chapter;
  - 4.** Include with a completed registration proof of financial responsibility that indicates:
    - a.** Name of the insured;
    - b.** Name, address, and telephone number of the insurance issuer;
    - c.** Policy number;
    - d.** Date on which the policy expires; and
    - e.** Amount of coverage.
  - 5.** Submit the completed registration form and proof of financial responsibility in person to the Department.
- B.** If information provided on the original registration form changes, the tow truck agent shall submit a new registration form to the Department within 10 calendar days of the change. The Department may suspend a tow truck permit for failure to notify the Department of a change.
- C.** If it is discovered that a tow truck permit decal was issued on information supplied by the applicant that the applicant knew or should have reasonably known was false or inaccurate, the Department may suspend a tow truck permit.

### **ARTICLE 9. TOW TRUCK REGISTRATION AND ANNUAL TOW TRUCK COMPLIANCE INSPECTION**

#### **R13-3-901. Tow Truck Registration**

- A.** A tow truck company shall register each tow truck by obtaining an identification number and permit decal before operating the tow truck to tow a vehicle.
- B.** A tow truck company shall apply for an identification number and permit decal by completing the Department's tow truck inspection application. The company may obtain the application from the Department. The signature on the application of the owner or a tow truck agent shall be notarized or signed in the presence of a Department officer.

#### **R13-3-902. Inspection by the Department**

- A.** The Department shall inspect a tow truck for compliance with this Chapter:
- 1.** As soon as possible after the tow truck registration is filed and no later than seven days; and
  - 2.** Annually for each tow truck owned, leased, or operated by the tow truck company or the tow truck agent beginning with the month indicated on the tow truck company registration form as determined by the Department.
- B.** The Department shall issue tow truck permit decals and identification number decals individually for each approved tow truck.
- C.** When a tow truck inspection is required under subsection (A), the tow truck agent shall schedule an appointment with the Department within 30 calendar days before the permit expiration date.
- 1.** Department inspectors shall examine the tow truck for compliance with the safety requirements and specifications for the tow truck class under this Chapter.
  - 2.** If the Department finds the tow truck complies with this Chapter, the Department shall issue a permit decal and inspection report.
  - 3.** If the Department finds the tow truck does not comply with this Chapter, but has no deficiency listed in R13-3-1201(C)(7), the Department shall issue a permit decal and inspection report that:
    - a.** Specifies the deficiencies found;
    - b.** Requires corrective measures; and

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- c. Gives five calendar days to the tow truck agent to correct the deficiencies.
4. If the Department finds the tow truck does not comply with this Chapter because of deficiencies listed in R13-3-1201(C)(7), the Department shall not issue a permit decal but shall issue an inspection report that:
  - a. Specifies the deficiencies found; and
  - b. Requires corrective measures.
- D. A tow truck agent shall ensure that a legible copy of the most recent tow truck inspection report is kept in the driver's compartment area of the tow truck and is produced upon demand to any peace officer. The Department may suspend a tow truck permit decal for failure to comply with this subsection.
  1. A tow truck agent shall ensure that:
    - a. A permit decal is affixed to the lower outside right corner of the tow truck's windshield; and
    - b. Identification numbers are affixed to the driver's compartment area.
  2. Failure to maintain a permit decal or identification number may be cause for suspension of a tow truck permit decal.
  3. If a tow truck inspection report, permit decal, or identification number decal is lost, damaged, destroyed, or stolen; the tow truck company shall immediately notify the Department.
    - a. The tow truck company shall provide notification in writing to Arizona Department of Public Safety, P.O. Box 6638, Phoenix, AZ 85005-6638, and include the name of the tow truck agent and the number of the lost, damaged, destroyed, or stolen permit decal or identification number decal.
    - b. Upon receipt of the notification, the Department shall issue the appropriate documentation and affix a replacement permit decal or identification number decal.

