

NOTICES OF PROPOSED RULEMAKING

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

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

[R07-295]

PREAMBLE

1. Sections Affected

R4-34-201
R4-34-203
R4-34-204
R4-34-401
R4-34-402
R4-34-501
R4-34-601
R4-34-603
R4-34-607
R4-34-701
R4-34-702
R4-34-703
R4-34-704
R4-34-705
R4-34-706
R4-34-803
R4-34-804
R4-34-805

Rulemaking Action

Amend
Amend

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

Authorizing statute: A.R.S. § 41-2144

Implementing statutes: A.R.S. § 41-2144

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

Notice of Rulemaking Docket Opening: 13 A.A.R. 123, January 12, 2007

Notice of Proposed Rulemaking: 13 A.A.R. 1948, June 8, 2007

Notice of Termination of Rulemaking: 13 A.A.R. 2388, July 6, 2007

Notice of Rulemaking Docket Opening: 13 A.A.R. 2530, July 13, 2007

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

Name: Gary Grounds, Deputy Director

Address: Department of Fire, Building and Life Safety
1110 W. Washington St., Suite 100
Phoenix, AZ 85007

Telephone: (602) 364-1003

Fax: (602) 364-1063

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

The proposed rules are being amended for general rule housekeeping, clarification, and 2006 passed legislation.

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

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

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

Not applicable

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

There is no economic impact to the Department, licensees, consumers, or local jurisdictions.

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

Name: Gary Grounds, Deputy Director
Address: Department of Fire, Building and Life Safety
1110 W. Washington St., Suite 100
Phoenix, AZ 85007
Telephone: (602) 364-1003
Fax: (602) 364-1063

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

No oral proceedings are scheduled. Written comments on the proposed rules will be accepted by the Board addressed to the person in item 4 no later than 5:00 p.m., Monday, October 1, 2007.

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

Not applicable

12. Any material incorporated by reference and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

ARTICLE 2. LICENSING

Section
R4-34-201. General
R4-34-203. Retailers
R4-34-204. Installers

ARTICLE 4. SURETY BONDS

Section
R4-34-401. Surety Bond Forms
R4-34-402. Cash Deposits

ARTICLE 5. FEES

Section
R4-34-501. General

ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION

Section
R4-34-601. Manufactured Homes
R4-34-603. Factory-Built Buildings and FBB Subassemblies

R4-34-607. Manufacturing Inspection and Certification

ARTICLE 7. PLAN APPROVALS

Section

- R4-34-701. General
- R4-34-702. Quality Assurance Manuals
- R4-34-703. Drawings and Specifications
- R4-34-704. Alterations or Reconstruction
- R4-34-705. Accessory Structures and Ground Anchoring
- R4-34-706. Factory-Built Building Installation

ARTICLE 8. PERMITS AND INSTALLATION

Section

- R4-34-803. Soil and Materials
- R4-34-804. Utilities
- R4-34-805. Accessory Structures

ARTICLE 2. LICENSING

R4-34-201. General

- A. An administrative review of the application shall be performed within ~~5~~ five business days of receipt of an application. The ~~Assistant~~ Deputy Director shall issue a conditional license within 14 business days of the Department's receipt of the completed license application and written evidence that the applicant has passed any required license examination. The five day administrative completeness and 14 day substantive review time-frames provide an overall time-frame of 19 days excluding time requirements that are the responsibility of the applicant.
- B. No change
- C. No change
- D. No change

R4-34-203. Retailers

The Department shall place a retailer's license application into one of the following license classes, based on the listed activities that limit the scope of each class:

- 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 2. No change
 - a. No change
 - b. No change
- 3. No change
 - a. No change
 - b. No change
 - c. No change
 - d. Contracts with properly licensed installers or contractors for the installation of factory-built buildings, FBB sub-assemblies, and residential; single-family; factory-built buildings, or accessory structures.
- 4. No change

R4-34-204. Installers

The Department shall place an installer's license application into one of the following license classes, based on the listed activities that limit the scope of each class;

- 1. I-10C General installer of Manufactured Homes, Mobile Homes, or Residential; Single-Family; Factory-Built Buildings:
 - a. Installs manufactured homes, mobile homes, or residential; single-family; factory-built buildings on foundation systems;
 - b. No change
 - c. No change
 - d. Installs evaporative coolers and cooler systems on manufactured homes, mobile homes, or residential; single-family; factory-built buildings;
 - e. No change

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- f. No change
- g. No change
- h. No change
- i. No change
- 2. I-10D Installer of Accessory Structures attached to Manufactured Homes, Mobile Homes, or Residential; Single-Family; Factory-Built Buildings:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 3. I-10G Master Installer of Manufactured Homes, Mobile Homes, or Residential; Single-Family; Factory Built Buildings:
 - a. No change
 - b. No change
 - c. No change

ARTICLE 4. SURETY BONDS

R4-34-401. Surety Bond Forms

Manufacturers, installers, and retailers except brokers of manufactured homes, mobile homes, or residential single-family; factory-built buildings, shall submit the applicable surety bond amount from the list in R4-34-502, with a form provided by the Office of Administration.

R4-34-402. Cash Deposits

- A. Except for applicants exempt under R4-34-401, any applicant for a license or renewal of a license who desires to post cash in place of a commercial surety bond shall deposit the applicable amount with the ~~Assistant~~ Deputy Director of the Office of Administration using any one of the following payment methods:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
- B. Upon the receipt of the ~~Assistant~~ Deputy Director of the Office of Administration of an order from any court for the payment of funds on deposit, the ~~Assistant~~ Deputy Director shall make payment according to the court order, at which time the license is suspended under A.R.S. § 41-2179, if applicable. In order to reinstate the license, the licensee shall return the cash deposit to the required balance or, as an alternative, file a commercial surety bond for the full amount and pay all applicable reinstatement fees.
- C. No change
- D. No change
- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
- F. Upon written request and subsequent approval by the ~~Assistant~~ Deputy Director of the Office of Administration, a cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, any person with written evidence of authority to withdraw the cash deposit for a corporation, and any other person who can establish legal right to the cash deposit.

ARTICLE 5. FEES

R4-34-501. General

- A. No change
- B. The ~~Assistant~~ Deputy Director of the Office of Administration shall notify all licensees of the established fee schedule before June 1 of each year.
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change

- 7. No change
- 8. No change

ARTICLE 6. MANUFACTURING, CONSTRUCTION, AND INSPECTION

R4-34-601. Manufactured Homes

A manufacturer shall build manufactured homes according to the standards and regulations in R4-34-102(C) and (D) (1) and (2).

