

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

[R07-30]

PREAMBLE

- 1. Sections Affected**

R4-23-110	<u>Rulemaking Action</u>
R4-23-407	Amend
R4-23-408	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-1904(A)(1)
Implementing statute: A.R.S. §§ 32-1904(B)(5) and 32-1968(E)
- 3. The effective date of the rules:**

April 7, 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. 692, March 3, 2006
Notice of Proposed Rulemaking: 12 A.A.R. 3018, August 25, 2006
- 5. The name and address of agency personnel with whom persons may communicate regarding the rules:**

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive Ave., Ste. 140
Glendale, AZ 85302
Telephone: (623) 463-2727 ext. 131
Fax: (623) 934-0583
E-mail: rxcop@cox.net
- 6. An explanation of the rules, including the agency's reasons for initiating the rules:**

The Board recognizes the importance of creating a regulatory environment that facilitates and regulates the electronic transmission of prescriptions for both controlled and non-controlled substances in the interest of patient safety. The rules address electronic transmission of prescriptions based on existing statutes in A.R.S. Title 32 (Professions and Occupations), Title 41 (State Government), and Title 44 (Trade and Commerce). The rules will amend R4-23-110 (Definitions) by adding definitions for "digital signature," "electronic signature," and "security paper." The rules will amend R4-23-407 (Prescription Requirements) by adding subsections for the requirements for transmission of a prescription order by facsimile and for the requirements for electronic transmission of a prescription order from a medical practitioner to a pharmacy. The rules will amend R4-23-408 to add language detailing the requirements for pharmacy computer systems that receive electronic transmission of a prescription order. The rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the standards for electronic transmission of prescriptions for both controlled and non-controlled substances.
- 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**

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each study, and any analysis of each study and other supporting material:

The agency did not review or rely on any study relevant to the rules.

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 will impact the Board, pharmacies, pharmacists, and the public. The rules' impact on the Board will be the usual rulemaking-related costs, which are minimal. The Board estimates the rules will have minimal to moderate economic impact on pharmacies, and pharmacists. The rules will establish a minimum standard for electronic transmission of prescriptions for both controlled and non-controlled substances in Arizona. Many pharmacies are already accepting electronic prescriptions. The rules do not require the use of electronic prescriptions, but provide a minimum standard for pharmacies to follow, thus allowing a pharmacist to be reasonably assured of the validity of an electronically transmitted prescription. As more physicians begin to use electronic prescriptions, the established standard will allow pharmacies to feel comfortable in accepting those prescriptions. The majority of pharmacies use computers that are capable or can easily upgrade to be capable of accepting electronic prescriptions. Some pharmacies may incur minimal to moderate costs to upgrade computer software to become capable of receiving electronically transmitted prescriptions. These costs are optional, because the rules do not require a pharmacy to accept electronic prescriptions, but simply establish the standard for electronic prescriptions. The rules have no economic impact on the public.

The public, Board, pharmacies, and pharmacists benefit from rules that are clear, concise, and understandable. The rules benefit the public and the pharmacy community by clearly establishing the standards for electronic transmission of prescriptions for both controlled and non-controlled substances.

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

There are no substantial changes in the final rules from the proposed rules. Because of public comments, the Board chose to make several changes to improve and clarify the rules. The definition of "digital signature" is changed by removing the words "and 44-7002" and adding "(E)" after 41-132. This change is necessary, because the public comments correctly indicated that § 44-7002 does not define a digital signature. The final language constitutes a non-substantive change, because it prevents a possible misunderstanding that might occur with use of a reference that does not apply and does not affect the safety of consumers. The definition of "electronic signature" is changed by removing the words "41-132 and." This change is necessary, because the public comments correctly indicated that § 41-132 does not define an electronic signature. The final language constitutes a non-substantive change, because it prevents a possible misunderstanding that might occur with use of a reference that does not apply and does not affect the safety of consumers. R4-23-407(E)(1)(c)(ii) and (iii) are combined and changed to read: "The facsimile number of the prescribing medical practitioner or the facility from which the prescription order is faxed, and the telephone number of the facility; and." The previous language required the printed name and telephone number of the prescribing medical practitioner and was more restrictive than the final language. The final language constitutes a non-substantive change, because it is less burdensome on the regulated public and does not affect the safety of consumers. R4-23-407(E)(1)(c)(iv) is renumbered to R4-23-407(E)(1)(c)(iii). R4-23-407(E)(4) is changed to read: "A medical practitioner or the medical practitioner's agent may fax refill authorizations to a pharmacy if the faxed authorization includes the medical practitioner's telephone number and facsimile number, the medical practitioner's signature or medical practitioner's agent's name, and date of authorization." The previous language required the patient's name and address, drug name and strength, quantity, and directions for use and was more restrictive than the final language. The final language constitutes a non-substantive change, because it is less burdensome on the regulated public and does not affect the safety of consumers. Subsection R4-23-407(F)(1) is changed by inserting the phrase "or through an intermediary, including an E-prescribing network," after the word "directly." R4-23-407(F)(2) is changed by deleting the following: "b. The identity of the individual who transmits the prescription order;" and renumbering "c." to "b." The final language constitutes a non-substantive change, because it is less burdensome on the regulated public and does not affect the safety of consumers. R4-23-408(A)(1)(c) is changed by replacing the word "offsite" with the word "secure." The final language allows for continued onsite storage of records that are secured from damage, such as a fireproof safe. The final language constitutes a non-substantive change, because it is less burdensome on the regulated public and does not affect the safety of consumers. R4-23-408(H) is changed by deleting subsection (4). Existing rules already require general and specific policies and procedures for quality assurance and accuracy of prescriptions, so the language in R4-23-408(H)(4) is duplicative and unnecessary. The final language constitutes a non-substantive change, because it is less burdensome on the regulated public and does not affect the safety of consumers. G.R.R.C. staff requested that the language in R4-23-408(H)(1) be deleted, because it does not relate to computer records. R4-23-408(H)(2) and (3) are renumbered as R4-23-408(H)(1) and (2). To add clarity, R4-23-408(H)(2) is amended by adding the words "as required in A.R.S. § 32-1964" after the word "prescription." There are also minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

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

A public hearing was held on September 25, 2006. Janet Elliott and Linda Baker representing the Arizona Community Pharmacy Committee and F. N. Willard presenting Emdeon Corporation attended the hearing. Ms. Elliott provided written and verbal comment in opposition of the rulemaking with suggested changes. Mr. Willard provided oral

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comment in opposition to the rulemaking with suggested changes. Written comments in opposition to the rulemaking were received from Diane Darvey of the National Association of Chain Drug Stores, Ken Wittemore of SureScripts, and Robert Marotta of Emdeon Corporation. The comments, both verbal and written, involved the following issues and included suggested changes: the definitions for “digital signature” and “electronic signature” in R4-23-110, the use of the word “offsite” in R4-23-408(A)(1)(c), the faxing requirements in R4-23-407(E)(1)(c)(ii) and (4), the electronic transmission requirements in R4-23-407(E)(2), and the quality assurance program requirement in R4-23-408(H)(4).

