

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE PLANT SERVICES DIVISION

[R07-116]

PREAMBLE

1. Sections Affected

R3-4-401
R3-4-402
R3-4-403
R3-4-404
R3-4-406
R3-4-408
R3-4-409

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
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. §§ 3-107, 3-201.01

Implementing statute: A.R.S. §§ 3-232, 3-233, 3-235, 3-237, 3-242

3. The effective date of the rules:

June 4, 2007

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 584, February 24, 2006

Notice of Proposed Rulemaking: 12 A.A.R. 3850, October 20, 2006

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

Name: Jack Peterson, Associate Director

Address: Arizona Department of Agriculture
1688 W. Adams, Rm. 235
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6. An explanation of the rules, including the agency's reasons for initiating the rules:

The purpose of these rules is to regulate the labeling, sale, and transportation for sale of agricultural, vegetable, flower, and tree and shrub seeds.

These rules are being updated at the request of the Arizona industry representatives to adopt language from The Recommended Uniform State Seed Law (RUSSEL), a model code for state programs to help maintain a certain level of national uniformity to allow unimpeded interstate marketing, and to ensure the quality of commercial planting seed. RUSSEL was developed by the Association of American Seed Control Officials (AASCO). Since the model code was

Notices of Final Rulemaking

developed in 2002, 21 states have adopted or are planning to change their seed laws and/or regulations based upon the RUSSL model.

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

The agency did not review any study related to this rulemaking.

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

Not applicable

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

Seed dealers and labelers will face a modest increase in fees from this change, but it is unlikely to have any significant economic impact on small businesses or consumers.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

The Department changed the categories to which certain violations are assigned in R3-4-409 for the purpose of tracking the requirements in statute. No other substantive changes were made; however a few erroneous references to other sections in the rule were corrected. The definition and reference to “undesirable grass seed” was removed for being an extraneous distinction in this context. Other minor grammatical changes were made to improve the construction of the rule.

11. **A summary of the comments made regarding the rule and the agency response to them:**

The only comment received concerning the rule was from Dr. Al Simons, Associate Research Scientist at the University of Arizona Department of Plant Sciences, who provided corrections to the grammar and internal references.

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

None

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

7 CFR 201.31, amended January 1, 2002.

This reference is found in R3-4-404(A).

7 CFR 201.39 – 201.65, amended January 1, 2002.

This reference is found in R3-4-406(A).

Rules for Testing Seeds, published by the Association of Official Seed Analysts, effective 2006.

This reference is found in R3-4-406(A).

14. **Was this rule previously made as an emergency rule?**

No

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

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 4. SEEDS

Section

R3-4-401.	Definitions
R3-4-402.	Labeling
R3-4-403.	Noxious Weed Seeds
R3-4-404.	Vegetable Seed Germination Standards
R3-4-406.	Sampling and Analyzing Seed
R3-4-408.	Licenses: Seed Dealer and Seed Labeler; Fees
R3-4-409.	Violations and Penalties

ARTICLE 4. SEEDS

R3-4-401. Definitions

In addition to the definitions provided in A.R.S. § 3-231, the following shall apply to this Article:

1. “Coated seed” means seed that has been covered with a substance which changes the size, shape, or weight of the original seed. Seeds coated with ingredients such as rhizobia, dyes, and pesticides are excluded.
2. “Replacement date sticker” means a sticker for one-time use which displays a new test date confirming that the germination on the label has not changed and that there are no label violations.
3. “Small container” means any container 16 ounces or less.
1. “Blend” means seed consisting of more than one variety of a kind, with each variety in excess of five percent by weight of the whole.
2. “Brand” means a word, name, symbol, number, or design used to identify seed of one person to distinguish it from seed of another person.
3. “Certifying agency” means:
 - a. An agency authorized under the laws of this state to officially certify seed and that has standards and procedures approved by the U. S. Secretary of Agriculture to assure the varietal purity and identity of the seed certified, or
 - b. An agency of a foreign country determined by the U.S. Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to the procedures and standards adhered to generally by seed-certifying agencies under subsection (a) of this definition.
4. “Coated seed” means seed that has been covered with a substance that changes the size, shape, or weight of the original seed. Seed coated with ingredients such as rhizobia, dyes, and pesticides is not coated seed.
5. “Conditioning” or “conditioned” means drying, cleaning, scarifying, and other operations that could change the purity or germination of the seed and require the seed lot to be retested to determine the label information.
6. “Dormant” means viable seed, excluding hard seed, that fails to germinate when provided the specified germination conditions for that kind of seed.
7. “Federal Seed Act” means the federal law at 7 U.S.C. 1551-1611 and regulations promulgated under the Act: 20 CFR part 201.
8. “Flower seeds” means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower or wildflower seeds in this state.
9. “Germination” means the emergence and development from the seed embryo of those essential structures that, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.
10. “Hard seeds” means seeds that remain hard at the end of the prescribed germination test period because they have not absorbed water due to an impermeable seed coat.
11. “Inert matter” means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones.
12. “Mixture”, “mix”, or “mixed” means seed consisting of more than one kind, each in excess of five percent by weight of the whole.
13. “Mulch” means a protective covering of any suitable substance placed with seed that acts to retain sufficient moisture to support seed germination, sustain early seedling growth and aid in preventing soil moisture evaporation, control of weeds, and erosion prevention.
14. “Origin” means the state where the seed was grown, or if not grown in the United States, the country where the seed was grown.
15. “Other crop seed” means seeds of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined in this Article.
16. “Pure live seed” means the product of the percent of germination plus hard or dormant seed multiplied by the percent of pure seed divided by 100. The result is expressed as a whole number.
17. “Pure seed” means a kind of seed excluding inert matter and all other seed not of the kind being considered.
18. “Replacement date sticker” means a sticker on a label that displays a new test date.
19. “Retail” means sales that are not intended for agricultural use and are prepared for use by a consumer in home gardens or household plantings only.
20. “Seed count” means the number of seeds per unit weight in a container.
21. “Seizure” means taking possession of seed pursuant to a court order.
22. “Wholesale” means sales of seeds that are intended for agricultural use normally in quantities for resale, as by an agricultural retail merchant and are not prepared for use in home gardening or household plantings.
23. “Working sample” means the number of seeds required under §§ 402 and 403 of the Federal Seed Act.

R3-4-402. Labeling

A. General requirements:

1. ~~A written statement containing the information prescribed by A.R.S. § 3-237 shall appear in legible print of not less than eight point type.~~

Arizona Administrative Register / Secretary of State

Notices of Final Rulemaking

2. ~~The name of a kind, variety, or type of seed as defined in A.R.S. § 3-231(10), (24), and (25) shall not include words or terms that may create a misleading impression concerning the history or quality of the seed, nor shall any other information in addition to that required by A.R.S. § 3-237 appear on a label that is misleading.~~
 3. ~~Information required for labeling seed in the bulk shall appear in the invoice.~~
 - 4.1. ~~Blank spaces or the words "free or none" mean "0" and "0.00%" for the purpose of applying the tolerances prescribed in the regulations of the State Seed Law Enforcement Officer in this Article.~~
 - 5.2. ~~For labeling purposes, Labeling for purity and germination entries shall not show higher results than actually found by test.~~
 - 6.3. ~~The terms "foundation seed," "registered seed," and "certified seed" are authorized for use on seed certified by an Arizona designated a seed certifying agency under the laws of Arizona as delineated in R3-4-407 R3-4-405.~~
 4. Relabeling. Any person relabeling seed in its original container shall include the following information on a label or a replacement date sticker:
 - a. The calendar month and year the germination test was completed to determine the germination percentage and the sell-by date as required by subsection (C)(3)(i)(iv) or (C)(5)(c)(i).
 - b. The same lot designation as on the original labels, and
 - c. The identity of the person relabeling the seed if different from the original labeler.
 5. Labeling of seed distributed to wholesalers. After seed has been conditioned, a labeler shall ensure the seed is labeled as follows:
 - a. When supplied to a retailer or consumer, each bag or bulk lot must be completely labeled.
 - b. When supplied to a wholesaler, if each bag or other container is clearly identified by a lot number permanently displayed on the container or if the seed is in bulk, the labeling of seed may be by invoice.
 - c. When supplied to a wholesaler, if each bag or container is not identified by a lot number, it must carry complete labeling.
 6. Seeds for sprouting. All labels of seeds sold for sprouting for salad or culinary purposes shall indicate the following information:
 - a. Commonly accepted name of kind or kinds;
 - b. Lot number;
 - c. Percentage by weight of each pure seed component in excess of 5 percent of the whole, other crop seeds, inert matter, and weed seeds, if occurring;
 - d. Percentage of germination of each pure seed component;
 - e. Percentage of hard seed, if present; and
 - f. The calendar month and year the germination test was completed to determine the percentages in subsections (c), (d) and (e).
- B. Kind, variety, or type.**
1. ~~The labels of the following kinds of All agricultural seeds sold in this state, except as stated in subsection (B)(2), shall be labeled to include the recognized variety name or type or the words "Variety not stated." A brand is not a kind and variety designation and shall not be used instead of a variety name.~~

Alfalfa	Millet, pearl
Bahiagrass	Oat
Barley	Pea, field
Bean, field	Peanut
Beet, field	Rice
Brome, smooth	Rye
Broomeorn	Safflower
Clover, crimson	Sorghum
Clover, red	Sorghum sudangrass
Clover, white	Soybean
Corn, field	Sudangrass
Corn, pop	Sunflower
Cowpea	Tobacco
Crambe	Trefoil, birdsfoot
Fescue, tall	Friticale
Flax	Wheat, common
Lespedeza, striate	Wheat, durum

Arizona Administrative Register / Secretary of State
Notices of Final Rulemaking

Millet, foxtail

2. ~~The labels of all All~~ cotton planting seed sold, offered for sale, exposed for sale, or transported for planting purposes in this state, shall have a label that ~~include~~ includes both kind and variety.
- ~~C. A replacement date sticker shall be accepted to bring outdated seed into compliance.~~
- ~~D. Seed containers with an expired replacement date sticker shall be completely relabeled.~~
- C. Agricultural, vegetable, or flower seeds that is sold, offered for sale, or exposed for sale within this state shall bear on each container a plainly written or printed label or tag in English. No modifications or disclaimers shall be made to the required label information in the labeling or on another label attached to the container. No misleading information shall appear on the label. The label shall include the following information:
 1. For agricultural, vegetable, and flower seeds that have been treated, the following is required and may appear on a separate label:
 - a. Language indicating that the seed has been treated;
 - b. The commonly-accepted chemical name of the applied substance or a description of the process used;
 - c. If a substance that is harmful to human or animals is present with the seed, a caution statement such as "Do not use for food, feed, or oil purposes." The caution for highly toxic substances shall be a poison statement and symbol; and
 - d. If the seed is treated with an inoculant, the date of expiration, which is the date beyond which the inoculant is not to be considered effective.
 2. For agricultural seeds, except for lawn and turf grass seed and mixtures of lawn and turf grass seed as provided in subsection (C)(3); for seed sold on a pure live seed basis as provided in subsection (C)(7); and for hybrids that contain less than 95 percent hybrid seed as provided in subsection (C)(8):
 - a. The name of the kind and variety for each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. If the variety of the kinds generally labeled as a variety designated in this Article is not stated, the label shall show the name of the kind and the words, "variety not stated." Hybrid seed shall be labeled as hybrid;
 - b. Lot number or other lot identification;
 - c. Origin of alfalfa, red clover, and field corn (except hybrid corn) or if the origin is unknown, a statement that the origin is unknown;
 - d. Percentage by weight of all weed seeds;
 - e. The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;
 - f. Percentage by weight of agricultural seeds other than those required to be named on the label. Agricultural seeds may be designated as "crop seeds;"
 - g. Percentage by weight of inert matter;
 - h. The sum total of weight identified in subsections (a), (d), (f), and (g) shall equal 100 percent;
 - i. For each named agricultural seed:
 - i. Percentage germination, excluding hard seed;
 - ii. Percentage of hard seeds, if present; and
 - iii. The calendar month and year the test was completed to determine the percentages. The statement "total germination and hard seed" may be included following the percentages required under subsections (i) and (ii).
 - j. Net weight of seed in the container or seed count per unit weight; and
 - k. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
 3. For lawn and turf grass seed and lawn and turf grass seed mixtures:
 - a. For single kinds, the name of the kind or kind and variety and the percentage by weight.
 - b. For mixtures, the word "mix," "mixed", or "mixture" or "blend" shall be stated with the name of the mixture, along with the commonly accepted name of each kind or kind and variety of each agricultural seed component in excess of five percent of the whole and the percentages by weight.
 - c. The percentage by weight of each kind of pure seed shall be listed in order of its predominance and in columnar form. The heading "pure seed" and "germination" or "germ" shall be placed consistent with generally accepted industry practices.
 - d. Percentage by weight of agricultural seed other than those required to be named on the label which shall be designated as "crop seed."
 - e. The percentage by weight of inert matter for lawn and turf grass shall not exceed ten percent, except that 15 percent inert matter is permitted in Kentucky bluegrass labeled without a variety name. Foreign material that is not common to grass seed shall not be added, other than material used for coating, as in subsection (C)(4), or combination products, as in subsection (C)(9).
 - f. Percentage by weight of all weed seeds. Weed seed content shall not exceed one-half of one percent by weight.
 - g. The sum total for subsections (a), (b), (c), (d), (e) and (f) shall equal 100 percent.
 - h. Noxious weeds that are required by this Article to be labeled shall be listed under the heading "noxious weed seeds."

Notices of Final Rulemaking

- i. For each lawn and turf seed named under subsection (a) or (b):
 - i. Percentage of germination, excluding hard seed;
 - ii. Percentage of hard seed, if present;
 - iii. Calendar month and year the germination test was completed to determine percentages in subsections (i) and (ii); and
 - iv. For seed sold for retail non-farm usage the statement “sell by (month/year)” which shall be no more than 15 months from the date of the germination test excluding the month of the test.
- j. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state.
4. For coated agricultural, vegetable, flower, or lawn and turf seeds that are sold by weight:
 - a. Percentage by weight of pure seeds with coating material removed;
 - b. Percentage by weight of coating material;
 - c. Percentage by weight of inert material not including coating material;
 - d. Percentage of germination determined on 400 pellets with or without seeds;
 - e. All other applicable requirements in subsections (C)(1), (2), and (3).
5. For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in pre-planted containers, mats, tapes, or other planting devices:
 - a. Name of kind and variety of seed;
 - b. Lot identification, such as by lot number or other means;
 - c. One of the following:
 - i. The calendar month and year the germination test was completed and the statement “Sell by (month/year).” The date indicated shall be no more than 12 months from the date of the test, excluding the month of the test;
 - ii. The calendar year for which the seed was packaged for sale as “packed for (year)” and the statement “sell by (year)”; or
 - iii. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 12 months, excluding the month of the test;
 - d. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state;
 - e. For seeds that germinate less than the standard established under R3-4-404(A), (B) and (C)(i): percentage of germination, excluding hard seed; percentage of hard seed, if present; and the words “Below Standard” in not less than 8-point type;
 - f. For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.
6. For vegetable seeds in containers other than packets prepared for use in home gardens, household plantings, pre-planted containers, mats, tapes, or other planting devices:
 - a. The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;
 - b. Lot number or other lot identification;
 - c. For each named vegetable seed:
 - i. Percentage germination, excluding hard seed;
 - ii. Percentage of hard seed, if present; and
 - iii. The calendar month and year the test was completed to determine the percentages; The statement “Total germination and hard seed” may be included following the percentages required under subsections (C)(6)(c)(i) and (C)(6)(c)(ii);
 - d. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state; and
 - e. The labeling requirements for vegetable seeds in containers of more than one pound are met if the seed is weighed from a properly labeled container in the presence of the purchaser.
7. For agricultural seeds sold on a pure live seed basis, each container shall bear a label containing the information required by subsection (C)(2), except:
 - a. The label need not show:
 - i. The percentage by weight of each agricultural seed component as required by subsection (C)(2)(a); or
 - ii. The percentage by weight of inert matter as required by subsection (C)(2)(g); and
 - b. For each named agricultural seed, the label must show instead of the information required by subsection (C)(2)(h):
 - i. The percentage of pure live seed; and
 - ii. The calendar month and year in which the test determining the percentage of live seed was completed.
8. For agricultural and vegetable hybrid seeds that contain less than 95 percent hybrid seed:
 - a. Kind or variety shall be labeled as “hybrid.”
 - b. The percentage that is hybrid shall be labeled parenthetically in direct association following the named variety; for example – comet (85% hybrid), and

Notices of Final Rulemaking

- c. Varieties in which the pure seed contains less than 75 percent hybrid seed shall not be labeled hybrids.
- 9. For combination mulch, seed, and fertilizer products:
 - a. The word "combination" followed by the words "mulch – seed – fertilizer", as appropriate, shall appear on the upper 30 percent of the principal display panel. The word "combination" shall be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "mulch – seed – fertilizer", as appropriate, shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination."
 - b. The products shall not contain less than 70 percent mulch.
 - c. Agricultural, flower, vegetable, lawn, and turf seeds placed in a germination medium, mat, tape, or other device or mixed with mulch shall be labeled as follows:
 - i. Product name;
 - ii. Lot number;
 - iii. Percentage by weight of pure seed of each kind and variety named. The kind and variety named may be less than 5 percent of the whole;
 - iv. Percentage by weight of other crop seeds;
 - v. Percentage by weight of inert matter, which shall not be less than 70 percent;
 - vi. Percentage by weight of weed seeds;
 - vii. The total of subsections (iii), (iv), (v), and (vi) shall equal 100 percent;
 - viii. Name and number of noxious weed seeds per pound, if present;
 - ix. Hard seed percentage, if present, and percentage of germination of each kind or kind and variety named and the month and year the test was completed; and
 - x. Name and address of the labeler or the person who sells, offers or exposes the product for sale within this state.