R4-34-603. Factory-Built Buildings and FBB Subassemblies

A. A manufacturer shall construct factory-built buildings and FBB subassemblies according to the codes in R4-34-102(E) (3)(a), (b), (c), (4) and (5); and

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

B. No change

C. No change

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

R4-34-607. Manufacturing Inspection and Certification

A. The Department shall conduct manufactured home plant certification under R4-34-102(C) and (D) (1) and (2).

B. No change

C. No change

- 1. The Department shall conduct manufactured home certification under R4-34-102(C) and (D) (1) and (2); and
- 2. No change

D. No change

- 1. Each manufactured home manufacturer shall report affixing HUD labels, complete any other required reports, and establish and maintain records under R4-34-102(C) and (D) (1) and (2); and
- 2. No change

E. No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change

F. No change

- 1. No change
- 2. No change

G. No change

- 1. No change
- 2. No change
 - a. No change
 - b. No change
 - c. No change

ARTICLE 7. PLAN APPROVALS

R4-34-701. General

A. No change

- 1. No change
- 2. No change

B. No change

C. Before installing an accessory structure or ground anchors for a manufactured home, mobile home, or residential single-family, factory-built building, and installer shall obtain plan approval under R4-34-705.

D. No change

E. No change

F. No change

G. No change

H. No change

I. No change

R4-34-702. Quality Assurance Manuals

- A. A manufacturer of manufactured homes shall prepare the quality assurance manual required by R4-34-102~~(C) and (D)~~ (1) and (2).
- B. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change

R4-34-703. Drawings and Specifications

- A. A manufacturer of manufactured homes shall submit drawings and specifications that comply with applicable requirements of R4-34-102~~(C) and (D)~~ (1) and (2).
- B. A manufacturer of factory-built buildings or FBB subassemblies shall submit plans that comply with the codes in R4-34-102~~(E)~~ (3)(a), (b), (c), (4), and (5). The plans shall provide or have the following information or format attributes:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change

R4-34-704. Alterations or Reconstruction

- A. No change
 - 1. No change
 - 2. No change
 - 3. The retailer or broker shall not prepare manufactured home plans that are not consistent with the manufactured home construction and safety standards prescribed in R4-34-102~~(C) and (D)~~ (1) and (2).
 - 4. No change
- B. No change
 - 1. No change
 - 2. No change

R4-34-705. Accessory Structures and Ground Anchoring

- A. No change
 - 1. For commercial factory-built buildings, an installer shall comply with the International Building Code when preparing accessory structure plans. For residential single-family ~~residential~~ factory-built buildings, an installer shall comply with the International Residential Code when preparing accessory structure plans.
 - 2. No change
 - 3. No change
- B. No change
 - 1. No change
 - 2. No change

R4-34-706. Factory-Built Building Installation

- A. No change
- B. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change

- c. No change
- d. No change
- 3. Electrical drawings, including the isometric one-line diagram required by R4-34-102(~~F~~) (5), that contain the following information:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- 4. Plumbing drawings, including any one-line diagrams required by R4-34-102(~~E~~)(3) (4), that contain the following information:
 - a. No change
 - b. No change
 - c. No change

ARTICLE 8. PERMITS AND INSTALLATION

R4-34-803. Soil and Materials

- A. A licensee who contracts with the consumer for an installation shall perform or contract for any site preparation necessary to make the site compatible with the manufactured home, mobile home, or residential, single-family factory-built building. The licensee may contract with a licensed installer or other qualified professional to assess site and soil compatibility or perform any necessary preparation work. The party actually performing the site compatibility assessment or work is primarily responsible for work related to site compatibility or preparation. The licensee who contracts with the consumer, if a different entity, is secondarily responsible.
- B. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
- C. No change
 - 1. No change
 - 2. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - a. Minimum 3/4-inch thick plywood or ~~2~~ two layers of 5/8-inch thick plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI-treated for ground contact, conforming to International Building Code Section 2303.1.8 or International Residential Code Section R402.1.2, as applicable under R4-34-102(3)(a) or (b);
 - b. Minimum ~~2-inch~~ two-inch nominal thickness wood no less than 12 inches wide, and treated for ground contact, conforming to the International Building Code Section 2303.1.8 or the International Residential Code Section R402.1.2, as applicable under R4-34-102(3)(a) or (b).
 - c. No change
 - d. No change
 - 6. No change
 - 7. No change
 - 8. No change
 - 9. No change
 - 10. No change
 - 11. No change
 - 12. No change
- E. No change

1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 8. No change
 9. Construct permanent support heights to the International Building Code or the International Residential Code as applicable under R4-34-102(3)(a) or (b).
- F.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
- G.** No change
- H.** No change
1. No change
 2. No change
- I.** No change
1. An installer or contractor shall install factory-built buildings in compliance with applicable standards incorporated by reference in R4-34-102(3)(a), (b), (c), (4), and (5); the International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing Code as incorporated by reference in 4 A.A.C. 48, and National Electrical Code.
 2. No change

R4-34-804. Utilities

- A.** No change
- B.** Electric – An installer or contractor shall make all electric connections or installations according to the National Electric Code, R4-34-102(~~F~~) (5).
1. No change
 2. No change
 - a. No change
 - b. No change
 - c. No change
- C.** Sewer – An installer or contractor shall make sewer connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated in R4-34-102(~~E~~)(3) (4).
- D.** Water – An installer or contractor shall make water connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated in R4-34-102(~~E~~)(3) (4).
- E.** Gas – An installer or contractor shall make gas connections or installations according to the Uniform Plumbing Code, and its appendices, incorporated by R4-34-102(~~E~~)(3) (4).
1. No change
 2. No change
- F.** No change

R4-34-805. Accessory Structures

- A.** For the purpose of A.R.S. § 41-2142(1), the word “attached” means fastened to the manufactured or mobile home; residential single-family; ~~residential~~, factory-built building; or accessory structure at the time of its installation and removable without degradation of the structural integrity of the unit.
- B.** An installer or contractor shall install, assemble, or construct each accessory structure in compliance with applicable standards incorporated by reference in R4-34-102(3)(a), (b), (c), (4), and (5); the International Building Code, International Residential Code, International Mechanical Code, Uniform Plumbing as incorporated by reference in 4 A.A.C. 48, and the National Electrical Code or according to the manufacturer’s installation instructions if the instructions are consistent with this Chapter.
- C.** No change
- D.** No change
- E.** No change

1. No change
 - a. No change
 - b. Ventilate skirting according to the International Building Code or the International Residential Code, as applicable under R4-34-102(3)(a) or (b), and
 - c. No change
2. No change
 - a. No change
 - b. Design and construct skirting as a retaining wall according to the International Building Code or the International Residential Code, as applicable under R4-34-102(3)(a) or (b).
3. No change

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R07-298]