The comments suggested that the definitions for “digital signature” and “electronic signature” should not both cite A.R.S. §§ 41-132 and 44-7002. The comments state that A.R.S. § 41-132 properly defines a digital signature and does not define an electronic signature, while A.R.S. § 44-7002 properly defines an electronic signature and does not define a digital signature. The comments state that the word “offsite” in R4-23-408(A)(1)(c) would not allow for secure onsite storage of backup files such as fireproof safes, etc. The comments request that the word “offsite” be changed to “secure” to allow for the use of onsite secure storage in fireproof safes. The comments state that the language in R4-23-407(E)(1)(ii) and (E)(4) are too prescriptive and will result in medical practitioners avoiding this method of transmission, which would result in negating the value of electronic prescribing. The comments suggest making the language less prescriptive. The comments ask that R4-23-407(F)(2)(b) be deleted as it is not necessary to identify the medical practitioner who transmits the electronic prescription when the name of the medical practitioner is already part of the prescription requirement in R4-23-407(F)(1). The comments state that the quality assurance requirement in R4-23-408(H)(4) is onerous and duplicative. The comments state that the rules already require general and specific policies and procedures for quality assurance and accuracy of prescriptions.

The Board agrees with all parties and their suggested changes. The Board has made the suggested changes to the definitions for “digital signature” and “electronic signature” and R4-23-407(E)(1)(c)(ii), R4-23-408(E)(4), R4-23-407(F)(1) and (2), R4-23-408(A)(1)(c), and R4-23-408(H)(4).

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

Not applicable

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

None

14. Were these rules previously approved as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-407. Prescription Requirements
R4-23-408. Computer Records

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

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

- “Active ingredient” No change
- “Alternate physician” No change
- “Approved course in pharmacy law” No change
- “Approved Provider” No change
- “Authentication of product history” No change
- “Batch” No change
- “Beyond-use date” No change

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“Biological safety cabinet” means a containment unit suitable for the preparation of low to moderate risk agents when there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P. O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board ~~and the office of the Secretary of State.~~

“Care-giver” No change

“Community pharmacy” No change

“Component” No change

“Compounding and dispensing counter” No change

“Computer system” No change

“Computer system audit” No change

“Contact hour” No change

“Container” No change

“Continuing education” No change

“Continuing education activity” No change

“Continuing education unit” or “CEU” No change

“Correctional facility” No change

“CRT” No change

“Current good compounding practices” No change

“Current good manufacturing practice” No change

“Cytotoxic” No change

“Day” No change

“DEA” No change

“Delinquent license” No change

“Dietary supplement” No change

“Digital signature” has the same meaning as in A.R.S. § 41-132(E).

“Dispensing pharmacist” No change

“Drug sample” means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug. ~~No person shall sell, purchase, or trade or offer to sell, purchase, or trade a drug sample.~~

“Drug therapy management” No change

“Drug therapy management agreement” No change

“Electronic signature” has the same meaning as in A.R.S. § 44-7002.

“Eligible patient” No change

“Extreme emergency” No change

“FDA” No change

“Immediate notice” No change

“Inactive ingredient” No change

“Internal test assessment” No change

“ISO Class 5 environment” No change

“ISO Class 7 environment” No change

“Limited-service correctional pharmacy” No change

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

“Limited-service mail-order pharmacy” No change

“Limited-service nuclear pharmacy” No change

“Limited-service pharmacy permittee” No change

“Limited-service sterile pharmaceutical products pharmacy” No change

“Long-term care consultant pharmacist” No change

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

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- “Lot” No change
- “Lot number” or “control number” No change
- “Materials approval unit” No change
- “Mediated instruction” No change
- “MPJE” No change
- “NABP” No change
- “NABPLEX” No change
- “NAPLEX” No change
- “Order” No change
- “Other designated personnel” No change
- “Outpatient” No change
- “Outpatient setting” No change
- “Patient profile” No change
- “Pharmaceutical patient care services” No change
- “Pharmaceutical product” No change
- “Pharmacist-administered immunizations training program” No change
- “Pharmacy counter working area” No change
- “Pharmacy law continuing education” No change
- “Pharmacy permittee” No change
- “Prepackaged drug” No change
- “Prep area” No change
- “Proprietor” No change
- “Provider pharmacy” No change
- “Radiopharmaceutical” No change
- “Radiopharmaceutical quality assurance” No change
- “Radiopharmaceutical services” No change
- “Red C stamp” No change
- “Refill” No change
- “Remodel” No change
- “Remote drug storage area” No change
- “Resident” No change
- “Responsible person” No change
- “Score transfer” No change
- “Security paper” means paper, referenced in A.R.S. § 32-1968(A)(4), that is approved by the Board or its staff and that includes one or more of the following features that attempt to prevent duplication or aid the authentication of a paper document: laid lines, enhanced laid lines, thermochromic ink, artificial watermark, fluorescent ink, chemical void, persistent void, penetrating numbers, high-resolution border, high-resolution latent images, micro-printing, prismatic printing, embossed images, abrasion ink, holograms, and foil stamping.
- “Shared order filling” No change
- “Shared order processing” No change
- “Shared services” No change
- “Sight-readable” No change
- “Single-drug audit” No change
- “Single-drug usage report” No change
- “Standard-risk sterile pharmaceutical product” No change
- “Sterile pharmaceutical product” No change
- “Strength” No change
- “Substantial-risk sterile pharmaceutical product” No change