**R13-3-903. Changes in Ownership**

If a tow truck is sold, leased, or otherwise disposed of, the permit decal issued to the tow truck immediately becomes void.

1. Before sale, lease, or other disposal of a tow truck, a tow truck agent shall remove and destroy the permit decal.
2. Within 10 calendar days following the sale, lease, or other disposal of the tow truck, a tow truck agent shall notify the Department in writing of the action. The notice shall include:
  - a. Date on which ownership changed or tow truck was disposed of;
  - b. Whether the tow truck was sold, leased, or the method and reason for other disposal;
  - c. Name of person who sold, leased, or disposed of the tow truck;
  - d. If applicable, name and address of person that purchased or leased the tow truck; and
  - e. Vehicle identification number of tow truck that was sold, leased, or disposed of.
3. A person to whom a tow truck is sold or otherwise disposed shall complete the registration and inspection process before operating the tow truck to tow a vehicle within the state.

**ARTICLE 10. TOW TRUCK SPECIFICATIONS BY CLASS**

**R13-3-1001. Light-duty Tow Truck**

A light-duty tow truck has a minimum of:

1. A G.V.W.R. of 10,000 pounds;
2. A boom assembly with a rated capacity of 8,000 pounds, if so equipped;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds, if so equipped;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 2,500 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**R13-3-1002. Light-duty Tow Truck with Collision Recovery Capabilities**

A light-duty tow truck with collision recovery capabilities has a minimum of:

1. A G.V.W.R. of 14,001 pounds;
2. A boom assembly with a rated capacity of 8,000 pounds;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**R13-3-1003. Light-duty Flatbed Tow Truck**

A light-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 10,000 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
3. A bed assembly with a distributed load capacity of 7,500 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**R13-3-1004. Light-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A light-duty flatbed tow truck with collision recovery capabilities has a minimum of:

1. A G.V.W.R. of 14,001 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
3. A bed assembly with a distributed load capacity of 7,500 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**R13-3-1005. Light-duty Tow Truck-tractor and Semi-trailer Combination**

A light-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A G.V.W.R. of 8,600 pounds for a truck-tractor;
2. A G.V.W.R. of 7,500 pounds for a semi-trailer;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
4. Chains or straps and hooks that meet the requirements of R13-3-1104;
5. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
6. Brakes that meet the requirements of R13-3-1103 and A.R.S. § 28-952(A).

**R13-3-1006. Medium-duty Tow Truck with Collision Recovery Capabilities**

A medium-duty tow truck has a minimum of:

1. A G.V.W.R. of 23,500 pounds;
2. A boom assembly with a rated capacity of 24,000 pounds;
3. A power-operated winch with a line-pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds, or two power-operated winches each with a line-pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with breaking strength of 16,540 pounds;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 5,000 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**R13-3-1007. Medium-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A medium-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 23,500 pounds;
2. A power-operated winch with a line pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with a breaking strength of 16,540 pounds;
3. A bed assembly with a distributed load capacity of 15,000 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets the requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**R13-3-1008. Medium-duty Tow Truck-tractor and Semi-trailer Combination**

A medium-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A G.V.W.R. of 23,500 pounds for a truck-tractor;
2. A G.V.W.R. of 17,000 pounds for a semi-trailer;
3. A power-operated winch with a line pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with a breaking strength of 16,540 pounds;
4. Chains or straps and hooks that meet the requirements of R13-3-1104;
5. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
6. Brakes that meet the requirements of R13-3-1103 and A.R.S. § 28-952(A)(3).

**R13-3-1009. Heavy-duty Tow Truck**

A heavy-duty tow truck has a minimum of:

1. A G.V.W.R. of 35,000 pounds;
2. Tandem rear axles;
3. A boom assembly with a rated capacity of 50,000 pounds, if so equipped;
4. Two power-operated winches with a line pull capacity of 25,000 pounds each and a 9/16-inch diameter wire rope with a breaking strength of 27,000 pounds, if so equipped;
5. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 12,000 pounds when fully extended;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102;
8. Air brakes that meet the requirements of R13-3-1103; and
9. Seventy-five feet of air line configured so the ends can be connected between the tow truck and the towed unit, allowing the air supply of the tow truck's brake system to be transmitted to the towed unit's service brake system.