PREAMBLE

1. **Sections Affected**

R4-46-101	<u>Rulemaking Action</u>
R4-46-201	Amend
	Amend
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 32-3605(A), 32-3605(B), 32-3612, 32-3613, 32-3614, 32-3615
Implementing statutes: A.R.S. §§ 32-3605(B)(2), 32-3605(B)(3), 32-3605(B)(4), 32-3605(B)(5), 32-3605(B)(6)
3. **A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 3044, August 31, 2007 (*in this issue*)
4. **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., Suite 360 Phoenix, AZ 85007
Telephone:	(602) 542-1593
Fax:	(602) 542-1598
E-mail:	deborah.pearson@appraisal.state.az.us
5. **An explanation of the rules, including the agency's reasons for initiating the rules:**

The changes in the existing rules 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 to comply with A.R.S. §§ 32-3605(B)(2) and 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. The amendments will adopt the most recent version of *The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of February 1, 2007, and Appendix, Real Property Qualifications Effective January 1, 2008* ("2008 Criteria"). The most recent version includes the following interpretations and guide notes issued by the Appraiser Qualifications Board: (1) May 5, 2006 Interpretation—Continuing Education Waivers and Deferrals; (2) May 5, 2006 Interpretation—Continuing Education Requirements for Partial Years; (3) January 8, 2007 Interpretation—Continuing Education Credit for Attendance at State Appraiser Regulatory Agency Meetings; (4) AQB Guide Note 4 (GN-4) relating to practicum courses to be used for experience credit; and (5) AQB Guide Note 5 (GN-5) relating to reciprocity, temporary practice, renewals, and applications for the same credential in another jurisdiction.

The amendments propose to revise the definition of "Direct Supervision" and to clarify and provide for enforcement of the requirements for a supervising appraiser.
6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed**

Notices of Proposed Rulemaking

rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

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

Not applicable

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

The rules are being changed to adopt the latest version of minimum criteria as required by federal and state law, and to clarify and provide for the enforcement of the existing supervising appraiser requirements. 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 for licensed and certified appraisers and the requirements for supervising appraisers. 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.

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

Name: Deborah G. Pearson, Executive Director
Address: 1400 W. Washington St., Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1593
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us

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

Date: October 18, 2007
Time: 9:00 a.m.
Location: 1400 W. Washington St.
Basement Conference Room B-2
Phoenix, AZ
Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend or repeal the rule. The Agenda for this Board meeting will be available to the public the day before the meeting. It may be obtained by contacting the Board office at (602) 542-1558, or by visiting the Board's web site at www.appraisal.state.az.us, [Meetings](#), [Board Meeting Agenda](#). In addition, written comments will be accepted at the Board office, 1400 W. Washington St., Suite 360, Phoenix, AZ 85007 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday through October 17, 2007.

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

Not applicable

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

The Real Property Appraiser Qualification Criteria adopted January 1, 2003, All Interpretations and Supplementary Information as of February 1, 2007, and Appendix, Real Property Qualifications Effective January 1, 2008 ("2008 Criteria"). The location in the rules is R4-46-201 and R4-46-207.

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 1. GENERAL PROVISIONS

Section
R4-46-101. Definitions

ARTICLE 2. LICENSING AND CERTIFICATION

Section

R4-46-201. Appraiser Qualification Criteria

ARTICLE 1. GENERAL PROVISIONS

R4-46-101. Definitions

In these rules, unless the context otherwise requires:

“Arizona or State Certified General Appraiser” No change

“Arizona or State Certified Residential Appraiser” No change

“Arizona or State Licensed Appraiser” No change

“Appraisal Foundation” No change

“Appraiser” No change

“Board” No change

“Board counsel” No change

“Board staff” No change

“Complaint” No change

“Consent agreement” No change

“Consulting assignment” No change

“Conviction” No change

“Course provider” No change

“Direct supervision” means that a supervising appraiser is ~~physically present to direct and oversee~~ directing and overseeing the production of each appraisal assignment.

“Disciplinary action” No change

“Dismissal” No change

“Distance education” No change

“Due diligence” No change

“Formal complaint” No change

“Formal hearing” No change

“Informal hearing” No change

“Informational interview” No change

“Initial review” No change

“Investigation” No change

“Investigator” No change

“Jurisdictional criteria” No change

“Letter of concern” No change

“Letter of due diligence” No change

“Letter of remedial action” No change

“Mentor” No change

“Order” No change

“Party” No change

“Practicing appraiser” No change

“Probation” No change

“Property tax agent” No change

“Remedial action” No change

“Respondent” No change

“Rules” No change

“Summary suspension” No change

“Supervising appraiser” No change

“Trainee” No change

“USPAP” No change

“Workfile” No change

ARTICLE 2. LICENSING AND CERTIFICATION

R4-46-201. Appraiser Qualification Criteria

- A. Except as provided in subsections (B), (C), and (D), an applicant for the applicable classification of license or certificate shall meet that classification’s criteria established by the Appraiser Qualifications Board (AQB) in 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, 2002, 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~~, February 1, 2007. And Appendix, Real Property Qualifications Effective January 1, 2008 (“2008 Criteria”), as follows:
1. The requirements are divided into three components: education, experience and examination. An applicant shall meet the criteria in effect at the time the applicant completes a particular component.
 2. The Board shall give credit for completion of a component if the applicant meets either the 1998 Criteria or the 2008 Criteria for any component completed prior to January 1, 2008.
 3. The Board shall give credit for completion of a component only if the applicant meets the 2008 Criteria for any component completed on or after January 1, 2008.
 4. On and after November 1, 2008, an applicant shall meet the 2008 Criteria for all components, regardless of when the component was completed. Both the 1998 Criteria and the 2008 Criteria are incorporated by reference and are on file with the Board. These incorporated criteria include no future additions or amendments. A copy of the incorporated criteria may be obtained from the Board or The Appraisal Foundation.
- B. Regardless of whether a transaction is federally related:
1. A State Licensed Residential Appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(3), and
 2. A State Certified Residential Appraiser is limited to the scope of practice in A.R.S. § 32-3612(A)(2).
- C. Notwithstanding the criteria incorporated by reference in subsection (A),
1. An applicant shall not obtain more than 75% of required qualifying education through distance education,
 2. An applicant shall not obtain the 15-hour National USPAP Course, or its equivalent, approved through the AQB Course Approval Program, through distance education, and
 3. Qualifying education credit may be obtained at any time before the date of application, except the 15-hour National USPAP Course or its AQB approved equivalent must be obtained within two years preceding the date of application.
- D. Notwithstanding the criteria incorporated by reference in subsection (A), there is no Trainee Real Property Appraiser Classification.
1. A supervising appraiser shall instruct and directly supervise a trainee for any classification of license or certificate in the entire preparation of each appraisal. The supervising appraiser shall approve and sign all final appraisal documents: certifying the appraisals are in compliance with the Uniform Standards of Professional Appraisal Practice. A supervising appraiser and trainee must work in the same state and the supervising appraiser must personally and physically supervise the entire inspection of each appraised property with the trainee. To demonstrate responsibility for the instruction, guidance, and direct supervision of the trainee, the supervising appraiser shall:
 - a. ~~Sign the appraisal report and certify the report is in compliance with the Uniform Standards of Professional Appraisal Practice,~~
 - b. ~~Personally supervise the entire physical inspection of each appraised property with the trainee, and~~
 - e. ~~Review and sign each trainee appraisal report.~~
 2. A trainee may have more than one supervising appraiser, but a supervising appraiser shall not supervise more than three trainees at any one time. A trainee shall maintain an appraisal log for each supervising appraiser and, at a minimum, include the following in the log for each appraisal:
 - a. Type of property,
 - b. Date of report,
 - c. Property description,
 - d. Description of work performed by the trainee and scope of review and supervision by the supervising appraiser,
 - e. Number of actual work hours by the trainee on the assignment, and
 - f. The signature and state certificate number of the supervising appraiser. This subsection (D)(2)(f) is effective January 1, 2008.
 3. ~~A supervising appraiser and trainee shall work in the same geographic area, and in no event shall the supervising appraiser and trainee work in different states.~~
 - 4.3. A supervising appraiser shall provide to the Board in writing the name and address of each trainee within 10 days of