- “Supervision” No change
- “Supervisory physician” No change
- “Supplying” No change
- “Support personnel” No change
- “Transfill” No change
- “Verified signature” or “signature verifying” No change
- “Wholesale distribution” No change
- “Wholesale distributor” No change

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-407. Prescription Requirements

- A.** Prescription orders. A pharmacist shall ensure that:
 - 1. A prescription order dispensed by the pharmacist includes the following information:
 - a. 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
 - j. For an electronically transmitted prescription order, the medical practitioner’s digital or electronic signature;
 - ~~j-k.~~ No change
 - ~~k-l.~~ No change
 - 2. No change
 - 3. No change
- B.** No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- C.** No change
- D.** Transfer of prescription order information. For a transfer of prescription order information to be valid, a pharmacy permit-tee or pharmacist-in-charge shall ensure that:
 - 1. Both the original and the transferred prescription order are maintained for seven years after the last dispensing date;₂
 - 2. The original prescription order information for a Schedule III, IV, or V controlled substance is transferred only as specified in 21 CFR 1306.25, published April 1, 2001, and no future amendments or editions, incorporated by refer-ence and on file with the Board;₂
 - 3. The original prescription order information for a non-controlled substance drug is transferred without limitation only up to the number of originally authorized refills;₂
 - 4. ~~Transfer~~ For a transfer within Arizona;₂
 - a. No change
 - i. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - ii. No change
 - (1) No change
 - (2) No change
 - iii. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - (4) No change
 - (5) No change
 - (6) No change

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- (7) No change
- (8) Name of the receiving pharmacist or pharmacy or graduate intern;
- b. No change
 - i. No change
 - ii. No change
 - (1) No change
 - (2) No change
 - iii. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - (4) No change
 - (5) No change
 - (6) No change
 - (7) No change
 - (8) Name of the receiving pharmacist;
- 5. ~~Transfer~~ For a transfer from out-of-state:
 - a. The transfer of original prescription order information for a non-controlled substance drug meets the conditions in subsections (D)(4)(a)(i) and (D)(4)(a)(iii); and
 - b. The transfer of original prescription order information for a Schedule III, IV, or V controlled substance meets the conditions in subsections (D)(4)(b)(i) and (D)(4)(b)(iii); and
- 6. ~~Electronic~~ For an electronic transfer, The ~~the~~ the electronic transfer of original prescription order information meets the following conditions:
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - (4) No change
 - ii. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - (4) No change
 - (5) No change
 - (6) No change
 - (7) No change
 - (8) Records the date of transfer;
 - e. No change
 - i. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - (4) No change
 - (5) No change
 - ii. No change
 - f. No change
- E.** Transmission of a prescription order from a medical practitioner to a pharmacy by facsimile machine.
 - 1. A medical practitioner or medical practitioner's agent may transmit a prescription order for a Schedule III, IV, or V controlled substance, prescription-only drug, or nonprescription drug to a pharmacy by facsimile under the following conditions:
 - a. The prescription order is faxed only to the pharmacy of the patient's choice;
 - b. The faxed prescription order:
 - i. Contains all the information required for a prescription order in A.R.S. §§ 32-1968 and 36-2525; and
 - ii. Is only faxed from the medical practitioner's practice location, except that a nurse in a hospital, long-term care facility, or inpatient hospice may send a facsimile of a prescription order for a patient of the facility; and

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- c. The faxed prescription order shall contain the following additional information:
 - i. The date the prescription order is faxed;
 - ii. The facsimile number of the prescribing medical practitioner or the facility from which the prescription order is faxed, and the telephone number of the facility; and
 - iii. The name of the person who transmits the facsimile, if other than the medical practitioner.
- 2. A medical practitioner or medical practitioner's agent may fax a prescription order for a Schedule II controlled substance for information purposes only, unless the faxed prescription order meets the requirements of A.R.S. § 36-2525 (F) and (G).
- 3. A pharmacy may receive a faxed prescription order for a Schedule II controlled substance for information purposes only, except a faxed prescription order for a Schedule II controlled substance that meets the requirements of A.R.S. § 36-2525 (F) and (G) may serve as the original written prescription order.
- 4. To meet the seven-year record retention requirement of A.R.S. § 32-1964, a pharmacy shall receive a faxed prescription order on a plain paper facsimile machine, except a pharmacy that does not have a plain paper facsimile machine may make a Xerox copy of a faxed prescription order received on a non-plain paper facsimile machine.
- 5. A medical practitioner or the medical practitioner's agent may fax refill authorizations to a pharmacy if the faxed authorization includes the medical practitioner's telephone number and facsimile number, the medical practitioner's signature or medical practitioner's agent's name, and date of authorization.
- F. Electronic transmission of a prescription order from a medical practitioner to a pharmacy.
 - 1. Unless otherwise prohibited by law, a medical practitioner or medical practitioner's agent may transmit a prescription order by electronic means, directly or through an intermediary, including an E-prescribing network, to the dispensing pharmacy as specified in A.R.S. § 32-1968.
 - 2. For electronic transmission of a Schedule II, III, IV, or V controlled substance prescription order, the medical practitioner and pharmacy shall ensure that the transmission complies with any security or other requirements of federal law.
 - 3. The medical practitioner and pharmacy shall ensure that all electronic transmissions comply with all the security requirements of state or federal law related to the privacy of protected health information.
 - 4. In addition to the information required to be included on a prescription order as specified in A.R.S. § 32-1968, an electronically transmitted prescription order shall include:
 - a. The date of transmission; and
 - b. If the individual transmitting the prescription is not the medical practitioner, the name of the medical practitioner's authorized agent who transmits the prescription order.
 - 5. A pharmacy receiving an electronically transmitted prescription order shall maintain the prescription order as specified in A.R.S. § 32-1964.
 - 6. A medical practitioner or medical practitioner's agent shall transmit an electronic prescription order only to the pharmacy of the patient's choice.