D. Labeling requirements: flowers.

- 1. For flower seeds in packets prepared for use in home gardens or household plantings or flower seeds in pre-planted containers, mats, tapes, or other planting devices:
 - a. For all kinds of flower seeds:
 - i. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3); and
 - ii. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state, and one of the following subsections (D)(1)(a)(iii) through (v);
 - iii. The calendar month and year the germination test was completed and the statement "Sell by (month/year)." The date indicated shall be no more than 12 months from the date of the test excluding the month of the test;
or
 - iv. The calendar year for which the seed was packaged for sale as "packed for (year)" and the statement "sell by (year)"; or
 - v. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 12 months, excluding the month of the test.
 - b. For kinds of flower seeds for which standard testing procedures are prescribed by the Association of Official Seed Analysts and that germinate less than the germination standards prescribed under the provisions of R3-4-404(B):
 - i. Percentage of germination, excluding hard seeds;
 - ii. Percentage hard seed, if present; and
 - iii. The words "Below Standard" in not less than eight-point type.
 - c. For flower seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.
- 2. For flower seeds in containers other than packets and other than pre-planted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:
 - a. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3), and for wildflowers, the genus and species and subspecies, if appropriate;
 - b. The lot number or other lot identification;
 - c. For wildflower seed with a pure seed percentage of less than ninety percent:
 - i. The percentage, by weight, of each component listed in order of the component's predominance;
 - ii. The percentage by weight of weed seed, if present; and
 - iii. The percentage by weight of inert matter;
 - d. For kinds of seed for which standard testing procedures are prescribed by the Association of Official Seed Analysts:
 - i. Percentage of germination, excluding hard or dormant seed;

Notices of Final Rulemaking

- g. For those species listed under R3-4-404(C), the following apply except as provided in subsection (E)(2)(h):
 - i. Percentage germination excluding hard seed;
 - ii. Percentage of hard seed, if present;
 - iii. The calendar month and year the test was completed to determine the percentages in subsection (a) and (b);
 - h. Instead of complying with subsections (E)(2)(g)(i), (ii), and (iii), the seed may be labeled, "Test is in process, results will be supplied upon request";
 - i. For those species for which standard germination testing procedures have not been prescribed, the calendar year in which the seed was collected; and
 - j. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
- E.** Hermetically sealed seed shall meet the following requirements
- 1. The seed shall have been packaged within nine months of harvest;
 - 2. The container used shall not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration (WVP) is measured in accordance with the U.S. Bureau of Standards as: gm H₂O/24 hr/100 sq in/ 100°F /90% RHV 0% RH;
 - 3. The seed in the container shall not exceed the percentage of moisture, on a wet weight basis, as listed below:
 - a. Agricultural Seeds,
 - i. Beet, Field: 7.5;
 - ii. Beet, Sugar: 7.5;
 - iii. Bluegrass, Kentucky: 6.0;
 - iv. Clover, Crimson: 8.0;
 - v. Fescue, Red: 8.0;
 - vi. Ryegrass, Annual: 8.0;
 - vii. Ryegrass, Perennial: 8.0;
 - viii. All Others: 6.0; and
 - ix. Mixture of Above: 8.0;
 - b. Vegetable Seeds,
 - i. Bean, Garden: 7.0;
 - ii. Bean, Lima: 7.0;
 - iii. Beet: 7.5;
 - iv. Broccoli: 5.0;
 - v. Brussels Sprouts: 5.0;
 - vi. Cabbage: 5.0;
 - vii. Carrot: 7.0;
 - viii. Cauliflower: 5.0;
 - ix. Celeriac: 7.0;
 - x. Celery: 7.0;
 - xi. Chard, Swiss: 7.5;
 - xii. Chinese Cabbage: 5.0;
 - xiii. Chives: 6.5;
 - xiv. Collards: 5.0;
 - xv. Corn, Sweet: 8.0;
 - xvi. Cucumber: 6.0;
 - xvii. Eggplant: 6.0;
 - xviii. Kale: 5.0;
 - xix. Kohlrabi: 5.0;
 - xx. Leek: 6.5;
 - xxi. Lettuce: 5.5;
 - xxii. Muskmelon: 6.0;
 - xxiii. Mustard, India: 5.0;
 - xxiv. Onion: 6.5;
 - xxv. Onion, Welsh: 6.5;
 - xxvi. Parsley: 6.5;
 - xxvii. Parsnip: 6.0;
 - xxviii. Pea: 7.0;
 - xxix. Pepper: 4.5;
 - xxx. Pumpkin: 6.0;
 - xxxi. Radish: 5.0;
 - xxxii. Rutabaga: 5.0;

Notices of Final Rulemaking

- xxxiii. Spinach: 8.0;
- xxxiv. Squash: 6.0;
- xxxv. Tomato: 5.5;
- xxxvi. Turnip: 5.0;
- xxxvii. Watermelon: 6.5; and
- xxxviii. All others: 6.0.

4. The container shall be conspicuously labeled in not less than 8-point type to indicate:
 - a. That the container is hermetically sealed.
 - b. That the seed has been preconditioned as to moisture content, and
 - c. The calendar month and year in which the germination test was completed; and
5. The germination percentage of the seed at the time of packaging shall have been equal to or higher than the standards specified elsewhere in subsection R3-4-404.

R3-4-403. Noxious Weed Seeds

A. The following noxious weed seeds are prohibited in planting seed:

1. *Acroptilon repens* (L.) DC. — Russian knapweed
2. *Aegilops cylindrica* Host. — Jointed goatgrass
3. *Agropyron Elytrigia repens* — Quackgrass
4. *Alhagi pseudalhagi* (Bieb.) Desv. — Camelthorn
5. *Cardaria draba* var. *repens*, *C. pubescens* — Hoary cress
6. *Centaurea solstitialis* L. — Yellow starthistle (St. Barnaby's thistle)
7. *Cirsium arvense* L. Scop. — Canada thistle
8. *Convolvulus arvensis* — Field bindweed
9. *Cyperus rotundus*, *C. esculentus* — Nutgrass
10. *Drymaria arenarioides* H.B.K. — Alfombrilla (Lightningweed)
11. *Euphorbia esula* L. — Leafy spurge
12. *Helianthus ciliaris* DC. — Texas blueweed
13. *Ipomoea* spp. — Morning glory. All species except *Ipomoea carnea*, Mexican bush morning glory, and *Ipomoea aborescens*, morning glory tree
14. *Solanum elaeagnifolium*, *S. carolinense* — Horsenettle
15. *Sonchus arvensis* L. — Perennial sowthistle
16. Sorghum species, perennial (such as Johnson grass, Sorghum alnum, and perennial sweet sudangrass)

A. A person shall not allow the following prohibited noxious weed seeds in seed regulated under this Article:

1. *Acroptilon repens* (L.) DC. — Russian knapweed;
2. *Aegilops cylindrica* Host. — Jointed goatgrass;
3. *Alhagi maurorum* — Camelthorn;
4. *Alternanthera philoxeroides* (Mart.) Griseb. — Alligator weed;
5. *Cardaria pubescens* (C.A. Mey) Jarmolenko — Hairy whitetop;
6. *Cardaria chalepensis* (L.) Hand-Muzz — Lens podded hoary cress;
7. *Cardaria draba* (L.) Desv. — Globed-podded hoary cress (Whitetop);
8. *Carduus acanthoides* L. — Plumeless thistle;
9. *Cenchrus echinatus* L. — Southern sandbur;
10. *Cenchrus incertus* M.A. Curtis — Field sandbur;
11. *Centaurea calcitrapa* L. — Purple starthistle;
12. *Centaurea iberica* Trev. ex Spreng. — Iberian starthistle;
13. *Centaurea squarrosa* Willd. — Squarrose knapweed;
14. *Centaurea sulphurea* L. — Sicilian starthistle;
15. *Centaurea solstitialis* L. — Yellow starthistle (St. Barnaby's thistle);
16. *Centaurea diffusa* L. — Diffuse knapweed;
17. *Centaurea maculosa* L. — Spotted knapweed;
18. *Chondrilla juncea* L. — Rush skeletonweed;
19. *Cirsium arvense* L. Scop. — Canada thistle;
20. *Convolvulus arvensis* L. — Field bindweed;
21. *Coronopus squamatus* (Forsk.) Ascherson — Creeping wartcress (Coronopus);
22. *Cucumis melo* L. var. *Dudaim* Naudin — Dudaim melon (Queen Anne's melon);
23. *Cuscuta* spp. — Dodder;
24. *Cyperus rotundus* — Purple Nutgrass or Nutsedge;
25. *Cyperus esculentus* — Yellow Nutgrass or Nutsedge;
26. *Drymaria arenarioides* H.B.K. — Alfombrilla (Lightningweed);
27. *Eichhornia azurea* (SW) Kunth. — Anchored waterhyacinth;

Notices of Final Rulemaking

- 28. Elymus repens – Quackgrass;
- 29. Euphorbia esula L. – Leafy spurge;
- 30. Halogeton glomeratus (M. Bieb.) C.A. Mey – Halogeton;
- 31. Helianthus ciliaris DC. – Texas blueweed;
- 32. Hydrilla verticillata Royale – Hydrilla (Florida-elodea);
- 33. Ipomoea spp. – Morning glory. All species except Ipomoea carnea, Mexican bush morning glory; Ipomoea triloba, three-lobed morning glory (which is considered a restricted pest); Ipomoea aborescens, morning glory tree; Ipomoea batatas – sweetpotato; Ipomoea quamoclit, Cypress Vine; Ipomoea noctiflora, Moonflower – Morning Glories, Cardinal Climber, Hearts and Honey Vine;
- 34. Isatis tinctoria L. – Dyers woad;
- 35. Linaria genistifolia var. dalmatica – Dalmation toadflax;
- 36. Lythrum salicaria L. – Purple loosestrife;
- 37. Medicago polymorpha L. – Burclover;
- 38. Nassella trichotoma (Nees.) Hack. – Serrated tussock;
- 39. Onopordum acanthium L. – Scotch thistle;
- 40. Orobancha ramosa L. – Branched broomrape;
- 41. Panicum repens L. – Torpedo grass;
- 42. Peganum harmala L. – African rue (Syrian rue);
- 43. Portulaca oleracea L. – Common purslane;
- 44. Rorippa austriaca (Crantz.) Bess. – Austrian fieldcress;
- 45. Salvinia molesta – Giant Salvinia;
- 46. Senecio jacobaea L. – Tansy ragwort;
- 47. Solanum carolinense – Carolina horsenettle;
- 48. Solanum elaeagnifolium – Silverleaf Nightshade;
- 49. Sonchus arvensis L. – Perennial sowthistle;
- 50. Solanum viarum Dunal – Tropical Soda Apple;
- 51. Sorghum species, perennial (Sorghum halepense, Johnson grass, Sorghum almum, and perennial sweet sudangrass);
- 52. Stipa brachychaeta Godr. – Puna grass;
- 53. Striga spp. – Witchweed;
- 54. Trapa natans L. – Water-chestnut;
- 55. Tribulus terrestris L. – Puncturevine.

B. The following noxious weed seeds are restricted for planting seed. The list shows the highest number of each restricted noxious weed seed permitted per pound of agricultural, vegetable, or ornamental plant seed:

- 1. Avena fatua – Wild oat..... 5
- 2. Brassica spp. – Wild mustard..... 30
- 3. Cenchrus pauciflorus – Sandbur..... 10
- 4. Cuscuta spp. – Dodder..... 10
- 5. Rumex crispus – Curly dock..... 30
- 6. Salsola kali var. tenuifolia – Russian thistle..... 30
- 7. Sida hederacea – Alkali mallow..... 30
- 8. Tribulus terrestris L. – Puncturevine..... 10

B. A person shall not allow more than the number shown of the following restricted noxious weed seeds in a working sample of seed regulated by this Article; or, any more than 50 of any combination of the following restricted noxious weed seeds per working sample.

- 1. Avena fatua – Wild oat: 5;
- 2. Brassica campestris – Bird rape: 30;
- 3. Brassica juncea – Indian mustard: 30;
- 4. Brassica niger – Black mustard: 30;
- 5. Brassica rapa – field mustard: 30;
- 6. Cenchrus pauciflorus – Sandbur: 10;
- 7. Eichhornia crassipes (Mart.) Solms – Floating waterhyacinth: 10;
- 8. Euryops sunbarnosus subsp. vulgaris – Sweet resinbush: 10;
- 9. Ipomoea triloba L. – Three-lobed morning glory: 10;
- 10. Rumex crispus – Curly dock: 30;
- 11. Salsola kali var. tenuifolia – Russian thistle: 30;
- 12. Sinapis arvensis – Charlock or Wild mustard: 30; and
- 13. Sida hederacea – Alkali mallow: 30.

C. The sale of agricultural, vegetable, or ornamental planting seed containing prohibited noxious weed seed is prohibited.

D. The sale of agricultural planting seed containing a single type of restricted noxious weed seed in excess of the limitations

Notices of Final Rulemaking

set forth in subsection (B) or in combination in excess of 50 per pound is prohibited

R3-4-404. ~~Vegetable Seed Germination Standards~~

The following list contains the minimum germination standards for vegetable seed, including hard seed, in containers of one pound or less:

A. ~~Vegetable seed shall have the following minimum percent germination or the minimum percent germination as found in the Federal Seed Act, 20 CFR 201.31 (as amended January 1, 2002), which is incorporated by reference, not including future editions or amendments. The material is on file with the Department and available for purchase from the U. S. Government Bookstore (<http://bookstore.gpo.gov/>) or at the U.S. Government Printing Office, 732 N. Capitol St., NW, Washington, DC 20401 or it can be found online at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=42bcf6d966081e2f2cf9d03315fb999f&rgn=div8&view=text&node=7.3.1.1.7.28.0.317.38&idno=7>.~~

1. Artichoke: 60;
2. Asparagus: 70;
3. Asparagusbean: 75;
4. Bean, garden: 70;
5. Bean, Lima: 70;
6. Bean, runner: 75;
7. Beet: 65;
8. Broadbean: 75;
9. Broccoli: 75;
10. Brussels sprouts: 70;
11. Burdock, great: 60;
12. Cabbage: 75;
13. Cabbage, tronchuda: 70;
14. Cardoon: 60;
15. Carrot: 55;
16. Cauliflower: 75;
17. Celeriac: 55;
18. Celery: 55;
19. Chard, Swiss: 65;
20. Chicory: 65;
21. Chinese cabbage: 75;
22. Chives: 50;
23. Citron: 65;
24. Collards: 80;
25. Corn, sweet: 75;
26. Cornsalad: 70;
27. Cowpea: 75;
28. Cress, garden: 75;
29. Cress, upland: 60;
30. Cress, water: 40;
31. Cucumber: 80;
32. Dandelion: 60;
33. Dill: 60;
34. Eggplant: 60;
35. Endive: 70;
36. Kale: 75;
37. Kale, Chinese: 75;
38. Kale, Siberian: 75;
39. Kohlrabi: 75;
40. Leek: 60;
41. Lettuce: 80;
42. Melon: 75;
43. Mustard, India: 75;
44. Mustard, spinach: 75;
45. Okra: 50;
46. Onion: 70;
47. Onion, Welsh: 70;
48. Pak-choi: 75;
49. Parsley: 60;

Arizona Administrative Register / Secretary of State
Notices of Final Rulemaking

50. Parsnip: 60;
51. Pea: 80;
52. Pepper: 55;
53. Pumpkin: 75;
54. Radish: 75;
55. Rhubarb: 60;
56. Rutabaga: 75;
57. Sage: 60;
58. Salsify: 75;
59. Savory, summer: 55;
60. Sorrel: 65;
61. Soybean: 75;
62. Spinach: 60;
63. Spinach, New Zealand: 40;
64. Squash: 75;
65. Tomato: 75;
66. Tomato, husk: 50;
67. Turnip: 80;
68. Watermelon: 70; and
69. All Others: The germination standard for all other vegetable and herb seed for which a standard has not been established shall be 50 percent.

B. Flower seed shall meet the following minimum percent germination standards. For the kinds marked with an asterisk, the percentage listed is the sum total of the percentage germination and percentage of hard seed. A mixture of kinds does not meet the germination standard if the germination of any kind or combination of kinds constituting 25 percent or more of the mixture by number of seed is below the germination standard for the kind or kinds involved.