engagement, and notify the Board in writing immediately upon termination of the engagement. A state certified appraiser is not eligible to be a supervising appraiser unless the appraiser's certificate is in good standing and the appraiser has not been subject to license or certificate suspension, probation, or mentorship within the last two years. This subsection ~~(D)(4)~~ (D)(3) is effective January 1, 2008.

4. In the event that a supervising appraiser does not file the required notification of engagement with the Board:
 - a. The supervising appraiser will be subject to disciplinary action pursuant to A.R.S. § 32-3631(A)(8), and
 - b. The trainee shall not receive experience credit for all hours logged during the period that the notification of engagement is not filed with the Board.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R07-300]

PREAMBLE

1. Sections Affected
R4-46-106
- Rulemaking Action
Amend
2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):
Authorizing statute: A.R.S. § 32-3605(B)(17)
Implementing statutes: A.R.S. §§ 32-3605(B)(4) and 32-3607
3. A list of all previous notices appearing in the Register addressing the proposed rules:
Notice of Rulemaking Docket Opening: 13 A.A.R. 3044, August 31, 2007 (*in this issue*)
4. 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., Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1593
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us
5. An explanation of the rules, including the agency's reasons for initiating the rules:
The change in the rule is to conform to statute revisions made during the 48th Legislature, First Regular Session, 2007, and to revise the Board's course approval fees to enable the Board to recover its administrative costs to process course approval applications. The Governor signed the statute revisions into law on July 2, 2007, with an emergency clause making them effective July 2, 2007. As required by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), as well as its own statutes, the Board has also adopted rules which became effective June 2, 2007, that adopt the new criteria established by the Appraiser Qualifications Board to become effective January 1, 2008. This new criteria make extensive revisions to the education requirements for licensed and certified appraisers. Also pursuant to FIRREA and Board statutes, the Board must ensure that the course approvals meet the new education requirements established by the criteria, Board rules and Board statutes.
6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:
None
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
Not applicable
8. The preliminary summary of the economic, small business and consumer impact:
The rule is being changed to conform to revised statutes, as well as recover additional administrative costs that will result in connection with the processing of course approvals to meet the 2008 criteria. The primary groups that will be

Notices of Proposed Rulemaking

affected are the Board, the course providers, the licensed or certified appraisers, and the public. There should be minimal appreciable changes in the economic impact. The costs for course approval have not been revised since 1995, even though the actual administrative costs have risen and will rise even more with the implementation of the 2008 criteria.

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

Name: Deborah G. Pearson, Executive Director
Address: 1400 W. Washington St., Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1593
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us

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

Date: October 18, 2007
Time: 9:00 a.m.
Location: 1400 W. Washington St.
Basement Conference Room B-2
Phoenix, AZ
Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend or repeal the rule. The Agenda for this Board meeting will be available to the public the day before the meeting. It may be obtained by contacting the Board office at (602) 542-1558, or by visiting the Board's web site at www.appraisal.state.az.us, Meetings, Board Meeting Agenda. In addition, written comments will be accepted at the Board office, 1400 W. Washington St., Suite 360, Phoenix, AZ 85007 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday through October 17, 2007.

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

Not applicable

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

None

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

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 1. GENERAL PROVISIONS

Section
R4-46-106. Fees

ARTICLE 1. GENERAL PROVISIONS

R4-46-106. Fees

- A. ~~Except as provided in subsections (D) and (E), the~~ The Board shall charge and collect fees for the following:
1. Initial ~~Applicant and First Biennial License:~~ Application: \$400
 2. Examination: \$100
 3. ~~Reexamination:~~ \$100
 - 4-3. Biennial Renewal of a License or Certificate: \$425
 - 5-4. Delinquent Renewal (in addition to the Renewal fee): \$25
 - 6-5. Biennial ~~Federal~~ National Registry: \$50
 - 7-6. Nonresident Temporary License or Certificate: \$150
 8. ~~Duplicate License or Certificate:~~ \$5
 - 9-7. Course ~~Review:~~ Approval:

Notices of Proposed Rulemaking

- a. Qualifying Education
 - i. Initial ~~Review and Course Approval: \$300~~ Course Approval: \$400
 - ii. ~~Review~~ Renewal of Course ~~Previously Approved: Approval: \$5~~ Approval: \$100
 - iii. Renewal of Course Approval to Change Instructor: \$50
 - b. Continuing Education
 - i. Initial ~~Review and Course Approval of: \$200~~
 - 2-hour courses: \$50
 - 3- and 4-hour courses: \$100
 - Any course 5 hours or longer: \$150
 - ii. ~~Review~~ Renewal of Course ~~Previously Approved: Approval: \$5~~ Approval: \$100
 - iii. Renewal of Course Approval to Change Instructor: \$50
- B. A person shall pay fees by ~~cash~~, certified check, cashier's check, or money order payable to the Arizona Board of Appraisal.
- C. A person making a public record request shall pay the Board the reasonable cost of reproduction consistent with A.R.S. Title 39, Chapter 1, Article 2. The person shall pay for the Board's cost of reproduction by ~~cash~~, certified check, cashier's check, or money order.
- ~~D. The fee for an initial application filed after November 30, 1998, and before December 1, 2000, shall be \$300.~~
- ~~E. The renewal application fee for a license or certificate expiring after November 30, 1998, and before December 1, 2000, shall be \$225.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R07-301]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-46-401 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statute: A.R.S. § 32-3605(A)
Implementing statutes: A.R.S. §§ 32-3605(B)(1) and 32-3635(A)
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 13 A.A.R. 3045, August 31, 2007 (*in this issue*)
- 4. 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., Suite 360
Phoenix, AZ 85007 |
| Telephone: | (602) 542-1593 |
| Fax: | (602) 542-1598 |
| E-mail: | deborah.pearson@appraisal.state.az.us |
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**
The change in the rule is to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which requires state licensing boards to recognize and enforce the *Uniform Standards of Professional Appraisal Practice* (USPAP); and A.R.S. § 32-3605(B)(1), which requires the Board to adopt standards for professional appraisal practice that are at least equal to USPAP. The amended rule incorporates by reference the 2008-2009 edition of USPAP. The revisions in the 2008-2009 edition of USPAP are the result of two exposure drafts, issued by the Appraisal Standards Board (ASB) on December 15, 2006 (First Exposure Draft) and March 5, 2007 (Second Exposure Draft). The ASB received written comments from interested parties on the two Exposure Drafts and heard oral comments at public meetings on February 2, 2007, April 13, 2007, and June 8, 2007. The changes were adopted by the ASB on June 8, 2007, and are incorporated in the 2008-2009 edition of USPAP and associated guidance with

Notices of Proposed Rulemaking

an effective date of January 1, 2008. The key features of the 2008-2009 edition are: (1) Deletion of the Supplemental Standards Rule, edits to the definition of Supplemental Standards, and associated changes to the Scope of Work Rule, the Conduct section of the Ethics Rule and the Competency Rule. The edits do not change the requirements when performing assignments subject to laws, regulations, or guidelines that constitute ethical and competent appraisal practice. (2) Retirement of Statement 10, Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction and adoption of Advisory Opinion 30, Appraisals for Use by a Federally Regulated Financial Institution. The revisions were made to offer advice regarding application of USPAP in assignments for use by a federally regulated financial institution. (3) Edits to the Conduct section of the Ethics Rule related to advocacy, and deletion of the term "advocacy". The edits do not diminish the prohibition against advocacy in appraisal practice; advocacy remains unacceptable. (4) Revisions to report certification requirements in Standards Rules 2-3, 3-3, 5-3, 609, 8-3 and 10-3 relating to the signing appraiser's reliance on work done by others who do not sign the certification. The revisions clarify an appraiser's obligations when relying on work done by both appraisers and others who do not sign the certification. (5) Revisions to Standard 7, Personal Property Appraisal, Development, Standard 8, Personal Property Appraisal, Reporting, and Standard 6, Mass Appraisal Development and Reporting, related to the requirements to identify and report the highest and best use. The edit does not change the substance of the requirement, but better aligns the language with terminology more commonly used in personal property appraisal. (6) Revisions to the requirements for reconciliation of the approaches in Standards Rules 1-6(b), 6-7(a), 7-6(b) and 9-5(b), shortening of the term "property use conditions" to "property" in Standards Rules 2-2(a)(vi), 2-2(b)(vi), 2-2(c)(vi), 6-8(g), 8-2(a)(vi), 8-2(b)(vi) and 8-2(c)(vi), and deletion of the portion of the Comment to Standards Rules 2-2(a)(vi), 2-2(b)(vi), 6-8(g), 8-2(a)(vi) and 8-2(b)(vi) requiring reiteration of the report date and effective date of the appraisal. The edits were made to increase clarity and consistency. (7) Retirement of Advisory Opinion 5, Assistance in the Preparation of an Appraisal and adoption of Advisory Opinion 31, Assignments Involving More than One Appraiser to offer advice on recordkeeping, signature and certification requirements in assignments that involve more than one appraiser. The action was intended to update and expand the guidance related to assignments involving more than one appraiser. (8) Adoption of Advisory Opinion 32, Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments. The purpose of the Advisory Opinion is to illustrate the application of USPAP in assignments performed by appraisers for ad valorem taxation. NOTE: USPAP and the Advisory Opinions were edited for conformity with the adopted changes. Administrative edits were also made to improve consistency. (9) The inclusion of Frequently Asked Questions has been added to offer guidance in the application of USPAP.

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

None

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

Not applicable

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

The rule is being changed to adopt the latest standards of practice in the profession, as required by federal and state law. The primary groups that will be affected are the Board, the licensed or certified appraisers, and the public. The Board adopts the latest standards for professional appraisal practice as they are adopted by the ASB and there should be no appreciable changes in the economic impact. However, USPAP prior to the 2006 edition was revised annually, the 2006 edition was effective for 18 months, and the 2008-2009 edition is effective for two years, which results in USPAP having to be purchased less often. The cost for the new edition, which now includes Frequently Asked Questions, is \$50. Not all appraisers will find it necessary to own a copy. Some offices share copies. The cost is a deductible business expense.

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

Name: Deborah G. Pearson, Executive Director
Address: 1400 W. Washington St., Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1593
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us

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

Date: October 18, 2007
Time: 9:00 a.m.

Notices of Proposed Rulemaking

Location: 1400 W. Washington St.
Basement Conference Room B-2
Phoenix, AZ

Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend or repeal the rule. The Agenda for this Board meeting will be available to the public the day before the meeting. It may be obtained by contacting the Board office at (602) 542-1558, or by visiting the Board's web site at www.appraisal.state.az.us, [Meetings](#), [Board Meeting Agenda](#). In addition, written comments will be accepted at the Board office, 1400 W. Washington St., Suite 360, Phoenix, AZ 85007 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday through October 17, 2007.

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

Not applicable

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

The *Uniform Standards of Professional Appraisal Practice* (USPAP), 2008-2009 Edition, published by The Appraisal Foundation and effective nationally January 1, 2008. The location in the rules is R4-46-401.

13. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 4. STANDARDS OF PRACTICE

Section

R4-46-401. Standards of Appraisal Practice

ARTICLE 4. STANDARDS OF PRACTICE

R4-46-401. Standards of Appraisal Practice

Every appraiser, in performing the acts and services of an appraiser, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP), ~~2006~~ 2008-2009 edition, published by The Appraisal Foundation, which is incorporated by reference and on file with the Board. This incorporation by reference contains no future editions or amendments. A copy of the USPAP ~~2006~~ 2008-2009 edition may be obtained from The Appraisal Foundation, 1155 15th ~~Street St.~~ ~~N.W.~~ Suite 1111, Washington, ~~D.C.~~ DC 20005; (202) 347-7722; fax (202) 347-7727; or web site www.appraisalfoundation.org.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 1. DEPARTMENT OF HEALTH SERVICES
ADMINISTRATION**

[R07-296]

PREAMBLE

1. Sections Affected
R9-1-412

Rulemaking Action
Amend

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

Authorizing statutes: A.R.S. §§ 36-132(A)(1) and (A)(17), and 36-136(F)

Implementing statutes: A.R.S. §§ 36-405 and 36-406

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 4248, November 17, 2006

Notices of Proposed Rulemaking

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

Name: Mike Beaghlr
Program Manager, Office of Special Licensing

Address: Arizona Department of Health Services
Division of Licensing Services
Office of Special Licensing
150 N. 18th Ave., Suite 460
Phoenix, AZ 85007

Telephone: (602) 364-3046

Fax: (602) 364-4769

E-mail: beaghlm@azdhs.gov

or

Name: Kathleen Phillips, Rules Administrator and Administrative Counsel

Address: Arizona Department of Health Services
Office of Administrative Rules and Counsel
1740 W. Adams St., Suite 200
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: phillik@azdhs.gov

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

A.R.S. § 36-405 requires the Arizona Department of Health Services (Department) to adopt rules to establish minimum standards and requirements for the construction, modification, and licensure of health care institutions necessary to assure the public health, safety, and welfare. A.R.S. § 36-406 requires the Department to review and authorizes the Department to approve plans and specifications for the construction of or modifications or additions to health care institutions regulated under A.R.S. Title 36, Chapter 4. A.R.S. § 36-421(A) requires an initial license application for a health care institution to include architectural plans and specifications, which are required to meet the minimum standards for licensure within the class or subclass of health care institution for which they are intended.

In R9-1-412, the Department incorporates by reference physical plant health and safety codes and standards that are made applicable to licensed health care institutions through the specific rules for licensure of those health care institutions. The Department does this in R9-1-412 so that the Department can refer to R9-1-412 in its licensure rules throughout 9 A.A.C. rather than including separate incorporations by reference in each set of licensure rules.

The proposed rulemaking updates the codes and standards incorporated by reference in R9-1-412 by incorporating by reference the International Code Council's *International Building Code* (2006), *International Fuel Gas Code* (2006), *International Mechanical Code* (2006), *International Property Maintenance Code* (2006), *International Fire Code* (2006), *ICC Electrical Code—Administrative Provisions* (2006), *International Energy Conservation Code* (2006), *International Plumbing Code* (2006), *International Private Sewage Disposal Code* (2006), and American National Standard, *Accessible and Usable Buildings and Facilities* (ICC/ANSI A117.1-2003).

The proposed rulemaking also updates the codes and standards by incorporating by reference the American Institute of Architects and Facilities Guidelines Institute, *Guidelines for Design and Construction of Health Care Facilities* (2006) and the National Fire Protection Association, *National Fire Codes* (2006), as updated by *National Fire Codes Supplement* (2006).

The Department is updating the codes and standards in R9-1-412 to reflect current industry standards and to create more consistency between state codes and standards and the codes and standards currently adopted by or planned to be adopted by many local jurisdictions. The proposed rules conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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

The Department did not review or rely on any study related to this rulemaking.

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

Not applicable

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

Annual cost/revenue changes are designated as minimal when less than \$5,000, moderate when between \$5,000 and \$50,000, and substantial when greater than \$50,000 in additional costs or revenues. Cost/revenue changes are listed as significant when meaningful or important, but not readily subject to quantification. The extent to which businesses or health care consumers are affected by this rulemaking depends on the health care institution physical plant standards that are currently adopted by the local jurisdictions in which the business operates or the consumers receive health care.

The Department will experience minimal costs to notify local jurisdictions of the new requirements and to purchase the updated codes and standards books. The Department also anticipates deriving a minimal benefit from the new rules. By creating more consistency between state codes and standards and the codes and standards currently adopted by or planned to be adopted by many local jurisdictions, the Department expects to save time spent coordinating and reconciling different codes and standards.

The Department anticipates that many local jurisdictions will derive a minimal-to-moderate benefit from the new rules because many local jurisdictions will, like the Department, save time previously spent coordinating and reconciling different codes and standards.

The economic impact of the proposed rules on businesses that own health care institutions depends on what type of health care institutions the business owns, how many health care institutions the business owns, and whether the business is constructing a new health care institution or modifying an existing health care institution. Some of the new requirements will result in cost savings to businesses that own health care institutions while others will result in increased costs. The net effect of the new requirements on a business that owns health care institutions may be a minimal-to-substantial increase in revenue or a minimal-to-substantial increase in costs.

The economic impact of the proposed rules on businesses that design, construct, or modify health care institutions depends on what types of health care institutions the business serves, how many health care institutions the business serves, and the type of services the business provides to health care institutions. Some of the new requirements will result in cost savings to businesses that design, construct, or modify health care institutions while others will result in increased costs. The net effect of the new requirements on a business that designs, constructs, or modifies health care institutions may be a minimal-to-substantial increase in revenue or a minimal-to-substantial increase in costs.

Third-party payers may derive a significant benefit from new requirements that result in savings to businesses that own health care institutions because the savings may be passed along to consumers in the form of lower health care costs and thereby lower third-party payer costs. However, third-party payers may also experience higher costs as a result of the rulemaking. New requirements that result in additional costs to businesses that own health care institutions may increase third-party payer costs if those costs are passed along to third-party payers in the form of higher health care costs to patients.

Consumers of health care services may experience significant savings from new requirements that result in savings to businesses that own health care institutions because the savings may be passed along to consumers in the form of lower health care costs. New requirements that result in additional costs to businesses that own health care institutions may increase consumer health care costs if those costs are passed along to consumers.

The rulemaking should have no direct impact on private and public employment in businesses, agencies, and political subdivisions of this state.

The Department does not have precise data on the number of health care institutions that are small businesses as defined in A.R.S. § 41-1001, but believes that, except hospitals, the majority are small businesses. Currently, the Department does not collect data on the number of employees or gross annual receipts for all the different types of health care institutions. The Department also does not collect data on the number of employees or gross annual receipts for the businesses that design, construct, or modify health care institutions in this state but believes that many are small businesses. Small businesses located or doing business in local jurisdictions that have adopted or will adopt the updated codes and standards incorporated by reference in R9-1-412 should experience a reduction in administrative costs complying with the rule because the Department and the local jurisdictions will be using the same codes and standards to review architectural drawings and specifications. The economic impact associated with complying with the updated codes and standards is the same for small businesses as it is for large businesses.

The rulemaking should not increase or decrease state revenues.

The Department believes that incorporating by reference the most up-to-date codes and guidelines is the least intrusive and least costly method of achieving the purpose of the rulemaking, protecting the public health, safety, and welfare by establishing minimum standards and requirements for the physical plants of health care institutions.