**R13-3-1010. Heavy-duty Tow Truck with Collision Recovery Capabilities**

A heavy-duty tow truck has a minimum of:

1. A G.V.W.R. of 35,000 pounds;
2. Tandem rear axles;
3. A boom assembly with a rated capacity of 50,000 pounds;
4. Two power-operated winches with a line pull capacity of 25,000 pounds each and a 9/16-inch diameter wire rope with a breaking strength of 27,000 pounds;
5. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 12,000 pounds when fully extended;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102;
8. Air brakes that meet the requirements of R13-3-1103; and
9. Seventy-five feet of air line configured so the ends can be connected between the tow truck and the towed unit, allowing the air supply of the tow truck's brake system to be transmitted to the towed unit's service brake system.

**R13-3-1011. Heavy-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A heavy-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 33,000 pounds;
2. A power-operated winch with a line pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds;
3. A bed assembly with a distributed load capacity of 20,000 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 4,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets the requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels and tires that meet the requirements of R13-3-1102, and
8. Air brakes that meet the requirements of R13-3-1103.

**R13-3-1012. Heavy-duty Tow Truck-tractor and Semi-trailer Combination**

A heavy-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A truck tractor with a G.V.W.R. of 35,000 pounds;
2. Tandem rear axles for both a truck-tractor and semi-trailer;
3. A G.V.W.R. of 30,000 pounds on the semi-trailer;
4. A power-operated winch with a single line pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;

6. Axles, tires, and wheels that meet the requirements of R13-3-1102; and
7. Air brakes that meet the requirements of R13-3-1103 for both a truck-tractor and semi-trailer.

#### **ARTICLE 11. TOW TRUCK EQUIPMENT REQUIREMENTS**

##### **R13-3-1101. Compliance with Chapter and Identification Requirements**

- A.** At all times a tow truck agent shall display on both sides of each tow truck its company name, full name of the town or city in which the company is located, and ten digit telephone number. Letters shall contrast sharply in color with the background on which the letters are placed, be readily legible during daylight hours from a distance of 50 feet while the tow truck is stationary, and be kept and maintained in a manner that retains the legibility.
- B.** A tow truck agent shall ensure that all tow trucks meet the requirements of this Chapter. The Department may suspend a permit decal for failure to meet the requirements of this Chapter.

##### **R13-3-1102. Axle, Wheel, and Tire Requirements**

- A.** A tow truck agent shall ensure that a tow truck has:
  1. Axles, wheels, and tires with a manufacturer's capacity rating equal to or greater than the tow truck's G.V.W.R.; and
  2. At all points on major tread grooves, a tread-groove pattern depth of at least 4/32 of an inch on all tires on the steering axle, and 2/32 of an inch on all other tires.
- B.** A tow truck agent shall ensure that a tow truck does not have:
  1. Fabric or cord exposed through the tire tread or sidewall;
  2. A tire contacting another tire, suspension, or any other part of the vehicle; or
  3. A tire visibly under-inflated or flat.

##### **R13-3-1103. Brake Requirements**

- A.** A tow truck shall have a power-assisted service brake system, separate from the parking brake system, capable of stopping and holding as many vehicles as authorized to tow under this Article under all conditions and on any grade on which the tow truck is operated. If a tow truck's service brake system is actuated by air, the tow truck shall be equipped with:
  1. A truck-tractor protection valve; and
  2. An audible or visible low air warning device that actuates at a minimum of 55 psi.
- B.** A tow truck shall have a parking brake system, separate from the service brake system, which is capable of holding as many vehicles as the truck is designed to tow. If the tow truck's parking brake system is actuated by air, the tow truck shall be equipped with:
  1. A truck-tractor protection valve; and
  2. An audible or visible low air warning device that actuates at a minimum of 55 psi.