1. Archillea (The Pearl) – *Achillea ptarmica*: 50;
2. African Daisy – *Dimorphotheca aurantiaca*: 55;
3. African Violet – *Saintpaulia* spp: 30;
4. Ageratum – *Ageratum mexicanum*: 60;
5. Agrostemma (rose campion) – *Agrostemma coronaria*: 65;
6. Alyssum – *Alyssum compactum*, *A. maritimum*, *A. procumbens*, *A. saxatile*: 60;
7. Amaranthus – *Amaranthus* spp: 65;
8. Anagalis (primpernel) – *Anagalis arvensis*, *Anagalis coerulea*, *Anagalis grandiflora*: 60;
9. Anemone – *Anemone coronaria*, *A. pulsatilla*: 55;
10. Angel’s Trumpet – *Datura arborea*: 60;
11. Arabis – *Arabis alpine*: 60;
12. Arctotis (African lilac daisy) – *Arctotis grandis*: 45;
13. Armeria – *Armeria Formosa*: 55;
14. Asparagus, fern – *Asparagus plumosus*: 50;
15. Asparagus, sprenger, *Asparagus sprenger*: 55;
16. Aster, China – *Callistephus chinensis*; except Pompon, Powderpuff, and Princess types: 55;
17. Aster, China – *Callistephus chinensis*; Pompon, Powderpuff, and Princess types: 50;
18. Aubretia – *Aubretia deltoids*: 45;
19. Baby Smilax – *Aparagus asparagoides*: 25;
20. Balsam – *Impatiens balsamina*: 70;
21. Begonia – (*Begonia fibrous rooted*): 60;
22. Begonia – (*Begonia tuberous rooted*): 50;
23. Bells of Ireland – *Molucella laevis*: 60;
24. Brachycome (swan river daisy) – *Brachycome iberidifolia*: 60;
25. Browallia – *Browallia elata* and *B. speciosa*: 65;
26. Bupthalam (sunwheel) – *Bupthalam salicifolium*: 60;
27. Calceolaria – *Calceolaria* spp: 60;
28. Calendula – *Calendula officinalis*: 65;
29. California Poppy – *Eschscholtzia californica*: 60;
30. Calliopsis – *Coreopsis bicolor*, *C. drummondi*, *C. elegans*: 65;
31. Campanula:
 - a. Canterbury Bells – *Campanula medium*: 60;
 - b. Cup and Saucer Bellflower – *Campanula medium calycanthema*: 60;
 - c. Carpathian Bellflower – *Campanula carpatica*: 50;

Notices of Final Rulemaking

- d. Peach Bellflower – *Campanula persicifolia*: 50;
- 32. Candytuft, Annual – *Iberis amara*, *I. umbellate*: 65;
- 33. Candytuft, Perennial – *Iberis gibraltarica*, *I. sempervirens*: 55;
- 34. Castor Bean – *Ricinus communis*: 60;
- 35. Cathedral Bells – *Cobaea scandens*: 65;
- 36. *Celosia argentea*: 65;
- 37. Centaurea: Basket Flower – *Centaurea americana*, Cornflower – *C. cyanus*, Dusy Miller – *C. candidissima*, Royal
Centaurea – *C. imperialis*, Sweet Sultan – *C. moschata*, Velvet Centaurea – *C. gymnocarpa*: 60;
- 38. *Cerasium* (snow-in-summer) *Cerastium biebersteini* and *C. tomentosum*: 65;
- 39. Chinese Forget-me-not – *Cynoglossum amabile*: 55;
- 40. Chrysanthemum, Annual – *Chrysanthemum carinatum*, *C. coronarium*, *C. Cineraria* – *Senecio cruentus*: 60;
- 41. Clarkia – *Clarkia elegans*: 65;
- 42. Cleome – *Cleome gigantea*: 65;
- 43. Coleus – *Coleus blumei*: 65;
- 44. Columbine – *Aquilegia* spp.: 50;
- 45. Coral Bells – *Heuchera sanguinea*: 55;
- 46. Coreopsis, Perennial – *Coreopsis lanceolata*: 40;
- 47. Corn, ornamental – *Zea mays*: 75;
- 48. Cosmos: Sensation, Mammoth and Crested types – *Cosmos bipinnatus*; Klondyke type – *C. sulphureau*: 65;
- 49. Crossandra – (*Crossandra infundibuliformis*): 50;
- 50. Dahlia – *Dahlia* spp: 55;
- 51. Daylily – *Hemerocallis* spp: 45;
- 52. Delphinium, Perennial – *Belladonna* and *Bellamosum* types; Cardinal Larkspur – *Delphinium cardinale*; *Chinensis*
types; *Pacific Giant*, *Gold Medal* and other hybrids of *D. elatum*: 55;
- 53. Dianthus:
 - a. Carnation – *Dianthus caryophyllus*: 60;
 - b. China Pinks – *Dianthus chinensis*, *heddewigi*, *heddensis*: 70;
 - c. Grass Pinks – *Dianthus plumarius*: 60;
 - d. Maiden Pinks – *Dianthus deltoids*: 60;
 - e. Sweet William – *Dianthus barbatus*: 70;
 - f. Sweet Wivelsfield – *Dianthus allwoodi*: 60;
- 54. Didiscus – (blue lace flower) – *Didiscus coerulea*: 65;
- 55. Doronicum (leopard’s bane) – *Doronicum caucasicum*: 60;
- 56. *Dracaena* – *Dracaena indivisa*: 55;
- 57. Dragon Tree – *Dracaena draco*: 40;
- 58. English Daisy – *Bellis perennis*: 55;
- 59. Flax – *Golden flax* (*Linum flavum*); *Flowering flax* *L. randiflorum*; *Perennial flax*, *L. perenne*: 60;
- 60. Flowering Maple – *Abutilon* spp: 35;
- 61. Foxglove – *Digitalis* spp: 60;
- 62. Gaillardia, Annual – *Gaillardia pulchella*; *G. picta*; Perennial – *G. grandiflora*: 45;
- 63. Gerbera (transvaal daisy) – *Gerbera jamesoni*: 60;
- 64. Geum – *Geum* spp: 55;
- 65. Gilia – *Gilia* spp: 65;
- 66. Glossiosa daisy (*rudbeckia*) – *Echinacea purpurea* and *Rudbeckia Hirta*: 60;
- 67. Gloxinia – (*Sinningia speciosa*): 40;
- 68. Godetia – *Godetia amoena*, *G. grandiflora*: 65;
- 69. Gourds: Yellow Flowered – *Cucurbita pepo*; White Flowered – *Lagenaria sisceraria*; Dishcloth – *Luffa cylindrica*:
70;
- 70. Gypsophila: Annual Baby’s Breath – *Gypsophilla elegans*; Perennial Baby’s Breath – *G. paniculata*, *G. pacifica* *G.*
repens: 70;
- 71. Helenium – *Helenium autumnale*: 40;
- 72. Helichrysum – *Helichrysum monstrosum*: 60;
- 73. Heliopsis – *Heliopsis scabra*: 55;
- 74. Heliotrope – *Heliotropium* spp: 35;
- 75. Helipterum (Acroclinium) – *Helipterum roseum*: 60;
- 76. Hesperis (sweet rocket) – *Hesperis matronalis*: 65;
- 77. *Hollyhock – *Althea rosea*: 65;
- 78. Hunnemania (mexican tulip poppy) – *Hunnemania fumariaefolia*: 60;
- 79. Hyacinh bean – *Dolichos lablab*: 70;

Notices of Final Rulemaking

80. Impatiens – *Impatiens hostii*, *I. sultani*: 55;
81. **Ipomoea* – Cypress Vine – *Ipomoea quamoclit*; Moonflower – *I. noctiflora*; Morning Glories, Cardinal Climber, Hearts and Honey Vine – *Ipomoea* spp: 75;
82. Jerusalem cross (maltese cross) – *Lychnis chalconica*: 70;
83. Job’s Tears – *Coix lacrymajobi*: 70;
84. *Kochia* – *Kochia childsi*: 55;
85. Larkspur, Annual – *Delphinium ajacis*: 60;
86. Lantana – *Lantana camara*, *L. hybrida*: 35;
87. Lilium (regal lily) – *Lilium regale*: 50;
88. *Linaria* – *Linaria* spp: 65, exception: *Linaria genistifolia* var. *dalmatica* – Dalmation toadflax which is a prohibited noxious weed;
89. Lobelia, Annual – *Lobelia erinus*: 65;
90. Lunaria, Annual – *Lunaria annua*: 65;
91. *Lupine – *Lupinus* spp: 65;
92. Marigold – *Tagetes* spp: 65;
93. Marvel of Peru – *Mirabilis jalapa*: 60;
94. Matricaria (feverfew) – *Matricaria* spp: 60;
95. Mignonette – *Reseda odorata*: 55;
96. *Myosotis* – *Myosotis alpestris*, *M. oblongata*, *M. palustres*: 50;
97. Nasturtium – *Tropaeolum* spp: 60;
98. Nemesia – *Nemesia* spp: 65;
99. Nemophila – *Nemophila insignis*: 70;
100. Nemophila, spotted – *Nemophila maculate*: 60;
101. Nicotiana – *Nicotiana affinis*, *N. sanderae*, *N. sylvestris*: 65;
102. Nierembergia – *Nierembergia* spp: 55;
103. Nigella – *Nigella damascena*: 55;
104. Pansy – *Viola tricolor*: 60;
105. Penstemon – *Penstemon barbatus*, *P. grandiflorus*, *P. laevigatus*, *P. pubescens*: 60;
106. Petunia – *Petunia* spp: 45;
107. Phacelia – *Phacelia campanularia*, *P. minor*, *P. tanacetifolia*: 65;
108. Phox, Annual – *Phlox drummondii* all types and varieties: 55;
109. Physalis – *Physalis* spp: 60;
110. Platycodon (balloon flower) – *Platycodon grandiflorum*: 60;
111. Plumbago, cape – *Plumbago capensis*: 50;
112. Ponytail – *Beaucarnea recurvata*: 40;
113. Poppy: Shirley Poppy – *Papaver rhoeas*; Iceland Poppy – *P. nudicaule*; Oriental Poppy – *P. orientale*; Tulip Poppy – *P. glaucum*: 60;
114. Portulaca – *Portulaca grandiflora*: 55;
115. Primula (primrose) – *Primula* spp: 50;
116. Pyrethrum (painted daisy) – *Pyrethrum coccineum*: 60;
117. *Salpiglossis* – *Salpiglossis gloxinaeflora*, *S. sinuata*: 60;
118. *Salvia* – Scarlet Sage – *Salvia splendens*; Mealycup Sage (blue bedder) – *Salvia farinacea*: 50;
119. *Saponaria* – *Saponaria ocymoides*, *S. vaccaria*: 60;
120. Scabiosa, Annual – *Scabiosa atropurpurea*: 50;
121. Scabiosa, Perennial – *Scabiosa caucasica*: 40;
122. *Schizanthus* – *Schizanthus* spp: 60;
123. *Sensitive pant (mimosa) – *Mimosa pudica*: 65;
124. Shasta Daisy – *Chrysanthemum maximum* C. *leucanthemum*: 65;
125. Silk Oak – *Grevillea robusta*: 25;
126. Snapdragon – *Antirrhinum* spp: 55;
127. *Solanum* – *Solanum* spp: 60, exceptions: *Solanum carolinense* – Carolina horsenettle and *Solanum elaeagnifolium* – Silverleaf Nightshade which are prohibited noxious weeds;
128. Statice – *Statice sinuata*, *S. suworonii* (flower heads): 50;
129. Stocks: Common – *Mathiola incana*; Evening Scented – *Mathiola bicornis*: 65;
130. Sunflower – *Helianthus* spp: 70, exception: *Helianthus ciliaris* DC. – Texas blueweed which is a prohibited noxious weed;
131. Sunrose – *Helianthemum* spp: 30;
132. *Sweet Pea, Annual and Perennial other than dwarf bush – *Lathyrus odoratus*, *L. latifolius*: 75;
133. *Sweet Pea, Dwarf Bush – *Lathyrus Odoratus*: 65;

Notices of Final Rulemaking

134. Tahoka Daisy – *Machaeanthera Tanacetifolia*: 60;
135. Thunbergia – *Thunbergia Alata*: 60;
136. Torn Flower – *Tithonia Speciosa*: 70;
137. Torenia (Wishbone Flower) – *Torenia Fournieri*: 70;
138. *Tritoma Kniphofia* Spp: 65;
139. Verbena, Annual – *Verbena Hybrida*: 35;
140. Vinca – *Vinca Rosea*: 60;
141. Viola – *Viola Cornuta*: 55;
142. Virginian Stocks – *Malcolmia Maritima*: 65;
143. Wallflower – *Cheiranthus Allioni*: 65;
144. Yucca (Adam’s Needle) – *Yucca Filamentosa*: 50;
145. Zinna (Except *Linearis And Creeping*) – *Zinnia Angustifolia, Z. Elegans, Z. Grandiflora, Z. Gracillima, Z. Haegeana, Z. Multiflora, Z. Pumila*: 65;
146. *Zinnia, Linearis And Creeping* – *Zinnia Linearis, Sanvitalia Procumbens*: 50;
147. All Other Kinds: 50.

C. The germination labeling provisions of R3-4-402(E) apply to the following tree and shrub species:

1. *Abies amabilis* (Dougl.) Forbes – Pacific Silver Fir;
2. *Abies balsamea* (L.) Mill. – Balsam Fir;
3. *Abies concolor* (Gord. Glend.) Lindl. – White Fir;
4. *Abies fraseri* (Pursh.) Poir – Fraser Fir;
5. *Abies grandis* (Dougl.) Lindl. – Grand Fir;
6. *Abies homolepis* Sieb Zucc. – Nikko Fir;
7. *Abies lasiocarpa* (Hook) Nutt. – Subalpine Fir;
8. *Abies magnifica* A. Murr. – California Red Fir;
9. *Abies magnifica* var. *shastensis* Lemm. – Shasta Red Fir;
10. *Abies procera* Rehd. – Nobel Fir;
11. *Abies veitchii* (Lindl.) – Veitch Fir;
12. *Acer ginnala* Maxim. – Amur Maple;
13. *Acer macrophyllum* Pursh. – Bigleaf Maple;
14. *Acer negundo* L. – Boxelder;
15. *Acer pensylvanicum* L. – Striped Maple;
16. *Acer platanoides* L. – Norway Maple;
17. *Acer pseudoplatanus* L. – Sycamore Maple;
18. *Acer rubrum* L. – Red Maple;
19. *Acer saccharinum* L. – Silver Maple;
20. *Acer saccharum* Marsh. – Sugar Maple;
21. *Acer spicatum* Lam. – Mountain Maple;
22. *Aesculus pavia* L. – Red Buckeye;
23. *Ailanthus altissima* (Mill.) Swingle – Tree of Heaven, Ailanthus;
24. *Berberis thunbergii* DC. – Japanese Barberry;
25. *Berberis vulgaris* L. European Barberry;
26. *Betula lenta* L. – Sweet Birch;
27. *Betula alleghaniensis* Britton – Yellow Birch;
28. *Betula nigra* L. – River Birch;
29. *Betula papyrifera* Marsh. – Paper Birch;
30. *Betula pendula* Roth. – European White Birch;
31. *Betula populifolia* Marsh. – Gray Birch;
32. *Carya illinoensis* (Wang.) K. Koch – Pecan;
33. *Carya ovata* (Mill) K. Koch – Shagbark hickory;
34. *Casuarina* spp. – Beefwood;
35. *Catalpa bignonioides* Walt. – Southern Catalpa;
36. *Catalpa speciosa* Warder. – Northern Catalpa;
37. *Cedrus atlantica* Manetti – Atlas Cedar;
38. *Cedrus deodara* (Roxb.) Loud. – Deodar Cedar;
39. *Cedrus libani* (Loud.) – Cedar of Lebanon;
40. *Clastrus scandens* L. – American Bittersweet;
41. *Celastrus orbiculata* Thunb. – Oriental Bittersweet;
42. *Chamaecyparis lawsoniana* (A. Murr.) Parl – Port Oxford Cedar;
43. *Chamaecyparis nootkatensis* (D. Don.) Spach. – Alaska Cedar;

Notices of Final Rulemaking

44. Cornus florida L. – Flowering dogwood:
45. Cornus stolonifera Michx. – Red-osier dogwood:
46. Crataegus mollis – Downy hawthorn:
47. Cupressus arizonica Greene – Arizona Cypress:
48. Eucalyptus deglupta:
49. Eucalyptus gradis:
50. Fraxinus americana L. – White Ash:
51. Fraxinus excelsior L. – European Ash:
52. Fraxinus latifolia Benth. – Oregon Ash:
53. Fraxinus nigra Marsh. – Black Ash:
54. Fraxinus pennsylvanica Marsh. – Green Ash:
55. Fraxinus pennsylvanica var. lanceolata (Borkh.) Sarg. – Green Ash:
56. Gleditsia triacanthos L. – Honey Locust:
57. Grevillea robusta – Silk-oak:
58. Larix decidua Mill. – European Larch:
59. Larix eurolepis Henry – Dunkfeld Larch:
60. Larix leptolepis (Sieb. Zucc.) Gord. – Japanese Larch:
61. Larix occidentalis Nutt. – Western Larch:
62. Larix sibirica Ledeb. – Siberian Larch:
63. Libocedrus decurrens – incense-cedar:
64. Liquidambar styraciflua L. – Sweetgum:
65. Liriodendron tulipifera L. – yellow-poplar:
66. Magnolia grandiflora – Southern magnolia:
67. Malus spp. – Apple:
68. Malus spp. – Crabapple:
69. Nyssa aquatica L. – Water tupelo:
70. Nyssa sylvatica var. sylvatica – Black tupelo:
71. Picea abies (L.) Karst. – Norway Spruce:
72. Picea engelmanni Parry – Engelmann Spruce:
73. Picea glauca (Moench.) Voss – White Spruce:
74. Picea glauca var. albertiana (S. Brown) Sarg. – Western White Spruce, Alberta White Spruce:
75. Picea glehnii (Fr. Schmidt) Mast. – Sakhalin Spruce:
76. Picea jezoensis (Sieb. Zucc.) Carr – Yeddo Spruce:
77. Picea koyamai Shiras. – Koyama Spruce:
78. Picea mariana (Mill.) B.S.P. – Black Spruce:
79. Picea omorika (Pancic.) Purkyne – Serbian Spruce:
80. Picea orientalis (L.) Link. – Oriental Spruce:
81. Picea polita (Sieb. Zucc.) Carr – Tigertail Spruce:
82. Picea pungens Engelm. – Blue Spruce, Colorado Spruce:
83. Picea pungens var. glauca Reg. – Colorado Blue Spruce:
84. Picea rubens Sarg. – Red Spruce:
85. Picea sitchensis (Bong.) Carr – Sitka Spruce:
86. Pinus albicaulis Engelm. – Whitebark Pine:
87. Pinus aristata Engelm. – Bristlecone Pine:
88. Pinus banksiana Lamb. – Jack Pine:
89. Pinus canariensis C. Smith – Canary Pine:
90. Pinus caribaea – Caribbean Pine:
91. Pinus cembroides Zucc. – Mexican Pinyon Pine:
92. Pinus clausa – Sand Pine:
93. Pinus contorta Dougl. – Lodgepole Pine:
94. Pinus contorta var. latifolia Engelm. – Lodgepole Pine:
95. Pinus coulteri D. Don. – Coulter Pine, Bigcone Pine:
96. Pinus densiflora Sieb. Zucc. – Japanese Red Pine:
97. Pinus echinata Mill. – Shortleaf Pine:
98. Pinus elliottii Engelm. – Slash Pine:
99. Pinus flexilis James – Limber Pine:
100. Pinus glabra Walt. – Spruce Pine:
101. Pinus griffithii McClelland – Himalayan Pine:
102. Pinus halepensis Mill. – Aleppo Pine:

Notices of Final Rulemaking

103. *Pinus jeffreyi* Grev. Balf. – Jeffrey Pine;
104. *Pinus khasya* Royle – Khasia Pine;
105. *Pinus lambertiana* Dougl. – Sugar Pine;
106. *Pinus heldreichii* var. *leucodermis* (Ant.) Markgraf ex Fitschen – Balkan Pine, Bosnian Pine;
107. *Pinus markusii* DeVriese – Markus Pine;
108. *Pinus monticola* Dougl. – Western White Pine;
109. *Pinus mugo* Turra. – Mountain Pine;
110. *Pinus mugo* var. *mughus* (Scop.) Zenari – Mugo Swiss Mountain Pine;
111. *Pinus muricata* D. Don. – Bishoppine;
112. *Pinus nigra* Arnold – Austrian Pine;
113. *Pinus nigra poiretiana* (Ant.) Aschers Graebn. – Corsican Pine;
114. *Pinus palustris* Mill. – Longleaf Pine;
115. *Pinus parviflora* Sieb. Zucc. – Japanese White Pine;
116. *Pinus patula* Schl. Cham. – Jelecote Pine;
117. *Pinus pinaster* Sol. – Cluster Pine;
118. *Pinus pinea* L. – Italian Stone Pine;
119. *Pinus ponderosa* Laws. – Ponderosa Pine, Western Yellow Pine;
120. *Pinus radiata* D. Don. – Monterey Pine;
121. *Pinus resinosa* Ait. – Red Pine, Norway Pine;
122. *Pinus rigida* Mill. – Pitch Pine;
123. *Pinus serotina* Michx. – Pond Pine;
124. *Pinus strobus* L. – Eastern White Pine;
125. *Pinus sylvestris* L. – Scotch Pine;
126. *Pinus taeda* L. – Loblolly Pine;
127. *Pinus taiwanensis* Hayata – Formosa Pine;
128. *Pinus thunbergii* Parl. – Japanese Black Pine;
129. *Pinus virginiana* Mill. – Virginia Pine, Scrub Pine;
130. *Platanus occidentalis* L. – American Sycamore;
131. *Populus* spp. – Poplars;
132. *Prunus armeriaca* L. – Apricot;
133. *Prunus avium* (L.) L. – Cherry;
134. *Prunus domestica* L. – Plum, Prune;
135. *Prunus persica* Batsch. – Peach;
136. *Pseudotsuga menziesii* var. *glauca* (Beissn.) Franco – Blue Douglas Fir;
137. *Pseudotsuga menziesii* var. *caesia* (Beissn.) Franco – Gray Douglas Fir;
138. *Pseudotsuga menziesii* var. *viridis* – Green Douglas Fir;
139. *Pyrus communis* L. – Pear;
140. *Quercus* spp. – (Red or black oak group);
141. *Quercus alba* L. – White oak;
142. *Quercus muehlenbergii* Engelm. – Chinkapin oak;
143. *Quercus virginiana* Mill. – Live Oak;
144. *Rhododendron* spp. – Rhododendron;
145. *Robinia pseudoacacia* L. – Black Locust;
146. *Rosa multiflora* Thunb. – Japanese Rose;
147. *Sequoia gigantea* (Lindl.) Decne. – Giant Sequoia;
148. *Sequoia sempervirens* (D. Don.) Engl. – Redwood;
149. *Syringa vulgaris* L. – Common Lilac;
150. *Thuja occidentalis* L. – Northern White Cedar, Eastern Arborvitae;
151. *Thuja orientalis* L. – Oriental Arborvitae, Chinese Arborvitae;
152. *Thuja plicata* Donn. – Western Red Cedar – Giant Arborvitae;
153. *Tsuga canadensis* (L.) Carr. – Eastern Hemlock, Canada Hemlock;
154. *Tsuga heterophylla* (Raf.) Sarg. – Western Hemlock, Pacific Hemlock;
155. *Ulmus americana* L. – American Elm;
156. *Ulmus parvifolia* Jacq. – Chinese Elm;
157. *Ulmus pumila* L. – Siberian Elm; and
158. *Vitis vulpina* L. – Riverbank Grape.

D. A person shall not indicate a quality of seed higher than the actual quality as found through germination test.

E. The labeler or the person who sells, offers, or exposes for sale within this state seeds in hermetically-sealed containers more than 36 months after the last day of the month in which the seeds were tested prior to packaging, shall retest the

Notices of Final Rulemaking

seeds within nine months, excluding of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.

R3-4-406. Sampling and Analyzing Seed

- A. A person shall follow the methods of taking, handling, analyzing, and testing samples of seed and the tolerances and methods of determination as prescribed in the Federal Seed Act Regulations, 7 CFR 201.39 through 201.65, amended January 1, 2002, and in the Rules for Testing Seeds, 2006, published by the Association of Official Seed Analysts, effective October 1, 2004. This material is incorporated by reference, and is on file with the Department and the Office of the Secretary of State, and. The materials incorporated by reference do not include any later amendments or editions. The Rules for Testing Seeds are also available through the web site: <http://www.aosaseed.com>. The CFR may be ordered from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA, 15250-7954 and the Rules for Testing Seeds may be ordered from the AOSA Management Office, Mail Boxes Etc. #285, 601 S. Washington, Stillwater, OK 74074-4539. If there is a conflict between the two documents, the requirements in CFR will prevail.
- B. A dealer labeler offering a seed for sale shall pay the cost of original germination and purity tests on each lot of seed offered for sale, and a dealer or labeler shall pay the cost of any subsequent germination test required by A.R.S. § 3-237. The Department shall pay the cost of testing seed samples drawn by a seed inspector from lots bearing valid labels. The dealer or labeler shall reimburse the Department for the cost of the test if the dealer or labeler chooses to use the Department's germination and purity results in subsequent re-labeling.

R3-4-408. Licenses: Seed Dealer and Seed Labeler; Fees

- A. An applicant for a seed dealer or seed labeler license shall provide the following information to the Department:
1. The year for which the applicant wishes to be licensed;
 2. The applicant's name, company name, address, and telephone number, fax number and e-mail address, as applicable;
 3. The current registration number, if applicable. Verification of previous seed dealer or labeler license, if applicable;
 4. The number of business locations being licensed;
 5. The mailing and physical address of each business location being licensed;
 - 6-5. The applicant's check number and the check amount. Company Tax ID number or if not a legally-recognized business entity, the applicant's Social Security number;
 - 7-6. The date of the application; and
 - 8-7. The signature and title of the applicant.
- B. Seed dealer and seed labeler licenses are not transferable and shall be, expire on June 30, and are valid for no more than one year, or period thereof, unless otherwise revoked, suspended, denied or otherwise acted upon by the Department as provided in A.R.S. § 3-233(A)(6).
- C. An applicant shall submit a completed applications shall be submitted application to the Department and shall be accompanied by a the following non refundable fee of, which is nonrefundable unless A.R.S. § 41-1077 applies.
1. Seed dealers, ~~\$25.00~~ \$50.00 per location; and
 2. Seed labelers, ~~\$40.00~~ \$100.00.

R3-4-409. Violations and Penalties

- A. The Department may assess the following penalties against a dealer or labeler for each customer affected by a violation listed below: \$50 for the first offense, \$150 for the second offense, and \$300 for each subsequent offense within a three-year period:
1. Failure to complete the germination requirements on agricultural, vegetable, or flower seed intended for wholesale or commercial use within nine months prior to sale, exposing for sale, or offering for sale within the state, excluding the month in which the test was completed. This penalty does not apply to a violation under subsections (A)(2), or (3);
 2. Failure to complete the germination requirements for agricultural, ornamental, or vegetable seed intended for retail purchase within the 15 months prior to the sale, exposing for sale, or offering for sale within the state, excluding the month in which the test was completed; and
 3. Failure to obtain any license required by this Article;
- B. The Department may assess the following penalties against any person committing the following acts: up to \$500 for the first offense, up to \$1250 for the second offense, and up to \$2500 for each subsequent offense within a three-year period.
1. To label, advertise, or represent seed subject to this Article to be certified seed or any class of certified seed unless:
 - a. It has been determined by a certifying agency that the seed conforms to standards of purity and identification as to kind, species and subspecies, if appropriate, or variety; and
 - b. The seed bears an official label issued for the seed by a certifying agency certifying that the seed is of a specified class and a specified kind, species and subspecies, if appropriate, and variety;
 2. To disseminate in any manner or by any means, any false or misleading advertisements concerning seeds subject to this Article;
 3. To hinder or obstruct in any way, any authorized agent of the Department in the performance of the person's duties under this Article;
 4. To fail to comply with a cease and desist order or to move or otherwise handle or dispose of any lot of seed held under

Notices of Final Rulemaking

a cease and desist order or tags attached to the order, except with express permission of the enforcing officer, and for a purpose specified by the officer;

5. To label or sell seed that has been treated without proper labeling;
6. To provide false information to any authorized person in the performance of the person's duties under this Article; or
7. To label or sell seed that has false or misleading labeling, including:
 - a. Labeling or selling seed with a label containing the word "trace" or the phrase "contains 01%" as a substitute for any statement that is required by this Article;
 - b. Altering or falsifying any seed label, seed test, laboratory report, record, or other document to create a misleading impression as to kind, variety, history, quality or origin of seed;
 - c. Labeling as hermetically sealed containers of agricultural or vegetable seeds that have not had completed the germination requirements with 36 months prior to sale, excluding the month in which the test was completed.
 - d. Failure to label in accordance with the provisions of this Article;
 - e. If applicable, failing to label as containing prohibited noxious weed seeds, subject to recognized tolerances;
 - f. If applicable, failing to label as containing restricted noxious weed seeds in excess of the number prescribed in R3-4-403 on the label attached to the container of the seed or associated with seed;
 - g. If applicable, failing to label as containing more than two and one-half percent by weight of all weed seeds;
 - h. Detaching, altering, defacing, or destroying any label provided for in this Article, or altering or substituting seed in a manner that may defeat the purpose of this Article;
 - i. Using relabeling stickers without having both the calendar month and year the germination test was completed, the sell by date if appropriate, and the lot number that matches the existing, original lot number; and
 - j. Selling, exposing for sale, or offering for sale within the state vegetable seed intended for retail purchase that has labeling containing germination information that has not been completed within the 12 months prior to selling, exposing for sale, or offering for sale.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

[R07-122]

PREAMBLE

1. Sections Affected

R4-19-215
R4-19-301
R4-19-302
R4-19-505
R4-19-506
R4-19-507
R4-19-508

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statutes: A.R.S. §§ 32-1606(A)(1), (A)(6), (B)(1), (B)(2), (B)(3), (B)(5), and (B)(8), 32-1634, 32-1634.01, 32-1635.01, 32-1639, and 32-1644.

Implementing statutes: A.R.S. §§ 32-1601(2), (5) and (15), 32-1632, 32-1637, 32-1664(G), (H), and (P).

3. The effective date of the rules:

June 4, 2007

4. A list of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 12 A.A.R. 690, March 3, 2006

Notice of Proposed Rulemaking: 12 A.A.R. 4580, December 15, 2006

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

Name: Pamela K. Randolph RN, MS
Nurse Practice Consultant/Education

Address: 4747 N. 7th St., Ste. 200
Phoenix, AZ 85014

Notices of Final Rulemaking

Telephone: (602) 889-5209
Fax: (602) 889-5155
E-mail: prandolph@azbn.gov

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

The Arizona State Board of Nursing (Board) is initiating changes in several rules to address issues that have arisen since their adoption. Amendments are intended to clarify procedures for implementing the Board's statutory authority regarding out-of-state nursing programs, extend the waiver of national certification for the clinical nurse specialist (CNS) specialty areas of maternal/infant and women's health, require an advanced practice certificate holder to practice 960 hours within the specialty to keep certification active, stipulate that nurse practitioners only provide those health care services for which they are educationally prepared, and clarify the current language including citations within these rules.

R4-29-215. Distance Learning Nursing Programs; Out-of-State Nursing Programs

This rule is being amended to include the process to rescind the approval of an out-of-state nursing program. The same due process rights that are in place for in-state programs are clearly delineated in this Section.

R4-19-301. Licensure by Exam

This rule contains amendments related to the passing standards for English language proficiency exams that are required for graduates of nursing programs located in non-English speaking countries. The passing score on the Test of English as a Foreign Language (TOEFL) has been extended to include the score on a newer version, the Internet-based TOEFL. The scores were derived from an equivalency table provided by Educational Testing Service/Chauncey equating the scores on the current versions of the TOEFL to the new Internet-based TOEFL. The standards for the International English Language Test Service (IELTS) Examination are not being revised. The Board carefully examined studies conducted by the National Council of State Boards of Nursing. A standard-setting panel recommended a slightly lower minimum score for IELTS and a significantly higher minimum score for TOEFL than the current rules require. The Board chose not to adopt those recommendations based on the following: a review of a sample of applicants who would not have met the revised standard, the absence of data linking the revised standard to safe nursing practice, and community concern that this would pose an additional barrier to foreign applicants. The Board will continue to examine the area of English language proficiency cut scores. A subsection was added establishing the time-frame for withholding licensure to graduates of a program whose approval was rescinded

R4-19-302. Licensure by Endorsement

The Board is amending these rules to clarify the process that the Board will utilize in determining what additional licensure requirements an endorsement applicant must fulfill if they graduated from a nursing program if program approval was rescinded.

R4-19-505. Requirements for Advanced Practice Registered Nursing Certification

In addition to technical and grammatical changes to this Section, a subsection was added allowing for extension of the waiver of national certification for Clinical Nurse Specialists in maternal/infant health and women's health. The rationale for this extension is that a certifying exam does not exist for this nationally recognized specialty of clinical nurse specialist practice. If an appropriate examination is developed, the waiver would automatically expire. Additional changes were made clarifying that applicants from other states would have to maintain current nurse practitioner certification or at a minimum only allow the certificate to expire six months before applying to the Board to be eligible to be "grandfathered" for certification without evidence of a graduate degree in nursing. This amendment is intended to allow for some nurses, who in anticipation of moving to Arizona, allow their original nurse practitioner certification to expire for a brief period. This grace period only applies to the graduate degree requirement, not national certification or completion of an appropriate program.

R4-19-506. Expiration of Advanced Practice Certificates; Practice Requirement; Renewal

Requirements to practice as an advanced practice nurse in order to retain an advanced practice certificate were added to this Section. Technical and grammatical changes were also made.

R4-19-507. Temporary Advanced Practice Certificate

Technical and grammatical changes were made to this Section.

R4-19-508. Scope of Practice of Registered Nurse Practitioner

Amendments were added to this Section to clarify the educational and practice requirements for a registered nurse practitioner to provide services within the scope of practice

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

The Board reviewed two studies in preparing this rulemaking. The Board reviewed "International English Language Testing System Standard-Setting Study" (2005) by Plake, Buckendahl, and Eckhout and chose not to adopt the recom-

Notices of Final Rulemaking

mentations of the study to revise the passing standard for the International English Language Test System (IELTS) exam of English proficiency. The Board also reviewed "Recommending a Minimum English Proficiency Standard for Entry-Level Nursing" (2005) by O'Neill, Tannenbaum, and Tiffen and chose not to adopt the recommendations of this study to raise the passing standard on the Test of English as a Foreign Language (TOEFL) exam. These decisions are based on the need for bilingual nurses in Arizona, the lack of evidence to demonstrate that the current standard is too low for Arizona, and the fact that the current standard is the standard for a Visa Screen Certificate for immigration purposes. Each study, all data underlying each study and an analysis of each study may be obtained by contacting the person listed in Section 4 or the Executive Director of the Board of Nursing.

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

Not applicable

9. A summary of the economic, small business, and consumer impact:

The Arizona State Board of Nursing licenses approximately 60,000 registered nurses and 11,000 practical nurses and certifies approximately 20,000 nursing assistants. Additionally the Board oversees 29 in-state nursing programs and approximately 150 nursing assistant programs. The Board has granted approval for three out-of-state nursing programs to conduct clinical classes in Arizona. The Board also regulates advanced practice registered nursing (APRN) in the categories of registered nurse practitioner (a.k.a. nurse practitioner) including nurse midwife and clinical nurse specialist. Currently the Board certifies approximately 3000 nurse practitioners and 138 clinical nurse specialists.

Out-of-state nursing programs will benefit from having their due-process rights specified in this rulemaking. There will be a direct economic impact on any program from out-of state that does not meet Board standards. The program may incur expenses implementing measures to remedy deficiencies in their program. If the program chooses not to comply with Board rules, depending on the size of the program and the number of Arizona residents who enroll, the program may experience a significant to very significant loss of revenue. However this economic impact is not any greater than that currently in place for in-state institutions. The potential costs are outweighed by the benefit to the public of ensuring that programs attended by Arizona applicants conform to Board standards.

Advanced practice nurses who do not meet the practice requirement may lose the ability to hold themselves out to be advanced practice nurses and may incur an expense or loss of income while completing a preceptorship and coursework. This expense is outweighed by the benefit to the public of ensuring that persons certified by the Board are current in practice.