Notices of Proposed Rulemaking

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

Name: Mike Beagbler
Program Manager, Office of Special Licensing

Address: Arizona Department of Health Services
Division of Licensing Services
Office of Special Licensing
150 N. 18th Ave., Suite 460
Phoenix, AZ 85007

Telephone: (602) 364-3046
Fax: (602) 364-4769
E-mail: beaghlm@azdhs.gov

or

Name: Kathleen Phillips, Rules Administrator and Administrative Counsel

Address: Arizona Department of Health Services
Office of Administrative Rules and Counsel
1740 W. Adams St., Suite 200
Phoenix, AZ 85007

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

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

The Department has scheduled the following oral proceeding:

Date: October 3, 2007
Time: 9:00 a.m.
Location: Arizona Department of Health Services
1740 W. Adams, Room 411
Phoenix, AZ 85007

Close of record: October 3, 2007, at 4:00 p.m.

Written comments on the proposed rulemaking or the preliminary economic, small business, and consumer impact summary may be submitted to either individual listed in items 4 and 9 until the close of record at 4:00 p.m. on October 3, 2007.

Individuals with a disability may request a reasonable accommodation by contacting Mark Gula at (602) 364-0989 or gulam@azdhs.gov. A request should be made as early as possible to allow time to arrange the accommodation.

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

None

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

In R9-1-412, the Department incorporates by reference the following, with modifications:

R9-1-412(A)(1): International Code Council, *International Building Code* (2006)
R9-1-412(A)(2): International Code Council, *International Fuel Gas Code* (2006)
R9-1-412(A)(3): International Code Council, *International Mechanical Code* (2006)
R9-1-412(A)(4): International Code Council, *International Property Maintenance Code* (2006)
R9-1-412(A)(5): International Code Council, *International Fire Code* (2006)
R9-1-412(A)(6): International Code Council, *ICC Electrical Code—Administrative Provisions* (2006)
R9-1-412(A)(7): International Code Council, *International Energy Conservation Code* (2006)
R9-1-412(A)(8): International Code Council, *International Plumbing Code* (2006)

R9-1-412(A)(9): International Code Council, *International Private Sewage Disposal Code* (2006)

R9-1-412(A)(10): International Code Council/American National Standard, *Accessible and Usable Buildings and Facilities* (ICC/ANSI A117.1-2003)

R9-1-412(A)(11): American Institute of Architects and Facilities Guidelines Institute, *Guidelines for Design and Construction of Health Care Facilities* (2006)

R9-1-412(A)(12): National Fire Protection Association, *National Fire Codes* (2006), as updated by *National Fire Codes Supplement* (2006)

13. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 1. DEPARTMENT OF HEALTH SERVICES
ADMINISTRATION**

ARTICLE 4. CODES AND STANDARDS REFERENCED

Section

R9-1-412. Physical Plant Health and Safety Codes and Standards

ARTICLE 4. CODES AND STANDARDS REFERENCED

R9-1-412. Physical Plant Health and Safety Codes and Standards

- A. The following physical plant health and safety codes and standards are incorporated by reference as modified, are on file with the Department and the Office of the Secretary of State, and include no future editions or amendments:
1. International Code Council, International Building Code (~~2000~~) (2006), published by the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3404 and available from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, CA 90601-2298 Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, with the following modifications:
 - a. ~~Appendices A, B, C, D, G, I, and J are omitted;~~
 - b. "International Plumbing Code" is replaced with "Arizona Uniform Plumbing Code" each time it appears;
 - e.a. Section 101.1 is modified by ~~omitting deleting~~ "of [NAME OF JURISDICTION]";
 - d.b. Section 101.2 is modified by deleting the "Exception";
 - e. Section 101.4.4 is modified by replacing "International Private Sewage Disposal Code" with "Arizona Uniform Plumbing Code";
 - f.c. Sections 103.1 through 103.3 are ~~omitted deleted~~;
 - g.d. Sections 104.1 through 104.9.1 are ~~omitted deleted~~;
 - h.e. Sections 105.1 through 105.7 are ~~omitted deleted~~;
 - i.f. Sections 106.1 through 106.5 are ~~omitted deleted~~;
 - j.g. Sections 107.1 through 107.4 are ~~omitted deleted~~;
 - k.h. Sections 108.1 through 108.6 are ~~omitted deleted~~;
 - l.i. Sections 109.1 through 109.6 are ~~omitted deleted~~;
 - m.j. Sections 110.1 through ~~110.5~~ 110.4 are ~~omitted deleted~~;
 - n.k. Sections 111.1 through 111.3 are ~~omitted deleted~~;
 - o.l. Sections 112.1 through 112.3 are ~~omitted deleted~~;
 - p.m. Sections 113.1 through 113.4 are ~~omitted deleted~~;
 - q.n. Sections 114.1 through 114.3 are ~~omitted deleted~~;
 - r.o. Sections 115.1 through 115.5 are ~~omitted deleted~~;
 - s. Section 2113.15 is modified by omitting "or Chapter 24 of the International Residential Code";
 - t. Section 2901.1 is modified by replacing "International Private Sewage Disposal Code" with "Arizona Uniform Plumbing Code"; and
 - u.p. Section 3401.3 is modified by ~~omitting deleting~~ "International Private Sewage Disposal Code," and "International Residential Code";
 - q. ~~Appendices A, B, C, D, and G are deleted;~~
 - r. Section K101.1 is modified by deleting "of [NAME OF JURISDICTION]";
 - s. Section K201.3 is modified by deleting "International Residential Code, International Zoning Code";
 - t. ~~Appendix K, Chapters K3, K4, K5, K7, K8, K9, K10, and K11 are deleted; and~~
 - u. Section K1201.1.1 is modified by deleting "the International Residential Code or";