##### **R13-3-1104. Required Equipment**

- A.** A light-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 5/16-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 3,900 pounds.
- B.** A medium-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 3/8-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 7,100 pounds.
- C.** A heavy-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 1/2-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 12,000 pounds.
- D.** A semi-trailer or flatbed shall be equipped with "T" slots, eye bolts, "D" rings, or other means for attaching chains or straps, and four tie-down chains or straps with appropriate attachment hooks.
- E.** All tow trucks shall be equipped with:
  1. Appropriate load securement devices if equipped with a wheel-lift, under-lift, tow bar, tow plate, or tow sling.
  2. A warning light assembly with a minimum of two light emitting sources. The lights shall:
    - a. Be mounted on the tow truck as high as practical and be visible from the front and rear of the tow truck for a distance of 100 feet under normal atmospheric conditions;
    - b. Show amber to the front and amber or red to the rear; and
    - c. Be wired independently of all other electrical circuits.
  3. A minimum of two work lamps. The lamps shall:
    - a. Have clear lenses;
    - b. Be capable of illuminating the area directly behind the tow truck for a distance of 50 feet; and
    - c. Be wired independently of all other electrical circuits.
  4. Two portable lamps consisting of tail lights, brake lights, turn signals, and emergency flashers, if a tow truck is equipped with a wheel-lift, under-lift, tow bar, tow plate or tow sling. Each portable lamp shall be visible from 100

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- feet under normal atmospheric conditions and comply with A.R.S. §§ 28-925(A), 28-927, and 28-939.
5. One rear-vision mirror on each side of the tow truck. Each mirror shall have a minimum surface area of 24 square inches.
  6. An operational battery-powered electric lantern or a two-cell flashlight.
  7. A fire extinguisher having an Underwriter's Laboratories rating of 10 B:C or higher. The fire extinguisher shall be filled, readily accessible for use, and mounted securely to the tow truck.
  8. A steering wheel securement device of sufficient strength to lock the steering mechanism in a straight, forward position, if a tow truck is equipped with a wheel-lift, under-lift, tow bar, tow plate or tow sling.

**R13-3-1105. Collision Recovery Equipment Requirements**

A tow truck with collision recovery capabilities shall be equipped with at least:

1. One #2 or larger square-point shovel;
2. One 14-inch wide or larger push broom;
3. Five gallons or 20 pounds of fluid absorbent material stored in a weatherproof container; and
4. One snatch block for each installed winch on the tow truck. Each snatch block shall be of a size and rating compatible with the size and rating of the installed wire rope.

**R13-3-1106. Wire Rope Restrictions**

A tow truck agent shall ensure that a wire rope is not used in a tow truck if it:

1. Has kinks, bird caging, or knots;
2. Is crushed more than 33% of original diameter;
3. Has core protrusion along the length of the rope;
4. Has more than 11 broken wires in six diameters of length;
5. Has more than three broken wires in any one strand; or
6. Has more than two broken wires at the end connection or fitting.

**R13-3-1107. Wire Rope End Specifications and Installation**

A tow truck agent shall ensure that:

1. All wire rope eye loops used on a tow truck are protected by a thimble;
2. Cable clamps are not used on a wire rope; and
3. Thimbles are not cracked, deformed, worn, loose, or have a strand of wire that slips.