R4-23-408. Computer Records

- A. Systems manual. A pharmacy permittee or pharmacist-in-charge shall:
 - 1. Develop, ~~and~~ implement, and comply with policies and procedures for the following operational aspects of a computer system:
 - a. No change
 - b. No change
 - c. Regular and routine backup file procedure and file maintenance, including secure storage of backup files;
 - d. No change
 - e. No change
 - 2. Review biennially and, if necessary, revise the policies and procedures required under ~~these rules~~ this Section;
 - 3. No change
 - 4. No change
 - 5. No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. Providing documentation identifying the pharmacist responsible for dispensing each original or refill prescription order, except a pharmacy permittee with a computer system; that is in use before the effective date of this Section that cannot provide documentation identifying the dispensing pharmacist; may continue to use the computer system by providing manual documentation identifying the dispensing pharmacist;
 - 5. No change
 - a. No change
 - b. No change

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- c. No change
- d. No change
- e. No change
- f. No change
- 6. No change
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
- D. No change
- E. No change
- F. No change
 - 1. No change
 - 2. No change
- G. No change
 - 1. No change
 - 2. No change
- H. Prescription records and retention.
 - 1. ~~Except as specified in subsection (H)(2), a pharmacy permittee or pharmacist-in-charge shall ensure that each original prescription is:~~
 - a. ~~Reduced to a hard-copy if not received in written form, and~~
 - b. ~~Filed for a period of not less than seven years from the date the prescription is last dispensed.~~
 - 2. ~~In lieu~~ Instead of filing the actual original hard-copy prescription as required in A.R.S. § 32-1964, a pharmacy permittee or pharmacist-in-charge may use an electronic imaging recordkeeping system, if:
 - a. No change
 - b. No change
 - c. No change
 - d. The original hard-copy prescription is maintained for no less than 30 days after the date dispensed;
 - ~~d-e.~~ Policies and procedures for the use of an electronic imaging recordkeeping system are developed, and implemented, reviewed, and revised in the same manner described in subsection (A) and complied with in the same manner as specified in subsection (A); and
 - e-f. The prescription is not for a schedule Schedule II controlled substance.
 - 2. If a pharmacy's computer system fields are automatically populated by an electronically transmitted prescription order, the automated record constitutes the original prescription and a hard-copy or electronic image is not required if the computer system is capable of maintaining, printing, and providing all the prescription information required in A.R.S. §§ 32-1968 and 36-2525 and A.A.C. R4-23-407(A) within 72 hours of a request by the Board, the Board's compliance officers, other authorized regulatory board agents, or authorized officers of the law.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

[R07-38]

PREAMBLE

1. Sections Affected

Article 2
R4-36-201
Article 3
R4-36-301
R4-36-302
R4-36-303
R4-36-304
R4-36-305
R4-36-306
R4-36-307
R4-36-308
R4-36-309
R4-36-310
R4-36-311

Rulemaking Action

Amend
Amend
New Article
New Section
New Section

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

Authorizing statute: A.R.S. § 41-2146(C)
Implementing statute: A.R.S. Title 41, Chapter 16

3. The effective date of the rules:

April 7, 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. 1563, May 12, 2006
Notice of Proposed Rulemaking: 12 A.A.R. 2278, June 30, 2006
Notice of Termination of Rulemaking: 12 A.A.R. 2566, July 21, 2006
Notice of Rulemaking Docket Opening: 12 A.A.R. 2567, July 21, 2006
Notice of Proposed Rulemaking: 12 A.A.R. 2548, July 21, 2006

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

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

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

The State Fire Safety Committee reviewed these rules as it committed to do in a five-year-review report approved by the Governor's Regulatory Review Council on June 5, 2001. Since the last code adoption, requirements for compliance with the American with Disabilities Act (ADA) and state licensing and permitting time-frames have been enacted. The International Fire Code is consistent with the ADA with regard to fire and life safety and thus inherently provides compliance with the ADA. The agency is adopting as part of the State Fire Code a provision for an overall time-frame of 65 days for issuance of a permit once plans have been submitted.

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, 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 pre-

vious grant of authority of a political subdivision of this state:

Not applicable

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

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

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

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

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

Minor grammatical, formatting, or clarifying changes have been made at the request of the Governor’s Regulatory Review Council staff.

11. A summary of the principal comments and the agency response to them:

The Fire Equipment Manufacture’s Association (Association) presented a letter commenting on an exception in Section 906.1. The Association quoted the International Fire Code, 2006 edition. The rulemaking adopts the International Fire Code, 2003 edition. The exception wording is the same in each edition of the code.

Section 906 addresses the requirements for and placement of portable fire extinguishers. In general, the Section requires portable fire extinguishers to be placed in all occupancies. The exception states “In all Group A, B and E occupancies equipped throughout with quick-response sprinklers, fire extinguishers shall be required only in special-hazard areas.”

The comment makes a case that portable fire extinguishers are part of a balanced fire protection plan. The point is well made. However, the final decision whether or not to require portable fire extinguishers involves more than presence of quick-response sprinkler systems. Group A-Assembly, B-Business and E-Educational occupancies will generally contain one or more areas where a fire extinguisher is determined to be required. Factors such as hazards in specific areas and number or nature of hazardous conditions will be considered in any decision made during the plan review process or during subsequent inspections. The location of the occupancy in relation to a fire department response authority is also considered in these decisions.

The staff is not aware of any fire code authority that has deleted this exception in the code review process.

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:

International Fire Code 2003 Edition in R4-36-201

National Fire Protection Association (NFPA) Standards listed in R4-36-311

(NFPA) Standard 13, Installation of Sprinkler Systems, 2002 Edition

(NFPA) Standard 72, National Fire Alarm Code, 2002 Edition

14. Where these rules previously adopted as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 36. DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

ARTICLE 2. STATE FIRE SAFETY COMMITTEE ARIZONA STATE FIRE CODE

Section

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

ARTICLE 3. REPEALED INTERNATIONAL FIRE CODE MODIFICATIONS

Section

- R4-36-301. Repealed Definitions
- R4-36-302. Repealed Appendices
 - Exhibit A. Incorporated Appendices
- R4-36-303. Repealed Fees and Permits
- R4-36-304. Repealed Inspections and Enforcement
- R4-36-305. Repealed General Precautions Against Fire
- R4-36-306. Repealed Emergency Planning and Preparedness
- R4-36-307. Repealed Fire Service Features
- R4-36-308. Repealed Building Services and Systems
- R4-36-309. Fire Protection Systems
- R4-36-310. Explosives and Fireworks
- R4-36-311. Referenced Standards