The Board may incur additional personnel expenses related any enforcement action taken against an out-of-state program. The Education Consultant, Executive Director, and Assistant Attorney General for the Board will be required to expend time and effort to issue the required notices, monitor any program that is deficient, and communicate the action to the public. Also, if a program requests a hearing, Board staff will incur the expenses associated with preparing for a hearing. The Board staff will also be expending time and resources explaining the AP practice requirement to the regulated community. These expenses are directly related to the mission of the Board to protect the public.

Applicants will benefit from the provision allowing the Board to specify the remediation if they attended a nursing program whose approval has been rescinded. Current rules would require the Board to withhold licensure. Applicants from a revoked program seeking initial licensure may incur expenses related to the cost of any remedial education the Board prescribes and experience a delay in licensure with subsequent loss of potential income as a nurse. These expenses are less than those that the applicant would bear if they had to complete their whole program.

Other provisions are expected to have a direct economic benefit to licensees. Clinical nurse specialists in the areas of maternal/infant and women's health will benefit from having the waiver of national certification extended until an examination is developed.

The public is expected to benefit in a number of ways. Ensuring that all licensees in Arizona graduate from a nursing program that meets minimum Board standards will provide for enhanced public protection and safety. Extending the certification waiver for clinical nurse specialists in maternal/infant and women's health will provide consumers with access to these specialized providers of care. Ensuring that providers of advanced practice nursing services have current experience in the role will protect the public from receiving care from nurses who are not current in practice.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Various technical, formatting, and grammatical changes were made at the suggestion of G.R.R.C. staff to improve clarity of the rules.

11. A summary of the comments made regarding the rules and the agency response to them:

An oral proceeding was held on January 17, 2007 at the Board offices. Two members of the public attended, Elizabeth Gilbert, Associate Dean at Grand Canyon University and Beverly Thomas-Carter, Assistant Professor at Grand Canyon University. Both persons testified in favor of the proposed rulemaking package in its entirety. No written comments were received during the comment period.

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

None

13. Any material incorporated by reference and its location in the text:

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

**ARTICLE 2. ~~ARIZONA~~ PROFESSIONAL AND PRACTICAL NURSING PROGRAMS;
REFRESHER PROGRAMS**

Section

R4-19-215. Distance Learning Nursing Programs; Out-of-State Nursing Programs

ARTICLE 3. LICENSURE

Section

R4-19-301. Licensure by Examination

R4-19-302. Licensure by Endorsement

ARTICLE 5. ADVANCED AND EXTENDED NURSING PRACTICE

Section

R4-19-505. Requirements for Advanced Practice Registered Nursing Certification

R4-19-506. Expiration of Advanced Practice Certificates; Practice Requirement; Renewal

R4-19-507. Temporary Advanced Practice Certificate

R4-19-508. Scope of Practice of a Registered Nurse Practitioner

**ARTICLE 2. ~~ARIZONA~~ PROFESSIONAL AND PRACTICAL NURSING PROGRAMS;
REFRESHER PROGRAMS**

R4-19-215. Distance Learning Nursing Programs; Out-of-State Nursing Programs

- A.** An out-of-state nursing program that plans to provide both didactic and clinical instruction in Arizona shall comply with the application requirements of R4-19-207 and R4-19-208.
- B.** A nursing program that delivers didactic instruction by distance learning methods shall ensure that the methods of instruction are compatible with the program curriculum plan and enable a student to meet the goals, competencies, and objectives of the educational program and standards of the Board.
1. A distance learning nursing program shall establish a means for assessing individual student outcomes, and program outcomes including, at minimum, student learning outcomes, student retention, student satisfaction, and faculty satisfaction.
 2. For out-of-state nursing programs, the program shall be within the jurisdiction of and regulated by an equivalent nursing regulatory authority in the state from which the program originates, unless also providing clinical experience in Arizona.
 3. Faculty shall be licensed in the state of origination of a distance learning nursing program.
 4. A distance learning nursing program shall provide students with supervised clinical and laboratory experiences so that program objectives are met and didactic learning is validated by supervised, land-based clinical and laboratory experiences.
 5. A distance-learning nursing program shall provide students with access to technology, resources, technical support, and the ability to interact with peers, preceptors, and faculty.
- C.** A nursing program, located in another state or territory of the United States, that wishes to provide clinical experiences in Arizona under A.R.S. § 32-1631(3), shall obtain Board approval before offering or conducting a clinical session. To obtain approval, the program shall submit a proposal package that contains:
1. A self study, describing the program's compliance with R4-19-201 through R4-19-206; and
 2. A statement regarding the anticipated effect on clinical placements for students currently enrolled in an Arizona-approved nursing ~~programs~~ program.
- D.** The Board may require a nursing program approved under this Section to file periodic reports for the purpose of data collection or to determine compliance with the provisions of this Article. A program shall submit a report to the Board within

Notices of Final Rulemaking

30 days of the date on a written request from the Board or by the due date stated in the request if the due date is after the normal 30-day period.

- E. The Board shall approve an application to conduct clinical instruction in Arizona that meets the requirements in A.R.S. Title 32, Chapter 15 and this Chapter, and is in the best interest of the public. An applicant who is denied approval to conduct clinical instruction in Arizona may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.
- F. The Board may rescind an approval held by an out-of-state nursing program to conduct clinical instruction in Arizona, in accordance with R4-19-211.
- G. If the Board finds that a nursing program located and approved in another state or territory of the United States does not meet requirements for nursing programs prescribed in R4-19-201 through R4-19-206, the Board shall provide a notice of deficiency to the program as prescribed in R4-19-211(A), (A)(1) and (A)(2).
 - 1. If the program fails to correct the deficiency before the expiration of the period of correction, the Board shall rescind approval of the program as prescribed in R4-19-211(B)(1).
 - 2. If the period of rescission, from the date of rescission to the date of reinstatement, is at any time concurrent with an applicant's education from the date of admission to the date of graduation, the Board shall withhold licensure unless the applicant meets all licensure requirements and completes any remedial education prescribed by the Board under R4-19-301(H). The Board shall ensure that the applicant has completed a curriculum that is equivalent to that of an approved nursing program.
 - 3. If a nursing program provides evidence of compliance with R4-19-201 through R4-19-206 after the rescission of approval, the Board shall review the evidence, determine whether or not the nursing program complies with these standards, and reinstate approval of the program if the program complies with these standards.

ARTICLE 3. LICENSURE

R4-19-301. Licensure by Examination

- A. An applicant for licensure by examination shall:
 - 1. Submit to the Board a verified application on a form furnished by the Board that provides the following information about the applicant:
 - a. Full name and any former names used by the applicant;
 - b. Mailing address, including primary state of residence, and telephone number;
 - c. Place and date of birth;
 - d. Ethnic category and marital status, at the applicant's discretion;
 - e. Social ~~security~~ Security number for an applicant who lives or works in the United States;
 - f. Post-secondary education, including the names and locations of schools attended, graduation dates, and degrees received, if applicable;
 - g. Current employer or practice setting, including address, telephone number, position, and dates of service, if employed or practicing in nursing or health care, and previous employer or practice setting in nursing or health care, if any, if current employment is less than 960 hours within the past five years;
 - h. Any state, territory, or country in which the applicant holds a registered or practical nursing license and the license number and status of the license, including original state of licensure, if applicable;
 - i. The date the applicant previously filed an application for licensure in Arizona, if applicable or known;
 - j. Responses to questions regarding the applicant's background on the following subjects:
 - i. Pending disciplinary action by a nursing regulatory agency in the United States or its territories or current investigation of the applicant's nursing license in another state or territory of the United States,
 - ii. Felony conviction or conviction of an undesignated or other similar offense, and
 - iii. Unprofessional conduct as defined in A.R.S. § 32-1601;
 - k. Detailed explanation and supporting documentation for each affirmative answer to questions regarding the applicant's background; and
 - l. Certification in nursing including category, specialty, name of certifying body, date of certification, and expiration date.
 - 2. Submit a completed fingerprint card for the purpose of obtaining a criminal history report under A.R.S. § 32-1606 if the applicant has not submitted a fingerprint card to the Board within the last two years; and
 - 3. Pay the applicable fees.
- B. If an applicant took the State Board Test Pool Examination (SBTPE), National Council Licensure Examination (NCLEX®) RN, or NCLEX-PN in any state or territory of the United States or in Canada, the applicant shall indicate on the application:
 - 1. The date of the examination,
 - 2. The location of the examination, and
 - 3. The result of the examination.

Notices of Final Rulemaking

- C. If an applicant is a graduate of a nursing program in the United States that has been assigned a program code by the National Council of State Boards of Nursing, the applicant shall submit one of the following:
1. If the program is an Arizona-approved program, a statement signed by a nursing program administrator or designee verifying that:
 - a. The applicant graduated from a registered nursing program for a registered nurse applicant; or
 - b. The applicant completed a practical nursing program or graduated from a registered nursing program for a practical nurse applicant; or
 2. If the program is located in another state or territory and meets educational standards that are substantially comparable to Board standards for educational programs under R4-19-201 to R4-19-206 when the applicant completed the program, an official transcript sent directly from one of the following as:
 - a. Evidence of graduation from a diploma registered nursing program, associate degree registered nursing program, or baccalaureate or higher degree registered nursing program for a registered nurse applicant.
 - b. Evidence of completion of a practical nursing program, associate degree registered nursing program, or baccalaureate or higher degree registered nursing program for a practical nurse applicant.
- D. If an applicant is a graduate of a foreign nursing program and lacks items required in subsection (C), the applicant shall comply with subsections (A) and (B), submit verification of the status of any nursing licenses held, and submit the following:
1. To demonstrate nursing program equivalency, one of the following:
 - a. Evidence of a passing score on the English language version of either the Canadian Nurses' Association Testing Service, or the Canadian Registered Nurse Examination or an equivalent examination;
 - b. A Certificate or Visa Screen Certificate issued by the Commission on Graduates of Foreign Nursing Schools (CGFNS), or a report from CGFNS that indicates an applicant's program is substantially comparable to a U.S. program; or
 - c. A report from another credential evaluation service (CES) that is accepted by the Board. The Board shall accept reports from a CES if acceptance is in the best interest of the public and the CES submits the information required by the Board under R4-19-303.
 2. If an applicant's pre-licensure nursing program provided classroom instruction, textbooks, or clinical experiences in a language other than English, a test of written, oral, and spoken English is required. Clinical experiences are held in a foreign language if the principal language of the country or region where the nursing program was held is a language other than English. An applicant shall ensure that one of the following is submitted to the Board directly from the testing or certifying agency:
 - a. Evidence of a minimum score of 540 on the paper and pencil version or 207 on the computer-based version of the Test of English as a Foreign Language (TOEFL) and a minimum score of 50 on the Test of Spoken English (TSE) or ~~an equivalent score on a combined spoken and written~~ or a minimum score of 76 on the Internet-based TOEFL,
 - b. Evidence of a minimum score of 6.5 on the Academic Exam and 7.0 on the spoken exam of the International English Language Test Service (IELTS) Examination,
 - c. Evidence of a minimum score of 725 on the Test of English in International Communication (TOEIC) exam and 50 on the TSE,
 - d. A Visa Screen Certificate from CGFNS,
 - e. A CGFNS Certificate and a score of 50 on the TSE if the applicant did not take the Internet-based TOEFL or IELTS to meet certification requirements.
 - f. Evidence of a similar minimum score on another written and spoken English proficiency exam determined by the Board to be equivalent to the other exams in this subsection, or
 - g. Evidence of employment for a minimum of 960 hours within the past five years as a nurse in another country or territory where the principal language is English.
- E. An applicant for a registered nurse license shall attain:
1. A passing score on the NCLEX-RN;
 2. A score of 1600 on the NCLEX-RN, if the examination was taken before July 1988; or
 3. A score of not less than 350 on each part of the SBTPE for registered nurses.
- F. An applicant for a practical nurse license shall attain:
1. A passing score on the NCLEX-PN;
 2. A score of not less than 350 on the NCLEX-PN, if the examination was taken before October 1988; or
 3. A score of not less than 350 on the SBTPE for practical nurses.
- G. The Board shall grant a license to practice as a registered or practical nurse to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a license by examination may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- H. If the Board receives an application from a graduate of a nursing program and the program's approval was rescinded

Notices of Final Rulemaking

under R4-19-211 at any time during the applicant's nursing education, the Board shall withdraw the application or ensure that the applicant has completed a basic curriculum that is equivalent to that of a Board-approved nursing program and either:

1. Grant licensure, if the program's approval was reinstated during the applicant's period of enrollment and the program provides evidence that the applicant completed a curriculum equivalent to that of a Board-approved nursing program;
or
2. By order, require successful completion of remedial education which may include clinical experiences, before granting licensure. The applicant shall obtain any required education while enrolled in a Board-approved nursing program.

R4-19-302. Licensure by Endorsement

- A. An applicant for a license by endorsement shall submit all of the information required in R4-19-301(A).
- B. In addition to the information required in subsection (A), an applicant for a license by endorsement shall:
 1. Submit evidence of a passing examination score in accordance with:
 - a. R4-19-301(E) for a registered nurse applicant, or
 - b. R4-19-301(F) for a practical nurse applicant.
 2. Submit evidence of the following:
 - a. Previous or current license in another state or territory of the United States, and
 - b. One of the following:
 - i. Completion of a nursing program that has been assigned a nursing program code by the National Council of State Boards of Nursing (NCSBN) at the time of program completion and the program meets educational standards substantially comparable to Board standards for educational programs in R4-19-201 to R4-19-206;
 - ii. If the applicant completed a nursing program that has been assigned a program code by the NCSBN but the program's approval was rescinded under A.R.S. § 32-1644 (D) or R4-19-215 during the applicant's enrollment in the program, proof of completion of the program plus any remedial education required by the Board to mitigate the deficiencies in the applicant's initial nursing program;
 - ~~iii.~~ Completion of a nursing program that met the qualifications for a program code at the time of the applicant's graduation if before 1986 and the applicant was issued an initial license in another state or territory of the United States without being required to obtain additional education or experience;
 - ~~iv.~~ For a graduate of a foreign nursing program, completion of a nursing program that meets the requirements in R4-19-301(D)(1). In addition, an applicant who graduated from a foreign nursing program shall satisfy the English proficiency requirements in R4-19-301(D)(2) if the applicant has not practiced nursing for a minimum of 960 hours within the past five years in another state, territory, or country where English is the primary language.
- C. The Board shall grant a license to practice as a registered or practical nurse to any applicant who meets the criteria established in statute and this Article. An applicant who is denied a license by endorsement may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the license. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10.

ARTICLE 5. ADVANCED AND EXTENDED NURSING PRACTICE

R4-19-505. Requirements for Advanced Practice Registered Nursing Certification

- A. An applicant for certification as a registered nurse practitioner (RNP) or clinical nurse specialist (CNS) in a specialty area, shall:
 1. Hold a current Arizona registered nurse (RN) license in good standing or an RN license in good standing from a compact party state with multistate privileges and
 2. Submit an application to the Board that provides all of the following:
 - a. Full name and any former names;
 - b. Current mailing address and telephone number;
 - c. RN license number, application for RN license, or copy of a multistate compact RN license;
 - d. Educational background, including the name and location of all advanced practice registered nursing education programs or schools attended, the number of years attended, the length of each program, the date of graduation or completion, and the type of degree or certificate awarded;
 - e. Category and specialty area for which the applicant is applying;
 - f. Each current and previous employer, including address, type of position, and dates of employment;
 - g. Information regarding national certification or recertification as an advanced practice registered nurse in the category and specialty area, if applicable, for which the applicant is applying, including the name of the certifying organization, specialty area, certification number, date of certification, and expiration date;
 - h. Whether the applicant is under investigation or has disciplinary action pending against the applicant's nursing license or advanced practice certificate or license in any state, other than Arizona, or territory of the United States;