**ARTICLE 12. REQUIREMENTS FOR TOW TRUCK AGENTS AND COMPANIES**

**R13-3-1201. Tow Truck Agent and Company Requirements**

**A.** The tow truck company shall ensure that each tow truck agent:

1. Possesses and carries a valid driver's license for the class of tow truck operated;
2. Possesses and carries a current medical examination certificate in accordance with A.A.C. R17-5-202;
3. Has no more than two moving violation convictions within the previous 12 months whenever operating a tow truck;
4. Possesses the skill and knowledge to rig, move, pick up, and transport a vehicle without causing avoidable damage to the vehicle or other property;
5. Has not consumed any alcoholic beverage within four hours of operating the tow truck;
6. Is not using or under the influence of alcohol or any of the following substances as defined in A.R.S. § 13-3401 while operating a tow truck:
  - a. Peyote;
  - b. Vapor-releasing substance containing a toxic substance;
  - c. Marijuana;
  - d. Dangerous drugs;
  - e. Narcotic drugs; or
  - f. Prescription-only drug unless the tow truck agent obtains the prescription-only drug pursuant to a valid prescription.
7. Has not been convicted of committing a crime involving fraud, embezzlement, or theft in the five years before operating a tow truck and has never been convicted of committing a felony homicide, felony kidnapping, felony assault, felony sexual offense, or felony robbery;
8. Has not been convicted under A.R.S. § 28-1381 (driving while under the influence of narcotics, dangerous drugs, or intoxicating beverages) or A.R.S. § 28-693 (reckless driving) while engaged in the operation of a tow truck; and
9. Does not operate a tow truck while their license to drive is suspended under A.R.S. § 28-1321 (Implied Consent Law), A.R.S. § 28-3473 (license suspension or revocation), or A.R.S. § 28-4141 (suspended, no insurance).

**B.** A tow truck agent shall:

1. Comply with A.R.S. § 28-1108;

2. Permit a peace officer or other duly authorized agent of a law enforcement agency to inspect a tow truck to determine compliance with the requirements of this Chapter. The inspection may be conducted without notice at any reasonable time and place; and
  3. Have a certification from a licensed testing facility certifying the tested line-pull of the winch or the tested lifting capacity of the boom assembly, if the tow truck is equipped with a homemade boom assembly or homemade winch.
- C.** A tow truck agent shall not:
1. Operate a tow truck without an identification number and a legible copy of a tow truck inspection report, as required by this Chapter;
  2. Transfer a permit decal or tow truck inspection report from one tow truck to another;
  3. Tow or move a vehicle from a highway, street, or public property without prior authorization from the owner or operator of the vehicle, the owner's agent, a person responsible for maintaining the public property, or a law enforcement officer. The tow truck agent may move, but shall not tow, a vehicle to extract an individual from wreckage or to remove a hazard to life or property at a collision scene;
  4. Use a hand-operated or electric winch for collision recovery work;
  5. Operate a tow truck for collision recovery work unless certified for collision recovery;
  6. Use a flatbed tow truck with a G.V.W.R. of less than 14,001 pounds to transport more than one vehicle unless the additional vehicle is a trailer that weighs less than 1,500 pounds; a golf cart, or a motor-driven cycle;
  7. Operate a tow truck that has one or more of the following defects:
    - a. Both warning light assembly lights missing or inoperative;
    - b. All load securement devices missing or defective;
    - c. A portable lamp not in compliance with A.R.S. §§ 28-925(A), 28-927 or 28-939, if a portable lamp is required;
    - d. Any steering axle tire with less than 4/32-inch tread depth in one major groove;
    - e. For an axle other than a steering axle, a tire with less than 2/32-inch tread depth and for a dual wheel axle, both tires on the same side with less than 2/32-inch tread depth;
    - f. Any flat tire or tire with cord exposed by cut or wear;
    - g. Any tow plate, tow bar, tow sling, wheel-lift, or under-lift exhibiting wear in excess of manufacturer standards at any pivot point or any crack in a structural component;
    - h. Wire rope in violation of R13-3-1106;
    - i. Any component not maintained within manufacturer standards; or
    - j. A deficiency noted on an inspection report after the time-frame available to the tow truck agent to correct deficiencies has elapsed;
  8. Equip a tow truck with homemade boom assembly or homemade winch, unless the tow truck company has a certification from a licensed testing facility certifying the tested line pull of the winch or the tested lifting capacity of the boom assembly;
  9. Tow a vehicle using a tow sling, tow plate, or tow bar unless appropriate load securement devices are attached;
  10. Transport a vehicle by flatbed or truck, truck-tractor, or semi-trailer unless the vehicle is secured with a minimum of a four-point tie-down, not including the winch;
  11. Tow a vehicle with a wheel-lift, under-lift, tow plate, tow bar, or tow sling unless two safety chains are attached by crossing the chains with one end of each chain attached to a major structural member of the tow truck and the other end attached to a major structural member of the towed vehicle, with no attachments to the bumpers;
  12. Tow a vehicle using a tow plate, tow bar, tow sling, wheel-lift, or under-lift unless a portable lamp is affixed to the rear of the rear-most towed vehicle, in plain view, and when activated, visible to traffic traveling in the same direction;
  13. Activate warning light assembly except at the scene of service, or when transporting a vehicle that presents a hazard from a collision scene;
  14. Use any vehicle towed or article stored in the towed vehicle, unless it is the property of the tow truck company or tow truck agent;
  15. Operate a tow truck that exceeds the manufacturer's G.V.W.R. without a load or the manufacturer's rated capacity for the boom or bed assembly;
  16. Operate a tow truck that is equipped with a tow plate, tow bar, or tow sling unless the tow plate, tow bar, or tow sling has a manufacturer weight rating that exceeds any load carried on it; or
  17. Refuse to make prompt restitution for any damage for which the tow truck company is legally liable.
- D.** The Department may suspend a permit decal for failure to comply with these standards.