ARTICLE 2. STATE FIRE SAFETY COMMITTEE ARIZONA STATE FIRE CODE

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

- A.** All persons ~~Unless otherwise provided by law, any person~~ residing, doing business, or who ~~are~~ is physically present within the state of Arizona shall comply with the provisions ~~and regulations~~ of the Uniform International Fire Code (1988 Ed. 2003 Edition), including D102.1 and D107.1 of Appendix D and all provisions of Appendices B, C, E, F and G, determined which is published by the International Conference of Building Officials Code Council, and the Western Fire Chiefs Association, which is declared to be a part of this regulation as if set forth in full herein, incorporated by reference as the State Fire Code, subject to the deletions, modifications and amendments contained in subsection (B); and modified by Article 3. Copies of the Uniform Fire Code (1988 Ed.) and copies of the Uniform Fire Code Standards (1988 Ed.), the Uniform Building Code (1988 Ed.), the Uniform Mechanical Code (1988 Ed.), and the Uniform Plumbing Code (1988 Ed.), referenced in the Uniform Fire Code (1988 Ed.), are incorporated herein by reference and on file with the Office of the Secretary of State. ~~Incorporated materials do~~ The incorporated material does not include any later amendments or editions, of the incorporated matter. Copies of these uniform codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. Copies of the International Fire Code are available from the International Code Council, 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795 and a copy is available for inspection at the Office of the State Fire Marshal.
- B.** The Uniform Fire Code (1988 Ed.) is modified as follows:
1. Pages xxvi, xxvii, xxviii and xxix are deleted.
 2. Where the term "Corporation Counsel" is used in the Uniform Fire Code, it shall mean the legal counsel of the jurisdiction or its fire department, or of the State Fire Marshal, as the context requires.
 3. Wherever the terms "Chief," "Chief of the Fire Department" or "Building Official" are used in the Uniform Building Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the State Fire Marshal or designated representative, unless the context otherwise requires.
 4. Wherever the terms "fire department," "department," "fire prevention engineer," or "bureau of fire prevention" are used in the Uniform Fire Code, in addition to the definitions set out in Article 9 of the Uniform Fire Code, these terms shall include the Office of State Fire Marshal, unless the context otherwise requires.
 5. Sec. 1.102(b) is modified to include "The National Fire Code Standard and its appendices, published by the National Fire Protection Association (NFPA) as listed below, are incorporated herein by reference and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. Copies are available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269."
 - "i. NFPA #10 Portable Fire Extinguishers (1988 Ed.);
 - "ii. NFPA #12A Halon 1301 Fire Extinguishing Systems (1987 Ed.);
 - "iii. NFPA #12B Halon 1211 Fire Extinguishing Systems (1985 Ed.);
 - "iv. NFPA #13 Installation of Sprinkler Systems (1989 Ed.);
 - "v. NFPA #13A Inspection, Testing and Maintenance of Sprinkler Systems (1987 Ed.);
 - "vi. NFPA #13R Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height (1989 Ed.);
 - "vii. NFPA #14 Standpipe & Hose Systems (1986 Ed.);
 - "viii. NFPA #15 Water Spray Fixed Systems (1985 Ed.);
 - "ix. NFPA #16 Foam Water Spray Systems (1986 Ed.);
 - "x. NFPA #17 Dry Chemical Extinguishing Systems (1985 Ed.);
 - "xi. NFPA #17A Wet Chemical Extinguishing Systems (1986 Ed.);
 - "xii. NFPA #20 Centrifugal Fire Pumps (1987 Ed.);
 - "xiii. NFPA #22 Water Tanks for Private Fire Protection (1987 Ed.);

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- “xiv.NFPA #24 Private Fire Service Mains (1987 Ed.);
 - “xv. NFPA#26 Valves Controlling Water Supplies for Fire Protection (1988 Ed.);
 - “xvi.NFPA #51B Cutting & Welding Processes (1984 Ed.);
 - “xvii.NFPA #58 Liquefied Petroleum Gases (1989 Ed.);
 - “xviii.NFPA #70 National Electrical Code (1987 Ed.);
 - “xix.NFPA #71 Installation, Maintenance and Use of Central Station Signaling Systems (1987 Ed.);
 - “xx. NFPA #72A Local Protective Signaling Systems (1987 Ed.);
 - “xxi.NFPA #72B Auxiliary Protective Signaling Systems (1986 Ed.);
 - “xxii.NFPA #72C Remote Station Protective Signaling Systems (1986 Ed.);
 - “xxiii.NFPA #72D Proprietary Protective Signaling Systems (1986 Ed.);
 - “xxiv.NFPA #72E Automatic Fire Detectors (1987 Ed.);
 - “xxv.NFPA #72H Testing Procedures for Local, Auxiliary, Remote Station and Proprietary Protective Signaling Systems (1988 Ed.);
 - “xxvi.NFPA #80 Fire Doors and Windows (1986 Ed.);
 - “xxvii.NFPA #86 Ovens and Furnaces, Design, Location, and Equipment (1985 Ed.);
 - “xxviii.NFPA #90A Air Conditioning and Ventilating Systems (1985 Ed.);
 - “xxix.NFPA #91 Blower and Exhaust Systems (1983 Ed.);
 - “xxx.NFPA #96 Removal of Smoke and Grease Laden Vapors from Commercial Cooking Equipment (1987 Ed.);
 - “xxxi.NFPA #231 Indoor General Storage (1987 Ed.);
 - “xxxii.NFPA #231C Rack Storage of Materials (1986 Ed.);
 - “xxxiii.NFPA #303 Fire Protection Standard for Marinas and Boatyards (1986 Ed.);
 - “xxxiv.NFPA #407 Aircraft Fuel Servicing (1985 Ed.);
 - “xxxv.NFPA #409 Aircraft Hangars (1985 Ed.);
 - “xxxvi.NFPA #490 Ammonium Nitrate, Storage of (1986 Ed.);
 - “xxxvii.NFPA #498 Explosives Motor Vehicle Terminals (1986 Ed.);
 - “xxxviii.NFPA #651 Aluminum and Magnesium Powder (1987 Ed.);
 - “xxxix.NFPA #704 Identification of the Fire Hazards of Materials (1985 Ed.);
 - “xxxx.NFPA #1231 Water Supplies for Rural & Suburban Fire Fighting (1984 Ed.)”
6. Sec. 1.102(c) is modified to read “Wherever in the code reference is made to the appendix, only the following appendices shall be part of this code:
- “Appendix I-A with the exception of Section 1(b);
 - “Appendix II-A;
 - “Appendix II-B;
 - “Appendix II-C with the exception of Section 2;
 - “Appendix II-E;
 - “Appendix IV-A;
 - “Appendix V-A;
 - “Appendix VI-A;
 - “Appendix VI-D;
 - “Appendix VI-E”.
7. Sec. 2.304(a) is modified by adding the following: “To the extent that the Uniform Fire Code Standards (1988 Ed.) incorporate NFPA Standards which are consistent with NFPA Standards incorporated by reference in Sec. 1.102(b), the version incorporated in Sec. 1.102(b) shall control.”
8. Sec. 4.101 is modified to read: “The authority having jurisdiction may require permits as provided for in Sec. 4.108 of this code.”
9. Sec. 11.204 is modified to include “educational occupancies.”
10. Add Sec. 11.210 to read: “Bed mattresses used in institutional occupancies where the personal liberties of inmates are restrained shall be permanently flame resistant and low-smoke producing. Urethane foam materials shall be aged before the following tests are conducted. The method of aging shall be by American Society for Testing and Materials (ASTM) D3574-86 Test J₁” (1986 Ed.) which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103. All materials shall meet the following criteria:

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

11. Sec. 12.110 is added to Article 12 to read: “Fire exit drills shall be conducted in accordance with Chapter 31 of the NFPA #101, Life Safety Code” (1988 Ed.), which is incorporated by reference herein and on file with the Office of the Secretary of State. Incorporated materials do not include any later amendments or editions of the incorporated matter. This document is available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.”
12. Sec. 14.102. Modify the definition of alarm system to read: “Alarm system is a combination of a control unit and approved compatible devices with the necessary electrical interconnection and energy to produce an alarm signal in the event of fire or system activation.”
13. Sec. 14.103(b) is modified to read: “Fire alarm systems installed in educational, institutional, state or county owned occupancies shall be designed and installed in such a manner that the failure, removal, or destruction of any single alarm actuating or alarm indicating device or a break in the wiring circuit will not interfere with the normal operation of any other such devices.”
14. Sec. 14.103(e) is modified to read: “Equipment. Systems and components shall be listed and approved for the purpose for which installed.”
15. Sec. 14.103(d) is modified to read: “Acceptance Test. Upon completion of the installation or alteration, a satisfactory test of the entire fire alarm system shall be made in the presence of the Chief. All functions of the fire alarm system or alteration shall be tested.”
16. Sec. 14.103(e) is modified to read: “The permittee shall provide written certification to the Chief that the system has been installed in accordance with the approved plans, component specifications and the manufacturer’s minimum requirements.”
17. Sec. 14.104(b)(1) is modified to include paragraph D: “Group B, Division 2 occupancies owned by the state or county at the discretion of the Fire Marshal.”
18. Sec. 14.104(b)(3) is modified to include paragraph D: “An automatic system shall be required when construction includes internal corridors which serve as egress pathways. Approved smoke detectors shall be installed in internal corridors in accordance with R4-36-201(B)(5)(xxiv).”
19. Sec. 14.104(e), first paragraph, is modified to read: “Group R, Division 1 Occupancies. A manual and automatic fire alarm system shall be installed in apartment houses three or more stories in height or containing more than 16 dwelling units and in hotels three or more stories in height or containing 20 or more guest rooms.” Remaining paragraphs are unchanged.
20. Sec. 14.104(e), fourth paragraph, is modified to read: An approved and listed system-type heat detector shall be installed within common areas such as recreational rooms, laundry rooms and furnace rooms of buildings containing Group R, Division 1 Occupancies.”
21. Sec. 14.104(e) is modified to read “Smoke detectors in dwelling units and guest rooms. Smoke detectors shall be installed as required by the Building Code Section 1210(a) in dwelling units and hotel or lodging house guest rooms. When such detectors are connected to a fire alarm system, they shall not sound a general alarm.”
22. Sec 14.105(d) is added to read: “Return wires of aboveground fire alarm system wiring shall be physically separated from outgoing wires by a distance of not less than six feet or by a minimum of one hour fire resistive construction. The six foot separation shall not apply to underground installation. EXCEPTION: When making connections to the panel.”
23. Sec. 14.106(a) is modified to read: “Maintenance and Testing. All fire alarm systems shall be maintained and tested as set forth in this Article and in accordance with nationally recognized standards. All fire alarm and detection systems shall be tested as set forth in R4-36-201(B)(5)(xxv).”
24. Sec. 14.108 is modified to read: “Accidental Alarms. In the event of temporary failure of the alarm system or an excessive number of accidental alarm activations, the Chief may require the building owner or occupant to provide standby personnel as defined by Sec. 25.117 until the system is restored.”
25. Sec. 14.109 is added to read: “Fire alarm systems installed in buildings used for public accommodation as defined in

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

$$E_R = E \times p \times A$$
 “WHERE:
 “E_R = exempt amount permitted in a single control area of a retail sales occupancy.
 “E = exempt amount specified in Division III exempt amount tables.
 “p = density factor from Table No. 80.109.
 “A = square footage area of the hazardous material retail display or storage.
 The maximum aggregate floor area for hazardous material retail display or storage over which the density factor may be applied shall not exceed 1500 square feet per control area.”
 “The area of storage or display shall also comply with the following requirements:

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

39. Add Table No. 80.109 to read:

“TABLE 80.109

DENSITY FACTORS FOR EXEMPT AMOUNTS IN RETAIL SALES

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

NP = Not Permitted

- 1 Hazard categories are as specified in Division II. Density factors shall not apply to categories other than those listed.”
- 40. Sec. 80.306(a)(1). Add an exception to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid Class 1, Class 2 and Class 3 oxidizers, see Sec. 80.109.”
 - 41. Table No. 80.306 A. Revise the footnotes to read:
 - “1) No exempt amount of Class 4 oxidizers are permitted in Group R Occupancies, offices or retail sales portions of Group B Occupancies.
 - “2) No exempt amounts of Class 4 oxidizers are permitted in Group A, E, I or M Occupancies, or in classrooms of Group B Occupancies unless storage is within a hazardous material storage cabinet containing no other storage.
 - “3) A Maximum quantity of 200 pounds of solid or 20 gallons of liquid Class 3 oxidizers may be permitted in Groups I, M and R occupancies when such materials are necessary for maintenance purposes or operation of equipment. The oxidizers shall be stored in approved containers and in a manner approved by the chief.”
 - 42. Sec. 80.309(a). Revise the exceptions to read:
 - “1. Detonatable, unstable (reactive) materials shall be stored in accordance with Article 77.
 - “2. For retail display of nonflammable solid and nonflammable or noncombustible liquid unstable (reactive) materials, see Sec. 80.109.”
 - 43. Sec. 80.310(a). Add an exception to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid water reactive materials, see Sec. 80.109.”
 - 44. Sec. 80.312(a)(1). Add an exception to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid toxic or highly toxic materials, see Sec. 80.109.”
 - 45. Sec. 80.314(a)(1). Add an exception to read: “For retail display of nonflammable solid and nonflammable or noncombustible liquid corrosive materials, see Sec. 80.109.”
 - 46. Sec. 80.315(a)(1). Add an exception to read: “For retail display of nonflammable solid and noncombustible or nonflammable liquid other than health hazard materials, see Sec. 80.109.”
 - 47. Sec. 80.401(b)(3F)(v). Add an exception to read: “Automatic shutdown need not be provided for reactors utilized for the production of toxic or highly toxic gases when such reactors are:
 - “1. Operated at pressures less than 15 psig.
 - “2. Constantly attended.

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

ARTICLE 3. REPEALED INTERNATIONAL FIRE CODE MODIFICATIONS

R4-36-301. Repealed Definitions

The following terms apply to the state fire code established in this Chapter:

1. Wherever “International Plumbing Code” is used within the International Fire Code, substitute the term “State Plumbing Code.”
2. Wherever the terms “fire chief” or “fire code official” are used in the International Fire Code, these terms include the State Fire Marshal or the State Fire Marshal’s designated representative, unless the context otherwise requires.
3. Wherever the terms “fire department” or “department of fire prevention” are used in the International Fire Code, these terms include the State Fire Marshal or the State Fire Marshal’s designated representative unless the context otherwise requires.
4. Section 202, the definition of Occupancy Classification for R-3 within the Residential Group is modified to read: Residential occupancies where the occupancies are primarily permanent in nature and not classified as R-1, R-2, or I and where buildings do not contain adult or child care facilities or more than five dwelling units.

R4-36-302. Repealed Appendices

The International Fire Code (2003 Edition), which is incorporated by reference, is published by the International Code Council and available from the International Code Council, 4051 W. Flossmoor Rd., Country Club Hills, IL, 60478-5795, and modified as shown in Exhibit A.

EXHIBIT A. Incorporated Appendices

Section 101.2.1 The following appendices are adopted as part of this Code:

B: Fire-Flow Requirements for Buildings

C: Fire Hydrant Locations and Distribution

D: Fire Apparatus Access and Loading

D102.1 or the minimum requirement of the local fire response agency.

D107.1 or the minimum requirement of the local building/subdivision authority.

E: Hazard Categories

F: Hazard Ranking

G: Cryogenic Fluids – Weight and Volume Equivalents

R4-36-303. Repealed Fees and Permits

- A. Section 105.1.1 is modified to add: The State Fire Safety Committee shall establish a fee schedule on or before May 15 of each fiscal year for the coming fiscal year.
- B. The State Fire Marshal shall post notice of the established fee schedule on or before June 1 of each fiscal year.
- C. The fee schedule described in subsection (A) shall include fees for the following services and any person may obtain the fee schedule from the Office of the State Fire Marshal:
 1. Plan submission;
 2. Plan review;
 3. Permit issuance; and
 4. Reinspection necessitated by failure to cancel, lack of preparation for inspection, or failing the inspection.
- D. The following time-frames are established for permits issued under the state fire code:
 1. The Office of the State Fire Marshal shall determine within five business days from receipt of a permit application and plan submission whether the permit application and plan are administratively complete and ready for review.
 2. The Office of the State Fire Marshal shall either grant or deny the permit within 60 calendar days from the date that the documents are determined to be administratively complete.
 3. The permittee shall commence work within 180 days of the issuance of a permit or apply for an extension in writing from the State Fire Marshal. Without an extension, the permit is valid for 180 days from the date of issuance.
- E. The holder of an operational or construction permit is entitled to inspections as prescribed in this Chapter. Reinspection

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because of a violation or cancellation without 24-hours notice shall be invoiced at a rate established in the fee schedule, and the reinspection shall not be conducted until the fee is paid.

- F.** The State Fire Marshal may authorize the refunding of any fee paid in accordance with this Section that was erroneously paid or collected if the permittee applies for the refund on a form furnished by the State Fire Marshal not later than 180 days after the date of fee payment.
- G.** Section 105.1.2 is modified to read: Types of permits. There shall be two types of permits as follows:
 - 1.** Operational permit. An operational permit allows the applicant to conduct an operation for which a permit is required by Section 105.6 for a period that does not exceed 180 days from the date of issuance.
 - 2.** Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by Section 105.7.
- H.** Section 105.2.4, the first sentence is modified to read: The fire code official shall examine or cause to be examined each application for a permit or a permit amendment.
- I.** Section 105.3.1, the first sentence is modified to read: An operational permit shall remain in effect until reissued, renewed, or revoked or for a period of time that does not exceed 180 days.
- J.** Section 105.3.3, the sentence is modified to read: The building or structure shall not be occupied prior to the fire code official issuing a report indicating that applicable provisions of this code have been met.
- K.** Sections 105.6.1 through 105.6.3 are deleted.
- L.** Sections 105.6.5 through 105.6.13 are deleted.
- M.** Sections 105.6.16 through 105.6.26 are deleted.
- N.** Sections 105.6.28 through 105.6.32 are deleted.
- O.** Sections 105.6.34 through 105.6.36 are deleted.
- P.** Sections 105.6.38 through 105.6.42 are deleted.
- Q.** Sections 105.6.45 through 105.6.47 are deleted.
- R.** Section 105.7.5.1 is deleted.
- S.** Section 105.7.5.2 is modified to read: To install, construct, or alter, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are processed, transported, stored, dispensed, or used.