- i. Whether the applicant has ever been convicted, entered a plea of guilty, nolo contendere, or no contest, or ever been sentenced, served time in jail or prison, or had deferred prosecution or sentence deferred in any felony or undesignated offense;
 - j. Whether the applicant has committed an act of unprofessional conduct as defined in A.R.S. § 32-1601;
 - k. Completed fingerprint card if the applicant has not submitted a fingerprint card to the Board within the last two years; and
 - l. Signature verifying the truthfulness of the information provided;
- 3-m. ~~For an RNP applicant, submit an An official transcript directly from an institution accredited under A.R.S. § 32-1644 either sent directly from the institution or obtained from a Board-approved database that provides evidence of a graduate degree with a major in nursing.~~
- 4-3. For a CNS applicant, submit:
- a. ~~An official transcript directly from an institution accredited under A.R.S. § 32-1644 or a Board-approved database that provides evidence of a graduate degree with a major in nursing; and~~
 - b. ~~Evidence evidence~~ that the applicant completed a program in a clinical specialty that prepared the applicant to practice as a CNS, as part of a graduate degree or post-masters program, either directly from the program or a Board-approved database; ~~or~~
 - e. ~~If applying within one year of the effective date of this Article an applicant who did not complete a designated Clinical Nurse Specialist program under subsection (A)(4)(b), may submit a portfolio that:~~
 - i. ~~Contains evidence of mastery of core competencies and outcomes of a Clinical Nurse Specialist in a specialty area as prescribed in, Statement on Clinical Nurse Specialist Practice and Education, 2nd edition, 2004; which is incorporated by reference and available from the National Association of Clinical Nurse Specialists, 2090 Linglestown Road, Suite 107, Harrisburg, PA 17110, www.nacns.org. This incorporation by reference does not include any later amendments or editions and is on file in the Board office; and~~
 - ii. ~~Is reviewed for consistency with the standards in subsection (i) and recommended for approval by a Board-appointed committee that consists of at least one CNS educator, one practicing CNS, and the Executive Director of the Board or the director's designee.~~
- 5-4. For an RNP applicant, submit evidence of completion of an RNP program in the specialty area for which the applicant is applying either directly from the program or from a reliable data base and one of the following:
- a. Evidence of completion of an RNP program that was part of a graduate degree, or post-masters program at an institution accredited under A.R.S. 32-1644; who completed a registered nurse practitioner program that was not part of a graduate degree from a regionally accredited university, submit documentation of completing a program in the specialty area for which the applicant is applying. The applicant shall ensure that any one of the following is submitted to the Board either directly from the program or from a Board-approved database:
 - a.b. ~~An official letter or a copy of a certificate or transcript from~~ Evidence of completion of a Board-approved RNP program;
 - b.c. ~~An official transcript from an RNP program offered by or affiliated with a college or university accredited under A.R.S. § 32-1644, which was at least nine months or two full-time semesters in duration and included theory and clinical experience; or~~
 - e.d. ~~If the program was not provided by an accredited college or university but is located in the U.S. or territories; an official transcript, a copy of a certificate, or an official letter that shows the program:~~
 - i. ~~Was at least nine months in length or equivalent to two semesters full-time study, or contained didactic and at least 500 hours clinical instruction;~~
 - ii. ~~Contained theory and clinical experiences sufficient to prepare the graduate to practice within the category and specialty area of practice for which the nurse is applying under A.R.S § 32-1601; and~~
 - iii. ~~Was a RNP program recognized by the jurisdiction where it was located for the purpose of granting nurse practitioner licensure or certification;~~
- 6-5. For an applicant who completed an RNP program, CNS program, or graduate program in a foreign jurisdiction, submit an evaluation from the Commission on Graduates of Foreign Nursing Schools or a Board-approved credential evaluation service that indicates the applicant's program is comparable to a U.S. graduate nursing program, clinical nurse specialist program, or registered nurse practitioner program in the specialty area.
- 7-6. For a Clinical Nurse Specialist or Certified Nurse Midwife applicant, or for a Registered Nurse Practitioner applicant submitting an application after July 1, 2004, submit verification of current national certification or recertification in the applicant's category and specialty, as applicable, from a certifying body that meets the criteria in R4-19-501(B)(3);
- 8-7. For a CNS applicant who submits an application to the Board, ~~within one year of the effective date of this Article and completed a maternal-child clinical nurse specialist program that meets the requirements of subsection (A)(3), practices in a specialty that lacks a certification exam under R4-19-501, or is unable to qualify to sit for a~~ but cannot be nationally certified due to lack of a certification exam that meets the requirements of R4-19-501, submit:
- a. A description of the applicant's scope of practice that is consistent with A.R.S. § 32-1601(5),

Notices of Final Rulemaking

- b. One of the following:
 - i. A letter from a faculty member who supervised the applicant during the ~~master's degree~~ graduate program attesting to the applicant's competence to practice within the defined scope of practice;
 - ii. A letter from a supervisor verifying the applicant's competence in the defined scope of practice; or
 - iii. A letter from a physician, RNP, or CNS attesting to the applicant's competence in the defined scope of practice; and
- c. A form verifying that the applicant has practiced a minimum of 500 hours in the specialty area within the past two years, which may include clinical practice time in a CNS program; and

~~9.8.~~ Submit the required fee.

B. The Board shall continue to certify:

- 1. An RNP without a graduate degree with a major in nursing if the applicant:
 - a. Meets all other requirements for certification; and
 - b. ~~Was certified or licensed in the applicant's category and specialty area of advanced practice in this or another state~~ Provides evidence, directly from the jurisdiction, of certification or licensure in the advanced practice category and specialty in this or another state or territory of the United States, that either is current or was current at least 6 months before the application was received by the Board, and was originally issued:
 - i. Before January 1, 2001, if the RNP applicant lacks a graduate degree; or
 - ii. Before ~~the effective date of this Section~~ November 13, 2005 if the RNP's graduate degree is in a health-related area other than nursing.
- 2. An RNP or CNS applicant without evidence of national certification who received initial advanced practice certification or licensure in another state not later than July 1, 2004 and provides evidence, directly from the jurisdiction, that the certification or licensure is current; and
- 3. A CNS applicant who received initial certification or advanced practice licensure in this or another state not later than ~~the effective date of this Section~~ November 13, 2005 and provides evidence, directly from the jurisdiction, that the certificate or license is current without evidence of ~~completing that the applicant completed~~ a program in a clinical specialty.

C. The Board shall issue a certificate to practice as a registered nurse practitioner or a clinical nurse specialist in a specialty area to a registered nurse who meets the criteria in this Section. An applicant who is denied a certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-506. Expiration of Advanced Practice Certificates; Practice Requirement; Renewal

- A.** An advanced practice certificate issued after July 1, 2004, expires ~~if when~~ when the certificate holder's RN license expires. Certificates issued on or before July 1, 2004 or those issued without proof of national certification under R4-19-505 ~~(A)(8) (A)(7) and (B)(2)~~ do not expire unless the RN license expires under A.R.S. § 32-1642 or the nurse has not practiced advanced practice nursing at the applicable level of certification for a minimum of 960 hours in the five years before the date the application is received. This requirement is satisfied if the applicant verifies that the applicant has:
 - 1. Completed an advanced practice nursing education program within the past five years; or
 - 2. Practiced for a minimum of 960 hours within the past five years where the nurse:
 - a. Worked for compensation or as a volunteer, as an RNP or CNS, and performed one or more acts under A.R.S. § 32-1601(5) for a CNS or A.R.S. § 32-1601(15) for an RNP; or
 - b. Held a position for compensation or as a volunteer that required or recommended, in the job description, the level of advanced practice certification being sought or renewed.
- B.** A registered nurse requesting renewal of an advanced practice certificate or an RNP certificate issued after July 1, 2004 shall provide evidence of current national certification or recertification under ~~R4-19-505(A)(7)~~ R4-19-505(A)(6). This provision does not apply to a CNS granted a waiver of certification.
- C.** An advanced practice nurse requesting renewal of an advanced practice certificate who does not satisfy the practice requirement of subsection (A) shall either:
 - 1. Provide evidence of current national certification in the category and specialty area of Board certification; or
 - 2. Complete coursework or continuing education activities at the graduate or advanced practice level that includes, at minimum, 45 contact hours of advanced pharmacology and 45 contact hours in a subject or subjects related to the category and specialty area of certification. Upon completion of the coursework, the nurse shall engage in a period of precepted clinical practice as specified in this subsection:
 - a. Precepted clinical practice shall be directly supervised by an advanced practice nurse in the same category and specialty area as the certification renewed or a physician who engages in practice with the same population as the certification being renewed.
 - b. Practice hours completed during the time-frame specified below may be applied to reduce the number of precepted clinical practice hours, except that in no case shall the hours be reduced by more than half the requirement. The nurse shall complete hours according to the following schedule:
 - i. 300 hours if the applicant has practiced less than 960 hours in only the last five years;

Notices of Final Rulemaking

- ii. 600 hours if the applicant has not practiced 960 hours in the last five years, but has practiced at least 960 hours in the last six years;
- iii. 1000 hours if the applicant has not practiced at least 960 hours in the last six years, but has practiced 960 hours in the last seven to 10 years; or
- c. If the nurse has not practiced 960 hours of advanced practice nursing in the category and specialty area being renewed in more than 10 years, complete a program of study as recommended by an approved advanced practice nursing program that includes, at minimum, 500 hours of faculty supervised clinical practice in the category and specialty area of certification. An applicant who qualifies for any option in subsection (C)(2)(b) may complete the requirements of this subsection to satisfy the practice requirement.

C-D. The Board shall renew a certificate to practice as a registered nurse practitioner or a clinical nurse specialist in a specialty area for a registered nurse who meets the criteria in this Section. An applicant who is denied renewal of a certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying renewal of certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-507. Temporary Advanced Practice Certificate

- A. Based on the registered nurse's qualifications, the Board may issue a temporary certificate to practice as a registered nurse practitioner or a clinical nurse specialist in a specialty area. A registered nurse who is applying for a temporary certificate shall:
 - 1. Apply for certification as an advanced practice nurse;
 - 2. Submit an application for a temporary certificate;
 - 3. Demonstrate authorization to practice as a registered nurse in Arizona on either a permanent or temporary Arizona license or a multistate compact privilege;
 - 4. Meet all requirements of R4-19-505 or meet the requirements of R4-19-505 with the exception of national certification under ~~R4-19-505(A)(7)~~ R4-19-505(A)(6); and
 - 5. Submit evidence that the applicant has applied for and is eligible to take or has taken an advanced practice certifying examination in the applicant's category and specialty area of practice, if applicable.
- B. Temporary certification as an advanced practice nurse expires in six months and may be renewed for an additional six months for good cause. Good cause means reasons beyond the control of the temporary certificate holder such as unavoidable delays in obtaining information required for certification.
- C. Notwithstanding subsection (B), the Board shall withdraw a temporary advanced practice certificate under any one of the following conditions. The temporary certificate holder:
 - 1. Does not meet requirements for RN licensure in this state or the RN license is suspended or revoked,
 - 2. Fails to renew the RN license upon expiration,
 - 3. Loses the multistate compact privilege,
 - 4. Fails the national certifying examination, or
 - 5. Violates a statute or rule of the Board.
- D. A temporary registered nurse practitioner certificate does not qualify an applicant for prescribing or dispensing privileges.
- E. An applicant who is denied a temporary certificate may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the temporary certification. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10 and 4 A.A.C. 19, Article 6.

R4-19-508. Scope of Practice of a Registered Nurse Practitioner

- A. An RNP shall refer a patient to a physician or another health care provider if the referral will protect the health and welfare of the patient and consult with a physician and other health care providers if a situation or condition occurs in a patient that is beyond the RNP's knowledge and experience.
- B. In addition to the scope of practice permitted a registered nurse, a registered nurse practitioner, under A.R.S. §§ 32-1601(15) and 32-1606(B)(12), may perform the following acts within the limits of the specialty area of certification:
 - 1. Examine a patient and establish a medical diagnosis by client history, physical examination, and other criteria;
 - 2. For a patient who requires the services of a health care facility:
 - a. Admit the patient to the facility,
 - b. Manage the care the patient receives in the facility, and
 - c. Discharge the patient from the facility;
 - 3. Order and interpret laboratory, radiographic, and other diagnostic tests, and perform those tests that the RNP is qualified to perform;
 - 4. Identify, develop, implement, and evaluate a plan of care for a patient to promote, maintain, and restore health;
 - 5. Perform therapeutic procedures that the RNP is qualified to perform;
 - 6. Prescribe treatments;
 - 7. If authorized under R4-19-511, prescribe and dispense drugs and devices; and
 - 8. Perform additional acts that the RNP is qualified to perform.

Notices of Final Rulemaking

- C. An RNP shall only provide health care services within the nurse practitioner's scope of practice for which the RNP is educationally prepared and for which competency has been established and maintained. Educational preparation means academic coursework or continuing education activities that include both theory and supervised clinical practice.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

[R07-117]

PREAMBLE

1. Sections Affected

R4-26-101
R4-26-106
R4-26-108
R4-26-203
R4-26-203.01
R4-26-204
R4-26-205
R4-26-208
Table 1
R4-26-210
R4-26-301
R4-26-302
R4-26-304
R4-26-305

Rulemaking Action

Amend
New Section
New Section
New Section
New Section

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

Authorizing statute: A.R.S. § 32-2063(A)(9)

Implementing statutes: A.R.S. §§ 12-2297; 32-2063(A)(3), (9) and (11); 32-2067(A); 32-2071(C)-(E); 32-2072; 32-2073(G); 32-2081(D) and (G); and 32-3211

3. The effective date of the rule:

June 4, 2007

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 12 A.A.R. 1788, May 26, 2006

Notice of Proposed Rulemaking: 13 A.A.R. 8, January 5, 2007

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

Name: Marcus Harvey, Deputy Director

Address: Board of Psychologist Examiners
1400 W. Washington St., Ste. 235
Phoenix, AZ 85007

Telephone: (602) 542-8161

Fax: (602) 542-8279

E-mail: licensing@psychboard.az.gov

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

The agency initiated this rulemaking to make various changes to conform with legislation passed in 2006. Senate Bill 1080 made several amendments to the Board's statutes including requiring that the Board adopt a code of ethics, changing the range of dates from which national examination scores may be accepted, and allowing applicants to take the national examination upon completion of their education and prior to completion of their psychological training. Other rule changes have been proposed to conform with recordkeeping changes made to the Medical Records Act and imposed by House Bill 2786. The remaining significant rule changes stem from concerns raised in the course of the agency's normal business or recommendations of the Board's Assistant Attorneys General. Among these changes are: allowing psychologist to retain scanned records in place of the original hard copies, revising the continuing education

Notices of Final Rulemaking

requirements for inactive licensees wishing to reactivate their licenses, codifying the Board's informal interview procedures, and applying the confidentiality of investigative materials to licensees. Finally, the rules also include formatting, style, grammatical and technical changes necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council (G.R.R.C.).

The Board believes that approval of these rules benefits the public and the psychological community by clarifying and updating many of the Board's existing standards and procedures.

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

None

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

Not applicable

9. A summary of the economic, small business, and consumer impact:

The Board anticipates that the adoption of this rulemaking will result in indeterminate savings to licensees, many of whom are small business owners of individual, private practices. No real impact to consumers is expected and the increased costs to the Board should also be negligible. Applicants will see a small increase in costs by having to pay for a self-query from the National Practitioner Data Bank and Healthcare Integrity Protection Data Bank, which amounts to about \$8-10. Licensees will see savings in terms of recordkeeping by only having to retain records for six years instead of seven and being able scan and store records electronically. These changes will result in savings of storage space and cost to licensees.

Licensees on inactive status who seek to reactivate their licenses will have a savings in terms of reduced continuing education hours (CE) they will be required to complete in order to actively practice again. This also reduces the amount of time that Board staff would have to spend in reviewing documentation of hundreds of hours of CE.

Applicants will now be able to take the national examination upon completion of their doctoral degree and before completing their supervised psychology training. This could result in fewer exam failures because applicants will be taking the exam sooner, when their psychology coursework is arguably fresher in their minds. This should result in a savings to applicants and an indeterminate but minimal loss of revenue to the Board. However, applicants who take the exam early may now leave their applications on file with the Board for a period of up to five years pending completion of their training. This will result in the Board needing additional filing space for these pending files. It will also necessitate a second review of these applications by the Board for approval for licensure, once these applicants have completed their training.

Senate Bill 1080 removed the fee associated with national examination from the Board's statutes. The Board has not been collecting this fee since 2000 because applicants now pay for their examinations directly to the testing company. The sale of customized computer discs that contain licensee mailing labels at a charge of \$.30 per name was also eliminated since the Board has not sold such discs due to the impracticability of complying with such requests. Therefore, no loss of revenue will result due the removal of these fees.

The rule would require the Board to now provide copies of the American Psychological Association's "Ethical Principles of Psychologists and Code of Conduct" to parties who request it. This would provide an unsubstantial amount of revenue to the Board for copies at \$0.25 per page.

10. A description of the changes between the proposed rule, including supplemental notices, and final rule:

Minor technical and grammatical changes were made at the request of G.R.R.C. staff.

11. A summary of comments made regarding the rule and the agency response to them:

No comments concerning the rule were received by the agency.

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

None

13. Any material incorporated by reference and its location in the text:

The "Ethical Principles of Psychologists and Code of Conduct" adopted by the American Psychological Association is incorporated by reference in R4-26-301.

14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:

Not applicable

15. The full text of the rules follows:

Notices of Final Rulemaking

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 26. BOARD OF PSYCHOLOGIST EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-26-101.	Definitions
R4-26-106.	Client Records
R4-26-108.	Fees

ARTICLE 2. LICENSURE

Section	
R4-26-203.	Application for Licensure
R4-26-203.01	Application for Licensure by Credential Under A.R.S. § 32-2071.01(B)
R4-26-204.	Examinations
R4-26-205.	Renewal of License
R4-26-208.	Time-frames for Processing Applications
Table 1.	Time-frames (in Days) for Processing Applications
R4-26-210.	Internship or Training Experience

ARTICLE 3. REGULATION

Section	
R4-26-301.	Repeated <u>Rules of Professional Conduct</u>
R4-26-302.	Reserved <u>Informal Interviews</u>
R4-26-304.	Reserved <u>Representation Before the Board by Attorney Not Admitted to State Bar of Arizona</u>
R4-26-305.	Reserved <u>Confidentiality of Investigative Materials</u>

ARTICLE 1. GENERAL PROVISIONS

R4-26-101. Definitions

In this Chapter:

1. No change
2. No change
3. No change
4. No change
5. No change
6. "Case," in the context of R4-26-106(D), means a legal cause of action instituted before an administrative tribunal or in a judicial forum that relates to a psychologist's practice of psychology.
7. No change
8. "Clarifying information" means information that a complainant or licensee wishes to convey to the Board and is intended to clarify what the complainant or licensee believes to be inaccurate assumptions or information stated by a Board member during case discussions before the Complaint Screening Committee or the full Board or during an informal interview.
- ~~8-9.~~ No change
10. "Complaint Screening Committee" means the committee of the Board established by A.R.S. § 32-2081(D) to initially review all complaints against licensees.
- ~~9-11.~~ "Confidential record" means:
 - Minutes of an executive session of the Board;
 - A record that is classified as confidential by a statute or rule applicable to the Board;
 - An applicant's or licensee's college or university transcript if requested by a person other than the applicant or licensee;
 - All materials relating to an investigation by the Board, including a complaint, response, client record, witness statement, investigative report, and any other information relating to a client's diagnosis, treatment, or personal or family life;
 - Home address, home telephone number, and e-mail address of an applicant or a licensee;
 - Test scores of an applicant or a licensee;
 - Date of birth of an applicant or a licensee; and
 - Social ~~security~~ Security number of an applicant or a licensee.
- ~~10-12.~~ "Credentialing agency" means the Association of State and Provincial Psychology Boards, the National Register of

Notices of Final Rulemaking

Health Service Providers in Psychology, ~~or~~ and the American Board of Professional Psychology.