### **ARTICLE 13. ENFORCEMENT**

#### **R13-3-1301. Waiver**

If the Director determines there is a compelling public necessity, the Director may waive the enforcement of this Chapter.

1. A person shall make a waiver request in writing.

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2. The Director shall separately consider and decide each request for a waiver and each waiver shall only apply to the person requesting the waiver.
3. The Director shall provide the decision in writing.

**R13-3-1302. Suspension or Denial of Tow Truck Permit Decal**

- A.** The Director may suspend or deny a Tow Truck Permit decal for up to one year if a person violates this Chapter.
- B.** The Department shall provide a written notice of suspension to a tow truck company that lists:
  1. The effective date of the suspension;
  2. The tow truck affected by the suspension;
  3. The specific violation; and
  4. The actions necessary for compliance and for the Department to end the suspension.
- C.** Beginning on the effective date of the suspension, the tow truck company shall not operate the identified tow truck to tow.
- D.** The tow truck company shall submit a corrective action plan to the Department that lists the steps the tow truck company will take to reach compliance.
  1. A tow truck agent shall sign the plan and submit the plan to the Department for approval and signature.
  2. Failure to submit a plan within 90 days of written notice of suspension by the Department constitutes withdrawal from the permit process and requires the tow truck company to reapply under Article 9 of this Chapter.
- E.** If the tow truck company complies with the corrective action plan, the Department shall reinstate the tow truck permit decal.
- F.** The Department shall not suspend a permit for a violation of R13-3-1201(A)(3) unless the tow truck company owner knew or should have known of the tow truck agent's convictions.

**R13-3-1303. Appeals**

- A.** A person who has had issuance of a tow truck permit denied or decal suspended has a right to a hearing.
  1. The Director or designee may combine requests for hearings into one hearing where there are common parties or issues.
  2. The hearing shall be conducted by the Office of Administrative Hearings pursuant to A.R.S. § 41-1092, et seq.
- B.** A person shall make a request for a hearing in writing to the Department within 30 calendar days from receipt of the notice of denial or suspension. If the request for a hearing is not received within the 30-day period, the applicant's right to a hearing is considered waived, unless the applicant shows that failure to timely request a hearing was beyond the applicant's control.
- C.** If a hearing is requested, the Department shall notify the applicant in writing at least 30 calendar days before the date set for hearing and include the following in the notice:
  1. A statement of the time, place, and nature of the hearing;
  2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
  3. A reference to the particular sections of the statutes and rules involved; and
  4. A short and plain statement of the matters asserted.
- D.** A final administrative decision shall be issued pursuant to A.R.S. § 41-1092.08.
  1. A copy of the decision shall be mailed to each party.
  2. Within 35 calendar days after the date of service of the final decision rendered in the hearing, an appeal may be taken to the Superior Court of the county in which any of the conditions in A.R.S. § 12-905 apply. Appeals to the Superior Court are governed by the provisions of A.R.S. § 12-901 et seq.