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2. International Code Council, International Fuel Gas Code ~~(2000)~~ (2006), published by ~~the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401~~ and available from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, CA 90601-2298 Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, with the following modifications:
 - a. ~~“International Plumbing Code”~~ is replaced with ~~“Arizona Uniform Plumbing Code”~~ each time it appears;
 - ~~b.~~a. Section 101.1 is modified by ~~omitting deleting~~ omitting ~~“of [NAME OF JURISDICTION]”~~,
 - ~~b.~~b. Section 101.2 is modified by deleting the ~~“Exception”~~,
 - ~~c.~~ Sections 103.1 through 103.4 are ~~omitted deleted~~,
 - ~~d.~~ Sections 104.1 through 104.8 are ~~omitted deleted~~,
 - ~~e.~~ Sections 106.1 through 106.5.3 are ~~omitted deleted~~,
 - ~~f.~~ Sections 107.1 through ~~107.5~~ 107.4 are ~~omitted deleted~~,
 - ~~g.~~ Sections 108.1 through 108.7.3 are ~~omitted deleted~~, and
 - ~~h.~~ Sections 109.1 through 109.7 are ~~omitted deleted~~;
3. International Code Council, International Mechanical Code ~~(2000)~~ (2006), published by ~~the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401~~ and available from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, CA 90601-2298 Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, with the following modifications:
 - ~~a.~~ Appendix B is ~~omitted~~;
 - ~~b.~~ ~~“International Plumbing Code”~~ is replaced with ~~“Arizona Uniform Plumbing Code”~~ each time it appears;
 - ~~e.~~a. Section 101.1 is modified by ~~omitting deleting~~ omitting ~~“of [NAME OF JURISDICTION]”~~,
 - ~~d.~~b. Sections 103.1 through 103.4 are ~~omitted deleted~~,
 - ~~e.~~c. Sections 104.1 through 104.8 are ~~omitted deleted~~,
 - ~~f.~~d. Sections 106.1 through 106.5.3 are ~~omitted deleted~~,
 - ~~g.~~e. Sections 107.1 through ~~107.5~~ 107.4 are ~~omitted deleted~~,
 - ~~h.~~f. Sections 108.1 through 108.7.3 are ~~omitted deleted~~, and
 - ~~i.~~g. Sections 109.1 through 109.7 are ~~omitted; deleted, and~~
 - ~~h.~~ Appendix B is ~~deleted~~;
4. International Code Council, International Property Maintenance Code ~~(2000)~~ (2006), published by ~~the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401~~ and available from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, CA 90601-2298 Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, with the following modifications:
 - ~~a.~~ ~~“International Plumbing Code”~~ is replaced with ~~“Arizona Uniform Plumbing Code”~~ each time it appears;
 - ~~b.~~a. Section 101.1 is modified by ~~omitting deleting~~ omitting ~~“of [NAME OF JURISDICTION]”~~,
 - ~~e.~~b. Sections 103.1 through ~~103.6~~ 103.5 are ~~omitted deleted~~,
 - ~~d.~~c. Sections 104.1 through ~~104.8~~ 104.7 are ~~omitted deleted~~,
 - ~~e.~~d. Sections 106.1 through 106.5 are ~~omitted deleted~~,
 - ~~f.~~e. Sections 107.1 through 107.5 are ~~omitted deleted~~,
 - ~~g.~~f. Sections 108.1 through ~~108.6~~ 108.5 are ~~omitted deleted~~,
 - ~~h.~~g. Sections 109.1 through 109.6 are ~~omitted deleted~~,
 - ~~i.~~h. Sections 110.1 through 110.4 are ~~omitted deleted~~,
 - ~~j.~~i. Sections 111.1 through 111.8 are ~~omitted deleted, and~~
 - ~~k.~~j. Section 201.3 is modified by ~~omitting deleting~~ omitting ~~“International Zoning Code”~~;
 - ~~l.~~ Section 602.2 is modified by adding a period after ~~“toilet rooms”~~ and ~~omitting the remainder of the sentence, and~~
 - ~~m.~~ Section 602.3 is modified by ~~omitting the second sentence of the “Exception”~~;
5. International Code Council, International Fire Code ~~(2000)~~ (2006), published by ~~the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401~~ and available from the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, CA 90601-2298 Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, with the following modifications:
 - ~~a.~~ Appendix A is ~~omitted~~;
 - ~~b.~~ ~~“International Plumbing Code”~~ is replaced with ~~“Arizona Uniform Plumbing Code”~~ each time it appears;
 - ~~e.~~a. Section 101.1 is modified by ~~omitting deleting~~ omitting ~~“of [NAME OF JURISDICTION]”~~,
 - ~~d.~~b. Sections 103.1 through 103.4.1 are ~~omitted deleted~~,
 - ~~e.~~c. Sections 104.1 through 104.11.3 are ~~omitted deleted~~,
 - ~~f.~~d. Sections 105.1 through ~~105.7.12~~ 105.7.13 are ~~omitted deleted~~,
 - ~~g.~~e. Sections 106.1 through ~~106.3~~ 106.4 are ~~omitted deleted~~,
 - ~~h.~~f. Sections 108.1 through 108.3 are ~~omitted deleted~~,
 - ~~i.~~g. Sections 109.1 through 109.3.1 are ~~omitted deleted~~,
 - ~~j.~~h. Sections 110.1 through 110.4 are ~~omitted deleted, and~~
 - ~~k.~~i. Sections 111.1 through 111.4 are ~~omitted; deleted, and~~

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- a. All annexes and appendices are ~~omitted~~ deleted, except the following:
- i. In NFPA 15, Annexes A, B, and C;
 - ii. In NFPA 20, ~~Appendices~~ Annexes A and B;
 - iii. In NFPA 70, Annexes ~~A~~, B, C, and D;
 - iv. In NFPA 80, Appendices A, B, C, D, E, F, G, H, I, and J;
 - v. In NFPA 82, ~~Appendix~~ Annex A;
 - vi. In NFPA 90A, ~~Appendices~~ Annexes A and B;
 - vii. In NFPA 96, Annexes A and B;
 - viii. In NFPA 99, ~~Appendices Annexes A, B, and C and Annexes 1 and 2, D, E, and G;~~
 - ix. In NFPA 99B, ~~Appendices Annexes A and B, and D;~~
 - x. In NFPA 101, Annex A;
 - xi. In NFPA 101B, ~~Appendix~~ Annex A;
 - xii. In NFPA 110, ~~Appendices~~ Annexes A and B;
 - xiii. In NFPA 111, ~~Appendix~~ Annex A;
 - xiv. In NFPA 253, ~~Appendices Annexes A, B, C, D, and E, G, and H;~~
 - xv. In NFPA 255, ~~Appendices Annexes~~ Annexes A, B, C, and D;
 - xvi. In NFPA 288, Annexes A, B, and C;
 - xvii. In NFPA 418, Appendix A;
 - xviii. In NFPA 701, ~~Appendices Annexes~~ Annexes A, B, C, and D; and
 - xix. In NFPA 801, ~~Appendices Annexes A and B C;~~ and
- b. The language in the included appendices and annexes shall be construed as mandatory rather than advisory; ~~and~~
- ~~B.~~ A physical plant that is required to comply with the codes and standards in this Section is also required to comply with the Arizona Uniform Plumbing Code in 4 A.A.C. 48, Article 1. If a conflict exists between a code or standard incorporated by reference in subsection (A) and the Arizona Uniform Plumbing Code, the Arizona Uniform Plumbing Code governs.
- ~~C.B.~~ The Department shall not assess any penalty or fee specified in the physical plant health and safety codes and standards that are incorporated by reference in this Section.