~~11-13.~~ No change

~~12-14.~~ No change

~~13-15.~~ No change

~~14-16.~~ No change

~~15-17.~~ No change

~~16.~~ "Gross negligence" means a psychologist knows or has reason to know of facts that would lead a reasonable psychologist to realize that the psychologist's act or failure to act creates an unreasonable risk of harm and involves a high degree of probability that substantial harm may result.

18. "Gross negligence" means an extreme departure from the ordinary standard of care.

~~17-19.~~ No change

~~18-20.~~ No change

~~19-21.~~ No change

~~20-22.~~ No change

~~21-23.~~ No change

~~22-24.~~ No change

~~23-25.~~ "Residency" means the same as in A.R.S. § ~~32-2071(H)~~ 32-2071(I), but does not include a domicile or hospital residency.

~~24-26.~~ No change

~~25-27.~~ No change

~~26-28.~~ No change

~~27-29.~~ No change

~~28-30.~~ No change

R4-26-106. Client Records

A. No change

B. No change

C. A psychologist shall retain all client records under the psychologist's control, including records of a client who died, for a minimum of ~~seven~~ six years from the date of the last client activity, except copies of audio or video tapes created primarily for training or supervisory purposes. If a client is a minor, the psychologist shall retain all client records for a minimum of three years past the client's 18th birthday or ~~seven~~ six years from the date of the last client activity, whichever is longer.

D. No change

E. A psychologist who is on inactive status under A.R.S. § 32-2073(E) is not exempt from this ~~rule~~ Section.

F. A psychologist may retain legible copies of scanned or electronic records rather than the original hard copies of the records. The psychologist shall ensure that scanned and electronic records are securely stored and electronic backup copies are maintained.

R4-26-108. Fees

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

~~8.~~ National examination: \$475

~~9-8.~~ No change

~~10-9.~~ No change

~~11-10.~~ No change

~~12-11.~~ No change

~~13-12.~~ No change

~~14-13.~~ No change

~~15-14.~~ No change

~~16.~~ Customized computerized discs that contain licensee mailing labels: \$.30 per name

~~17-15.~~ No change

~~18-16.~~ No change

Notices of Final Rulemaking

ARTICLE 2. LICENSURE

R4-26-203. Application for Licensure

- A. An applicant for a psychologist license shall submit an application packet to the Board that includes an application form; provided by the Board; that is signed and dated by the applicant; and notarized; and ~~that~~ contains the following information:
1. Applicant's name, business and home addresses, ~~social security~~ Social Security number, business and home telephone numbers, and date and place of birth;
 2. No change
 3. No change
 4. Whether the applicant has applied for licensure as a psychologist in any other jurisdiction in which the applicant is not currently licensed, and if so, the date of each application;
 5. No change
 6. Whether the applicant has ever taken the national examination ~~in psychology~~, name of each jurisdiction in which taken, and each date of examination;
 7. No change
 8. No change
 9. No change
 10. No change
 11. No change
 12. No change
 13. Whether the applicant is currently under investigation for or has been found ~~guilty of violating~~ to have violated a professional code of conduct by any jurisdiction;
 14. No change
 15. No change
 16. Whether the applicant has been sued ~~in civil court~~ or prosecuted ~~in criminal court pertaining to~~ for an act or omission relating to the applicant's practice as a psychologist, the applicant's work under a certificate or license in another profession, or the applicant's work as a member of a profession in which the applicant was not certified or licensed;
 17. Whether the applicant has ever been involuntarily terminated or resigned instead of termination from any psychological or behavioral health position or related employment;
 - ~~17-18.~~ Whether the applicant ~~is currently~~ has an addiction ~~addicted~~ to alcohol or any drug that in any way impairs or limits the applicant's ability to practice;
 - ~~18-19.~~ No change
 - ~~19-20.~~ No change
 - ~~20-21.~~ No change
 - ~~21-22.~~ No change
 - ~~22-23.~~ Whether the applicant's internship training program was an American Psychological Association-approved program or a member of the Association of Psychology and Postdoctoral Internship Centers;
 - ~~23-24.~~ No change
 - ~~24-25.~~ No change
 - ~~25-26.~~ No change
 - ~~26-27.~~ No change
 - a. Are psychologists licensed or certified to practice psychology in a United States' or Canadian jurisdiction and who are not members of the Arizona Board of Psychologist Examiners;
 - b. Are familiar with the applicant's work experience in the field of psychology or in a postdoctoral program within the three years immediately before the date of application. If more than three years have elapsed since the applicant last engaged in professional activities in the field of psychology or in a postdoctoral program, the references may ~~be from~~ pertain to the most recent three-year period in which the applicant engaged in professional activities in the field of psychology or in a postdoctoral program; and
 - c. No change
 - ~~27-28.~~ No change
 - ~~28-29.~~ No change
 - ~~29-30.~~ No change
 - ~~30-31.~~ No change
 - ~~31-32.~~ No change
 - ~~32-34.~~ The results of a self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank;
 - ~~33-34.~~ No change
 - ~~33-35.~~ No change
- B. No change
1. No change

Notices of Final Rulemaking

2. An official document from the degree-granting institution indicating that the applicant has completed a residency that satisfies the requirements of A.R.S. § ~~32-2071(H)~~ 32-2071(I);
 3. An affidavit from the applicant's supervisor, if available, or a psychologist knowledgeable of the applicant's internship training program, verifying that the applicant's internship training program meets the requirements in A.R.S. § 32-2071(D); ~~and~~
 4. An affidavit from the applicant's postdoctoral supervisor, if available, or a psychologist knowledgeable of the applicant's postdoctoral experience verifying that the applicant's postdoctoral experience meets the requirements in A.R.S. § ~~32-2071(E)~~; and
 5. No change
- C. In addition to the requirements in subsections (A) and (B), an applicant shall ensure that an official notification of the applicant's score on the national examination is provided to the Board. An applicant who has passed the national examination and is seeking an examination waiver under A.R.S. § ~~32-2072(C)(1)~~ 32-2072(A) shall have the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction ~~in~~ for which the applicant originally passed the examination.

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

- A. No change
1. An application form, provided by the Board, signed and dated by the applicant, that contains the information required by R4-26-203(A)(1) through ~~(25)~~ (26), and ~~R4-26-203(A)(29)~~ R4-26-203(A)(30) through ~~(33)~~ (35);
 2. No change
 - a. Holds a current Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards; ~~or~~
 - b. Holds a current National Register Health Service Provider in Psychology (NRHSPP) credential at the ~~Doctoral Level~~ doctoral level under A.R.S. § 32-2071; or
 - c. No change
 3. No change
- B. An applicant for a psychologist license by credential based on a National Register Health Service Provider in Psychology credential also shall have passed the national examination and shall have notification of the examination score sent directly to the Board by the Association of State and Provincial Psychology Boards or by the jurisdiction ~~in~~ for which the applicant originally tested.
- C. No change

R4-26-204. Examinations

- A. General rules.
1. Under A.R.S. § ~~32-2072(B)~~ 32-2072(C), an applicant who fails the national examination at least three times in Arizona or any other jurisdiction, shall comply with the following requirements before taking another national examination:
 - a. No change
 - b. The applicant shall submit a new application that includes documentation of the applicant's professional activities since the date of the original application, including any actions taken under subsection (A)(1)(a), in addition to the information required on the original application.
 2. Examination deadline. Unless the Board grants an extension, the Board shall close the file of an applicant approved to sit for a Board examination who fails to sit for the examination within one year from the date of the Board's approval. ~~An applicant who is approved to sit for the examination before the effective date of this section has one year from the effective date of this section in which to take the examination. An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee.~~ Upon written request to the Board's Executive Director received by the Board on or before the applicant's examination deadline, the Board shall grant the applicant one extension of up to six months to sit for the examination. This Section does not apply to an applicant approved to take the national examination before completion of 3,000 hours of supervised training experience as permitted under A.R.S. § 32-2072(C).
 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change

Notices of Final Rulemaking

- j. No change
- k. No change
- B. National examination. Under A.R.S. § 32-2072, the Board shall require that an applicant take and pass the national examination. An applicant approved by the Board to take the national examination passes the examination if the applicant's score equals or exceeds the passing score ~~recommended by the Association of State and Provincial Psychology Boards specified in A.R.S. § 32-2072(A)~~. When the Board receives the examination results, the Board shall notify the applicant in writing of the results.
- C. Additional examination.
 - 1. No change
 - 2. Under A.R.S. § ~~32-2072(A)~~ 32-2072(B), the Board may administer an additional examination to all applicants to determine the adequacy of the applicant's knowledge and application of Arizona law. The additional examination may also cover the practice of psychology, ethical conduct, and psychological assessment and treatment practices.
 - a. No change
 - b. No change
 - c. No change

R4-26-205. Renewal of License

- A. The Board considers ~~a~~ license renewal ~~applications~~ application timely filed if delivered or mailed to the Board's office and date stamped or postmarked before May 1 of the year that the license expires.
- B. No change
 - 1. The applicant's name, business and home addresses, ~~social security~~ Social Security number, license number, business and home telephone numbers, e-mail address, gender, date of birth, and a designated preference for directory and mailing addresses;
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. Whether the applicant has ever relinquished responsibilities, resigned a position, or been ~~fired~~ terminated while a complaint against the applicant was being investigated or adjudicated ~~against the applicant~~;
 - 8. No change
 - 9. Whether the applicant has been disciplined by any agency or regulatory board of any jurisdiction, health care institution, provider panel, or ethics panel for acts pertaining to the applicant's conduct as a psychologist or as a professional in any other field, and if so, a report of those actions including the name and address of the disciplinary agency, the nature of the action, and a statement of the charges and findings;
 - 10. No change
 - 11. No change
 - 12. Whether the applicant has been sued or ~~charged~~ prosecuted in civil or criminal court for an act or omission relating to the applicant's practice as a psychologist, the applicant's work under a license or certificate in another profession, or the applicant's work as a member of a ~~particular~~ profession in which the applicant was not licensed or certified;
 - 13. No change
 - 14. Whether the applicant has had an application for membership ~~to~~ in any professional organization rejected, or has had any professional organization suspend or revoke the applicant's membership, place the applicant on probation, or otherwise censure the applicant for unethical or unprofessional conduct or other violation of eligibility or membership requirements;
 - 15. No change
 - 16. No change
 - a. No change
 - b. Voluntary inactive status, or
 - e. ~~Retirement, or~~
 - ~~d-c.~~ No change
 - 17. Whether the applicant is requesting ~~expired~~ retired status;
 - 18. Whether the applicant has prepared a written protocol for the secure storage, transfer, and access of the medical records of the psychologist's patients, in accordance with the provisions of A.R.S. § 32-3211;
 - ~~18-19.~~ No change
 - ~~19-20.~~ No change
- C. If A licensee ~~who~~ applies for renewal in a timely manner, but fails to complete the required 60 hours of continuing education, the license shall expire. A licensee may reinstate the expired license and continue practicing between May 1 and July 1 by:
 - 1. Paying by July 1 the reinstatement fee in R4-26-108, in addition to the regular renewal fee; under A.R.S. § 32-

Notices of Final Rulemaking

2074(B)-; and

~~2. The licensee shall complete~~ Completing the continuing education requirements by July 1 of the same year.

- D. No change
 - ~~a.1.~~ No change
 - ~~b.2.~~ No change
 - ~~e.3.~~ No change
- E. No change

R4-26-206. Reinstatement of License from Inactive to Active Status

- A. Except as provided in subsection (C), when considering reinstatement of a psychologist from inactive status to active status, the Board shall presume that the psychologist has maintained and updated the psychologist's professional knowledge and capability to practice as a psychologist if the psychologist presents to the Board documentation of completion of a prorated amount of continuing education, calculated under subsection (B).
- B. Except as provided in subsection (C), to calculate the minimum number of continuing education hours required for reinstatement to active status, the Board shall divide the 60 hours of continuing education required by 24 and multiply that amount by the number of months that have elapsed since the licensee began inactive status.
- C. A psychologist who began inactive status before July 2, 2005 may reinstate a license to active status by demonstrating completion of a minimum of 60 hours of continuing education consistent with the requirements of R4-26-207 and completed during the previous two-year license renewal period.

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

- A. No change
- B. No change
 - 1. No change
 - a. No change
 - b. An application for licensure from an applicant licensed in another jurisdiction who is applying for an examination waiver under A.R.S. § ~~32-2072(C)(1)~~ 32-2072(A), on the date the Board receives an application packet and ends on the date the Board sends an applicant a written notice of administrative completeness;
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - 2. If an application packet is incomplete, the Board shall send an applicant a written notice specifying the deficiencies. The administrative completeness review time-frame and the overall time-frame are suspended from the date of mailing this notice until the date the Board receives a complete application packet from the applicant. An applicant shall supply the missing information within the time specified in Table 1 from the date of the notice. If the applicant fails to do so, the Board may close the file unless the applicant requests a denial of the application within 30 days from the date of the notice. ~~An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee.~~
 - 3. No change
 - 4. No change
- C. No change
 - 1. No change
 - a. No change
 - b. An application for licensure from an applicant licensed in another jurisdiction, who is applying for an examination waiver under A.R.S. § ~~32-2072(C)(1)~~ 32-2072(A), on the date the Board sends the applicant written notice of administrative completeness and ends on the date the Board approves or denies the application;
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - 2. No change
- D. The Board shall close the file of an applicant who is approved to sit for the national examination before completion of 3,000 hours of supervised training experience and who fails to document:
 - 1. Completion of the national examination, or
 - 2. The minimum required amount of training within the time from the date of the Board's approval to the date of the expiration of the time-frame specified under R4-26-210(B).
- E. An applicant whose file has been closed and who later wishes to pursue licensure shall reapply and pay the applicable fee.

Notices of Final Rulemaking

- ~~D-E~~. No change
- ~~E-G~~. No change
- ~~F-H~~. No change
- ~~G-L~~. No change
- ~~H-J~~. No change

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

Type of Time-frame	Statutory or Rule Authority	Administrative Completeness Time-frame	Time to Respond to Notice of Deficiency	Substantive Review Time-frame	Time to Respond to Request for Additional Information	Overall Time-frame
Approval or denial to take the national examination	A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204	30	240	90	240	120
Approval or denial of application for licensure by examination waiver	A.R.S. §§ 32-2071, 32-2071.01, 32-2072(C)(1) 32-2072(A)	30	240	90	240	120
Approval or denial of application for licensure by credential	A.R.S. §§ 32-2071.01, 32-2072; and A.A.C. R4-26-203.01	30	240	90	240	120
Approval or denial to take additional examination	A.R.S. §§ 32-2071, 32-2071.01, 32-2072; and A.A.C. R4-26-204	30	240	90	240	120
Approval or denial of application for renewal of license	A.R.S. § 32-2074; A.A.C. R4-26-205	60	N/A	90	N/A	150
Approval or denial of application for reinstatement of expired license	A.R.S. § 32-2074; A.A.C. R4-26-206	60	N/A	90	N/A	150
Approval or denial of extension for continuing education requirement	A.R.S. § 32-2074 A.A.C. R4-26-207	60	N/A	90	N/A	150

R4-26-210. Internship or Training Experience

A. The Board shall use the following criteria to determine if internship or training experience complies with A.R.S. § 32-2071(D):

1. No change
2. No change

Notices of Final Rulemaking

3. No change
 4. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 5. No change
 6. No change
 7. No change
- B. Training deadlines.** Under A.R.S. § 32-2072(C), an applicant approved to take the national examination before completion of the applicant's entire 3,000 hours of supervised training experience shall complete the remaining training required within the following time-frames:
1. 36 consecutive months for an applicant who has only completed the first 1,500 hours of supervised internship training; or
 2. 60 consecutive months for an applicant who has completed neither the first 1,500 hours of supervised internship training nor the second 1,500 hours of supervised postdoctoral training.

ARTICLE 3. REGULATION

R4-26-301. ~~Repeated~~ Rules of Professional Conduct

A psychologist shall practice psychology in accordance with the ethical standards contained in standards 1.01 through 10.10 of the "Ethical Principles of Psychologists and Code of Conduct" adopted by the American Psychological Association effective June 1, 2003, the provisions of which are incorporated by reference. This incorporation does not include any later amendments or editions of the incorporated matter. Copies of these standards are available from the American Psychological Association Order Department, 750 First Street, NE, Washington, DC 20002-4242 or the office of the Board of Psychologist Examiners.

R4-26-302. ~~Renumbered~~ Informal Interviews

- A.** The Board shall, when investigating a complaint, send written notice of an informal interview to a licensee who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview.
- B.** The written notice shall contain:
1. The time, date, place of the interview;
 2. An explanation of the informal nature of the proceedings;
 3. The licensee's right to appear with or without legal counsel;
 4. A statement of the allegations and issues involved;
 5. The licensee's right to a formal hearing instead of the informal interview; and
 6. Notice that the Board may take disciplinary action as a result of the deliberations of the informal interview;
- C.** An informal interview shall proceed as follows:
1. Introduction of the licensee and, if applicable, legal counsel for the licensee;
 2. Introduction of the Board members, staff, and Assistant Attorney General present;
 3. Swearing in of the licensee;
 4. Brief summary of the allegations and purpose of the informal interview;
 5. Optional opening comments by licensee;
 6. Interviewing of the licensee;
 7. Swearing in of the complainant, if complainant is present and wishes to speak;
 8. Optional additional comments by licensee;
 9. If desired by the licensee, questioning of the complainant by the licensee through the Board Chairperson; and
 10. Deliberation and deciding the case by the Board.
 - a. The Board Chairperson shall decide whether to allow clarifying information as defined in R4-26-101 during deliberations.
 - b. The Board Chairperson may reopen and repeat the steps in subsections (C)(6) through (8) if the clarifying information suggests a need for further questioning of the licensee.