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION

CHAPTER 3. CORPORATION COMMISSION  
RULES OF PRACTICE AND PROCEDURE

[R05-493]

PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R14-3-113                          | Amended                         |
| R14-3-220                          | 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: Arizona Constitution Article XV, § 6; A.R.S. §§ 40-202, 40-243.A, and 40-360.01.D.  
Implementing statute: Arizona Constitution Article XV, § 6; A.R.S. §§ 40-202, 40-243.A, and 40-360.01.D.
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 114, January 6, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Chris Kempley, Esq. Attorney, Legal Division, Arizona Corporation Commission
Address:	1200 W. Washington St. Phoenix, AZ 85007
Telephone:	(602) 542-3402
Fax:	(602) 542-4870
E-mail:	ckempley@azcc.gov
Name:	Diane M. Targovnik, Esq. Attorney, Legal Division, Arizona Corporation Commission
Address:	1200 W. Washington St. Phoenix, AZ 85007
Telephone:	(602) 542-3402
Fax:	(602) 542-4870
E-mail:	dtargovnik@azcc.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The rules changes clarify the application of unauthorized communications in proceedings before the Line Siting Committee and Line Siting proceedings before the Commission. The proposed rules will assist members of the Arizona Power Plant and Line Siting Committee and Commissioners in avoiding the possibility of prejudice, real or apparent, to the public interest in Line Siting proceedings.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or 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:**

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:**

NOTE – The Arizona Corporation Commission is exempt from the requirements of A.R.S. § 41-1055 relating to economic, small business, and consumer impact statements. See A.R.S. § 41-1057(2). However, under A.R.S. § 41-1057(2), the Arizona Corporation Commission is required to prepare a “substantially similar” statement.

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The Arizona Corporation Commission does not anticipate any negative economic, small business, or consumer impact related to, or created by, the rules.

**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: Chris Kempley, Esq.  
Attorney, Legal Division, Arizona Corporation Commission

Address: 1200 W. Washington St.  
Phoenix, AZ 85007

Telephone: (602) 542-3402

Fax: (602) 542-4870

E-mail: ckempley@azcc.gov

Name: Diane M. Targovnik, Esq.  
Attorney, Legal Division, Arizona Corporation Commission

Address: 1200 W. Washington St.  
Phoenix, AZ 85007

Telephone: (602) 542-3402

Fax: (602) 542-4870

E-mail: dtargovnik@azcc.gov

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

Hearing and public comment will be held in the Hearing Room of the Arizona Corporation Commission located at 1200 W. Washington, Phoenix, AZ 85007 on February 16, 2006, beginning at 1:30 p.m. Hearing requests initial written comments be received on or before January 19, 2006, and responsive comments be received on or before February 9, 2006. However, written comments will be accepted through February 16, 2006. Comments should be submitted to Docket Control at the above address. Please reference docket number ACC-00000A-05-0613 on all documents.

**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 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;  
SECURITIES REGULATION**

**CHAPTER 3. CORPORATION COMMISSION  
RULES OF PRACTICE AND PROCEDURE**

**ARTICLE 1. RULES OF PRACTICE AND PROCEDURE BEFORE THE CORPORATION COMMISSION**

Section  
R14-3-113. Unauthorized communications

**ARTICLE 2. RULES OF PRACTICE AND PROCEDURE BEFORE POWER PLANT AND TRANSMISSION LINE  
SITING COMMITTEE**

Section  
R14-3-220. Unauthorized communications

ARTICLE 1. RULES OF PRACTICE AND PROCEDURE BEFORE THE CORPORATION COMMISSION

**R14-3-113. Unauthorized Communications**

- A. Purpose.** It is the purpose of this rule to assist the members of the Arizona Corporation Commission, and its employees, in avoiding the possibility of prejudice, real or apparent, to the public interest in proceedings before the Commission and hearings before the Arizona Power Plant and Transmission Line Siting Committee.
- B. Application.** The provisions of this rule apply from the time a contested matter is set for public hearing before the Commission and from the time a notice of siting hearing is published pursuant to A.A.C. R14-3-208(A). The provisions of this rule do not apply to rulemaking proceedings.
- C. Prohibitions.**
1. No person shall make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of a contested proceeding or siting hearing to a commissioner or commission employee involved in the decision-making process for that proceeding or siting hearing.
  2. No commissioner or commission employee involved in the decision-making process of a contested proceeding or siting hearing shall request, entertain, or consider an unauthorized communication concerning the merits of the proceeding or siting hearing.
  3. The provisions of this rule shall not prohibit:
    - a. Communications regarding procedural matters;
    - b. Communications regarding any other proceedings;
    - c. Intra-agency or non-party communications regarding purely technical and legal matters;
    - d. Comments from the general public;
    - e. Communications among hearing officers, non-party staff and commissioners.
- D. Remedy.**
1. A commissioner, commission employee, who receives an oral or written offer of any communication prohibited by this rule must decline to receive such communication and will explain that the matter is pending for determination and that all communication regarding it must be made on the public record. If unsuccessful in preventing such communications, the recipient will advise the communicator that the communication will not be considered, a brief signed statement setting forth the substance of the communication and the circumstances under which it was made, will be prepared, and the statement will be filed in the public record of the case or proceeding.
  2. Any person affected by an unauthorized communication will have an opportunity to rebut on the record any facts or contentions contained in the communication.
  3. If a party to a contested proceeding or siting hearing makes an unauthorized communication, the party may be required to show cause why its claim or interest in the proceeding or siting hearing should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

ARTICLE 2. RULES OF PRACTICE AND PROCEDURE BEFORE POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

**R14-3-220. Unauthorized Communications**

- A. Purpose.** It is the purpose of this rule to assist members of the Arizona Power Plant and Line Siting Committee in avoiding the possibility of prejudice, real or apparent, to the public interest in proceedings before the Siting Committee.
- B. Application.** The provisions of this rule apply from the time a notice of siting hearing is published pursuant to R14-3-208(A).
- C. Prohibitions.**
1. No person shall make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of siting hearing to member of the Siting Committee involved in the decision-making process for that siting hearing.
  2. No member of the Siting Committee shall request, entertain, or consider an unauthorized communication concerning the merits of a siting hearing.
  3. The provisions of this rule shall not prohibit:
    - a. Communications regarding procedural matters;
    - b. Communications regarding any other proceedings;
    - c. Intra-agency or non-party communications regarding purely technical and legal matters.
- D. Remedy.**
1. A member of the Siting Committee who receives an oral or written offer of any communication prohibited by this rule must decline to receive such communication and will explain that the hearing is pending for determination and that all communication regarding it must be made on the public record. If unsuccessful in preventing such communications, the recipient will advise the communicator that the communication will not be considered, a brief signed statement setting forth the substance of the communication and the circumstances under which it was made, will be

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- prepared, and the statement will be filed in the public record of the siting hearing.
2. Any person affected by an unauthorized communication will have an opportunity to rebut on the record any facts or contentions contained in the communication.
  3. If a party to a contested siting hearing makes an unauthorized communication, the party may be required to show cause why its claim or interest in the siting hearing should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.