R4-26-304. ~~Renumbered~~ Representation Before the Board by Attorney Not Admitted to State Bar of Arizona

An attorney who is not a member of the State Bar of Arizona shall not represent a party before the Board unless the attorney is admitted to practice pro hac vice before the Board under Rule 38(a) of the Arizona Rules of the Supreme Court.

R4-26-305. ~~Reserved~~ Confidentiality of Investigative Materials

- A.** A psychologist shall not disclose confidential records as defined by R4-26-101 that are related to a Board investigation to any person or entity, other than the psychologist's attorney, except:
1. For redacted summaries that ensure the anonymity of the client;

Notices of Final Rulemaking

- 2. Information regarding the nature of a complaint, the processes utilized by the Board, and the outcomes of a case:
 - 3. As required by federal or Arizona law;
 - 4. As required by a court order compelling production; or
 - 5. If disclosure is protected under the United States or Arizona Constitutions.
- B.** A psychologist who violates this Section commits an act of unprofessional conduct.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R07-121]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-46-501 | Amend |
| R4-46-503 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 32-3605(A), 32-3605(B), and 32-3625
Implementing statutes: A.R.S. §§ 32-3605(A), 32-3605(B)(2), 32-3605(B)(3), and 32-3605(B)(8)
- 3. The effective date of the rules:**
June 4, 2007
- 4. A list of all previous notices appearing in the Register addressing the final rules:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 4247, November 17, 2006
Notice of Proposed Rulemaking: 12 A.A.R. 4236, November 17, 2006
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Deborah G. Pearson, Executive Director
Address: 1400 W. Washington St., Ste. 360
Phoenix, AZ 85007
Telephone: (602) 542-1593
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us
- 6. An explanation of the rules, including the agency's reason for initiating the rules:**
The amendments are to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which requires state licensing boards to recognize and ensure that state licensed and certified appraisers meet the minimum criteria issued by the Appraiser Qualifications Board of The Appraisal Foundation, and A.R.S. § 32-3605(B)(2) and A.R.S. § 32-3605(B)(3), which require the Board to adopt criteria for licensing and certification of appraisers that at a minimum are equal to the minimum criteria for licensing adopted by the Appraiser Qualifications Board, which includes course approval. The Board is proposing amendments to define and incorporate by reference the minimum criteria for qualifying and continuing education courses established by either *The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2001, and Appendix I, Criteria Revisions effective January 1, 2003* ("1998 Criteria") or *The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008* ("2008 Criteria") based on when the education component is completed. The Board proposes to establish more stringent criteria for approval of qualifying and continuing education courses than the 1998 Criteria and the 2008 Criteria by providing that the 15-hour national USPAP course or its approved equivalent shall not be in the form of distance education. The amendments establish the procedure for tracking courses and provide parameters for advertising by course providers. The amendments define a course provider. The amendments provide instructor qualifications and provide that instructors must be approved by the Board. The amendments provide for an effective date of approval of courses. The amendments specify the required documentation to accompany an application. The amendments specify the requirements for course approval, including required core curriculum, module subtopic and number of hours. The amendments provide parameters for course examina-

Notices of Final Rulemaking

tions. The amendments provide parameters for prerequisite courses. The amendments provide parameters for student attendance. The amendments provide parameters for the issuance of a course completion certificate. The amendments provide for Board audit of courses. The amendments provide for renewal of the course approval if no substantive changes have been made to the course outline and materials. The amendments provide for new course approval for courses that have substantive changes to the outline and course material. The amendments provide that a course at a college or university need not be approved if such course is substantially the same as required by the 1998 Criteria or the 2008 Criteria and that the license or certificate applicant must submit documentation prepared by the course provider identifying the required core curriculum, module subtopic and number of hours. The amendments provide for the course approval of substantially the same courses approved by other states, except distance education taught before May 3, 2005. The amendments propose to clean up duplicative and unnecessary language.

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

None

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

Not applicable

9. The summary of the economic, small business, and consumer impact.

The rules are being amended to incorporate by reference the minimum criteria for the course approval established by either *The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted February 16, 1994 effective January 1, 1998, All Interpretations and Supplementary Information as of January 1, 2001, and Appendix I, Criteria Revisions effective January 1, 2003* ("1998 Criteria") or *The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of November 1, 2005, and Appendix, Real Property Qualifications Effective January 1, 2008* ("2008 Criteria") based on when an education component is completed. The Board proposes to establish more stringent criteria for approval of qualifying and continuing education courses than the 1998 Criteria and the 2008 Criteria by providing that the 15-hours National USPAP course or its approved equivalent shall not be in the form of distance education. The amendments establish the procedure for tracking courses and provide parameters for advertising by course providers. The amendments define a course provider. The amendments provide instructor qualifications and provide that instructors must be approved by the Board. The amendments provide for an effective date of approval of courses. The amendments specify the required documentation to accompany an application. The amendments specify the requirements for course approval, including required core curriculum, module subtopic and number of hours. The amendments provide parameters for course examinations. The amendments provide parameters for prerequisite courses. The amendments provide parameters for student attendance. The amendments provide parameters for the issuance of a course completion certificate. The amendments provide for Board audit of courses. The amendments provide for renewal of the course approval if no substantive changes have been made to the course outline and materials. The amendments provide for new course approval for courses that have substantive changes to the outline and course material. The amendments provide that a course at an Arizona community college, college or university need not be approved if such course is substantially the same as required by the 1998 Criteria or the 2008 Criteria and that the license or certificate applicant must submit documentation prepared by the course provider identifying the required core curriculum, module subtopic and number of hours. The amendments provide for the course approval of substantially the same courses approved by other states, except distance education taught before May 3, 2005. The amendments propose to clean up duplicative and unnecessary language. The major economic impact of the rules will be the indirect beneficial effect for the public and regulated community due to specific interpretation of the criteria. The cost, if any, to the regulated community, trainees and course providers will be minimal. There will be no cost to the public. The Board will bear the cost of incorporating and enforcing the rules.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

R4-46-501(L) was corrected to include language inadvertently omitted from the proposed revision, so that the subsection would read: If a course is offered outside of Arizona, the course has been approved by the licensure/certification board in the state in which the course is offered, and the course is substantially the same as required by the criteria, the Board will accept the course. However, the course shall not be in the form of distance education taught before May 3, 2005. The applicant for licensure, certification or renewal must submit documentation to show approval.

11. A summary of the comments made regarding the rules and the agency response to them:

Ann Susko, appraiser, and Elaine Arena, lobbyist for the Phoenix Chapter of the Appraisal Institute, appeared at the public hearing held on January 18, 2007, and spoke in favor of the rulemaking package. At that time the Board voted to close the record, adopt the proposed rule changes, and to proceed with the Notice of Final Rulemaking.

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

Notices of Final Rulemaking

Not applicable

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

None

14. Were these rules previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 5. COURSE APPROVAL

Section

R4-46-501. Course Approval

R4-46-503. Hearing on Denial of Course Approval

ARTICLE 5. COURSE APPROVAL

R4-46-501. Course Approval

- A.** ~~A Course Provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee. A course shall be approved under these rules as either qualifying or continuing education. In order to be approved as qualifying or continuing education, the course must be found to satisfy all the respective criteria set forth in the real property appraiser qualification criteria and interpretations of the criteria in R4-46-201(A), except:~~
- ~~1. The 15-hour National USPAP Course or its equivalent approved through the AQB Course Approval Program shall not be in the form of distance education;~~
 - ~~2. Only continuing education courses of at least three hours shall be considered for approval.~~
- B.** ~~Each approved course shall be assigned an index number and shall be assigned a maximum number of hours of instruction (including examination time if applicable).~~
- C.** ~~Upon receipt of course approval, the course provider may represent in any materials that the course is a Board approved course. If the number of hours approved by the Board are less than the number of scheduled hours, the number of approved hours must be clearly indicated.~~
- D.** ~~Any school, organization, person or other entity that owns the proprietary rights to a course is eligible to apply for course approval as a course provider. All applications for course approval shall be submitted by a course provider. For the purposes of these rules, the following are considered to be a course provider:~~
- ~~1. An entity that owns a course and that conducts the course directly or through affiliated entities.~~
 - ~~2. An affiliated entity of a course provider having Board approval where such affiliated entity conducts the same course.~~
 - ~~3. An entity that has purchased or otherwise lawfully acquired from the course provider of a Board approved course, the course materials for such course and that has the right to independently conduct a course using such acquired course materials.~~
- E.** ~~Course approval granted to a course provider shall apply to any affiliated entity subject to the following conditions:~~
- ~~1. The course provider required the affiliated entity to conduct the course:
 - ~~a. Utilizing the course provider's course materials (including textbook and examinations, if any);~~
 - ~~b. Allowing the same number of approved hours as the course provider;~~
 - ~~c. The instructor is approved by the Board;~~
 - ~~d. In accordance with the course provider's policies relating to student attendance, course scheduling and course prerequisites (if applicable).~~~~
 - ~~2. The course provider assumes full responsibility in the event the affiliated entity violates any provisions of these rules.~~
- F.** ~~Course approval commences on the date initial approval is granted by the Board. Course approval by the Board shall not be granted for courses which have been offered by the course provider prior to the Board's review of the course approval application.~~
- G.** ~~A Course Provider course provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee. Once the application has been filed, fees are nonrefundable. An application must be complete before it will be placed on an agenda for approval.~~
- H.** ~~A course provider shall not misrepresent Board approval status in advertising.~~
- B.** ~~The following requirements apply to courses submitted for approval:~~
- ~~1. The Course Provider shall follow education standards set forth in the Appraiser Qualification Criteria.~~
 - ~~2. The Course Provider course provider shall use submit with the application an outline, and other written materials. the~~

Notices of Final Rulemaking

~~course provider shall furnish the Board with the outline, text, or other written material at the time of application. Lack of documentation may result in the delay or denial of course approval; In order to be approved, the course must be found to satisfy the following requirements:~~

1. Course description: the course materials must include a course description which clearly describes the content of the course.
2. Summary outline: the course materials shall include a summary outline of major topics and the number of classroom hours devoted to each.
3. Learning objectives: the course materials shall include specific learning objectives which:
 - a. Clearly state the specific knowledge and/or skills students are expected to acquire by completing the course;
 - b. Are consistent with the course description;
 - c. Are consistent with the instructional materials;
 - d. Are reasonably achievable within the number of classroom hours allotted for the course;
 - e. For qualifying education courses, shall clearly identify the required core curriculum, the module subtopic, and the number of course hours; and
 - f. For continuing education courses, shall clearly identify the appraisal topic and the number of course hours.
4. Instructional materials: instructional materials to be used by students in the course shall:
 - a. Cover the subject matter in sufficient depth to achieve the stated course learning objectives;
 - b. Provide appropriately balanced coverage of the subject matter in view of the stated course learning objectives;
 - c. Reflect current knowledge and practice;
 - d. Contain no significant errors;
 - e. Reflect correct grammatical usage and spelling;
 - f. Effectively communicate and explain the information presented;
 - g. Be suitable in layout and format; and
 - h. Be suitably bound/packaged and be produced in a quality manner.
5. Examinations for qualifying education: course examinations shall consist either of a series of examinations or a comprehensive final examination or both. The course examination(s) shall comply with the following requirements:
 - a. Contain a sufficient number of questions to adequately test the subject matter covered in the course;
 - b. The amount of time devoted to the examination(s) is appropriate for the course;
 - c. The examination questions, individually and collectively, test at a difficulty level appropriate to measure student achievement of the stated course learning objectives;
 - d. The subject matter tested by examination questions is adequately addressed in the course instructional materials;
 - e. The examination questions are written in a clear and unambiguous manner; and
 - f. The examination questions are accurate and the intended correct answer is clearly the best answer choice.
6. Prerequisites: the course provider must have established appropriate prerequisites for any course other than an introductory course on basic real estate appraisal principles and practices or a course on appraisal standards and ethics.
7. Instructor qualifications: an instructor must be approved by the Board to teach a specific Board-approved course. An instructor must meet one or more of the following qualifications:
 - a. A baccalaureate degree in any field and three years of experience directly related to the subject matter to be taught; or
 - b. A masters degree in any field and two years of experience directly related to the subject matter to be taught; or
 - c. A baccalaureate degree in a field that is directly related to the subject matter to be taught and one year of experience directly related to the subject matter to be taught; or
 - d. An associate degree in a field that is directly related to the subject matter to be taught and three years of experience directly related to the subject matter to be taught; or
 - e. A masters or higher degree in a field that is directly related to the subject matter to be taught; or
 - f. Five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or
 - g. Seven years of real estate appraisal experience directly related to the subject matter to be taught.
 - h. The national USPAP courses must be taught by an AQB certified USPAP instructor and equivalent USPAP courses must be taught by an instructor approved by the AQB.
8. Current classroom offering: conduct the course in a setting physically suitable to the educational activity of the course. Courses presented by distance education must comply with the criteria adopted in these rules;
9. Attendance policy: the course provider must have a written attendance policy that requires student attendance to be verified. Policy must:
 - a. Stipulate that the student must be present for the entire course;
 - b. Include on the attendance records form the name of the instructor(s);
 - c. Provide that nonmembers of the course provider's association or organization may apply for the course without membership in the association or organization;
 - d. Provide for retention of attendance records for a minimum of five years.
10. Course scheduling policy: the course provider shall have an established policy on course scheduling that provides a

Notices of Final Rulemaking

- maximum of nine classroom hours of instruction in any given day and appropriate breaks during each class session.
11. Course completion certificate policy: the course provider shall have an established policy assuring prompt issuance of signed course completion certificates to attendees which shall include all information required on the form of certification provided by the Board.
 12. Audit policy: the course provider shall permit the executive director or the executive director's representative to audit the course at no cost to the Board in order to evaluate the instruction. The course provider shall permit the executive director or the executive director's representative to review records appropriate to selected course offerings.
 13. Instructor change: if a course provider wishes to use an instructor other than the instructor approved by the Board as part of the initial course approval, the course provider must apply to the Board for approval of any new or substitute instructor and pay the applicable fee. Any new or substitute instructor must meet the instructor qualifications set out in this Section.
3. If a course is required for a license or certificate, the Course Provider shall give a comprehensive examination pertinent to the topics addressed in the course.
 4. The Course Provider shall conduct the course in a setting physically suitable to the educational activity of the program; and
 5. The Course Provider shall submit proof of compliance with the following standards. The Course Provider shall:
 - a. Apply the Appraiser Qualification Criteria set forth in subsection (B)(1);
 - b. Provide a copy of an attendance certificate to the student after completion of the course, indicating the name of the Course Provider, the name of the student, the title of the course, the number of classroom hours completed in the course, the dates the course was taken, and whether the students successfully completed any final examination;
 - c. Maintain a record of registration, attendance, and examination for each student, for six years following the student's attendance in the course, and provide a copy of the record at the request of the Board or the student;
 - d. Deny course credit to any student who does not meet requirements of the Appraisal Qualification Board;
 - e. Use instructors with one or more of the following qualifications:
 - i. At least, a bachelor's degree in the field of instruction or in a closely related field of instruction, or
 - ii. Five years of work experience in the subject taught, or
 - iii. A combination of education and work experience which the Board determines is substantially equivalent to the requirements in subsections (i) and (ii).
- ~~E.J.~~ Course approval lasts is valid for a period of one year, expiring at the end of the month in which approval was granted, at which time the course provider shall re-apply for course approval of a course previously approved. if there have been no substantive changes to the materials to be addressed in the course, including but not limited to changes in the course outline, text, or other written material. No later than 30 days prior to the expiration date, a Course Provider course provider may apply for renewal of the course approval review of a course previously approved on the form provided by the Board and pay the appropriate fee. any If there have been substantive change changes in the materials to be addressed in the classroom course, including but not limited to changes in the course outline, text, or other written material will require immediate re-application and approval by the Board, the course shall be considered as a new course and the course provider shall file an application for course approval meeting all the requirements of this Section and pay the appropriate fee.
- ~~D.K.~~ The Board shall waive the course approval fee for a course offered outside of the state if the course was approved by the appraisal licensing or certifying authority in that state and the Board determines that the course meets the standards for course approval set forth in these rules. A course approved for credit hours at a community college, college or university in this state need not be approved by the Board if the course is substantially the same as required by the criteria. The applicant for licensure, certification or renewal shall submit documentation prepared by the course provider identifying the required core curriculum, the module subtopic and the number of course hours for qualifying education or the appraisal topic and the number of course hours for continuing education.
- L.** If a course is offered outside of Arizona, the course has been approved by the licensure/certification board in the state in which the course is offered, and the course is substantially the same as required by the criteria, the Board will accept the course. However, the course shall not be in the form of distance education taught before May 3, 2005. The applicant for licensure, certification or renewal must submit documentation to show approval.
- ~~E.M.~~ The Board shall investigate and may deny, revoke, or suspend course approval for any of the following acts or omissions:
 1. Failure to comply with the education or meet any requirements set forth in this article Section.
 2. Failure to operate as indicated in the application for course approval use an instructor approved by the Board as part of the course approval application or otherwise.
 3. Failure to instruct in a manner consistent with the outline and materials previously approved by the Board.
- ~~F.N.~~ If the Board finds that the public welfare or safety requires emergency action and incorporates a finding to that effect in its order, the Board shall order a summary suspension of course approval pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the Course Provider course provider with a written notice of summary suspension and formal hearing, listing the charges against the Course Provider course provider and setting a formal hearing within 30 days.

Notices of Final Rulemaking

R4-46-503. Hearing on Denial of Course Approval

Any applicant or ~~Course Provider~~ course provider denied course approval or any course provider whose course approval is revoked or suspended may file a written request for a hearing within 30 days after service of the notice of denial. The Board shall process all hearings and disciplinary matters involving course approval in a manner consistent with the formal hearing procedures prescribed in Article 3.