R4-36-304. Repealed Inspections and Enforcement

- A.** Sections 103.1 through 103.4.1 are deleted.
- B.** Sections 108.1 through 108.3 are deleted.
- C.** Section 109.3 is modified to read: Violation penalties. If a person violates a provision of this code or fails to comply with any of the requirements of the code, the State Fire Marshal shall proceed in accordance with A.R.S. § 41-2196.
- D.** Section 111.2 is modified to read: Issuance. The State Fire Marshal shall issue a stop work order, referred to in statute as a cease and desist order, in accordance with A.R.S. § 41-2196.
- E.** Section 111.4 is modified to read: Failure to Comply. Any person who shall continue any work having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, is subject to the provisions of A.R.S. § 41-2196.

R4-36-305. Repealed General Precautions Against Fire

- A.** Section 307.2 is modified to read: Permit required. A permit shall be obtained in accordance with requirements of the Department of Environmental Quality before kindling a fire.
- B.** Section 311.1.1 is modified to read: Abandoned premises. Abatement of abandoned structures and premises shall be conducted in accordance with state law.

R4-36-306. Repealed Emergency Planning and Preparedness

Section 401.1 is modified to read: Scope. Reporting of emergencies, coordination with the local authorized emergency response providers, emergency plans, and procedures for managing or responding to emergencies shall comply with the provisions of this Section.

R4-36-307. Repealed Fire Service Features

- A.** Section 501.2 is modified to read: Permits. A permit shall be required as set forth in Sections 105.6 and 105.7 as modified by this Article.
- B.** Section 509.1, the second sentence is modified to read: The location and accessibility of the fire command center shall be approved by a local authorized emergency response provider.

R4-36-308. Repealed Building Services and Systems

- A.** Section 601.2 is deleted.
- B.** Section 606.2 is modified to read: Refrigerants. The use and purity of new, recovered, and reclaimed refrigerants shall be in accordance with state law.
- C.** Section 606.13 is modified to read: Notification of refrigerant discharges. The fire department shall be notified immediately when a discharge becomes reportable under state, federal, or local regulations in accordance with Section 2703.3.1.

D. Sections 2703.3.1 and 2703.3.1.4 replace “fire code official” with “fire department.”

R4-36-309. Fire Protection Systems

A. Section 901.1 is modified to read: Scope. The provisions of this Chapter shall specify where fire protection systems are required and shall apply to the design, installation, inspection, operation, testing, and maintenance of all fire protection systems. Absent specific statutory authority to the contrary, these provisions provide the minimum protective standards relating to fire protection systems.

B. Section 903.3.5 is modified to read: Monitoring. Where a building fire alarm system is installed, automatic fire extinguishing systems shall be monitored by the building fire alarm system in accordance with state law.

R4-36-310. Explosives and Fireworks

A. Section 3301.1.3, the first paragraph is modified to read: Fireworks. *Except as otherwise provided by A.R.S., Title 36, Chapter 13, Article 1, it is unlawful to sell, offer or expose for sale, use, explode, or possess any fireworks.* A.R.S. § 36-1602(A)

B. Section 3301.1.3, exception 4 is deleted and replaced as follows: *This Section shall not be construed to prohibit or restrict the manufacture or possession, by a qualified pyrotechnic expert, of aerial set pieces designed for use in pyrotechnic displays, or the display of such set pieces in accordance with the terms of A.R.S., Title 36, Chapter 13, Article 1.* A.R.S. § 36-1602(B)

C. Section 3301.1.3, exception 5 is added to read: 5. Additional uses are permitted as provided by law.

D. Section 3301.2.4.2 is modified to read: Fireworks display. The permit holder shall furnish a bond or certificate of insurance in the amount of one million dollars for the payment of all potential damages to a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, the agency, employees, or subcontractors.

E. Section 3302.1 is modified to substitute the following definition of “FIREWORKS” for the existing definition: *“Fireworks” (a) Means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and toy cannons in which explosives are used, the type of balloon which requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers or other fireworks of like construction, fireworks containing any explosive or combustible compound, and any tablet or other device containing an explosive substance. (b) Does not include: (i) Toy pistols, toy canes, toy guns or other devices in which paper caps containing not more than twenty-five hundredths grains of explosive compound are used if constructed so that the hand cannot come in contact with the cap when in place for the explosion. (ii) Toy pistol paper caps that contain less than twenty-hundredths grains of explosive mixture, or fixed ammunition or primers therefore. (iii) Federally deregulated novelty items known as snappers, snap caps, party poppers or glow worms that contain less than twenty-five hundredths grains of explosive compound.”* A.R.S. § 36-1601(1)

R4-36-311. Referenced Standards

Chapter 45 of the International Fire Code, 2003 Edition, incorporated by reference, is modified to substitute the following: National Fire Protection Association (NFPA) Installation of Sprinkler Systems, Standard 13, 1999 edition, is replaced by NFPA Installation of Sprinkler Systems, Standard 13, 2002 edition; National Fire Protection Association (NFPA) National Fire Alarm Code, Standard 72, 1999 edition, is replaced by NFPA National Fire Alarm Code, Standard 72, 2002 edition.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM

ARIZONA LONG-TERM CARE SYSTEM

[R07-34]

PREAMBLE

1. Sections Affected

R9-28-701.10
R9-28-702
R9-28-703
R9-28-704
R9-28-705
R9-28-706
R9-28-707
R9-28-708

Rulemaking Action

New Section
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal

Notices of Final Rulemaking

R9-28-709	Repeal
R9-28-711	Repeal
R9-28-713	Repeal
R9-28-714	Repeal
R9-28-715	Repeal

- 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. §§ 36-2903.01, 36-2904
Implementing statute: A.R.S. §§ 36-2903.01, 36-2904, 36-2932, 36-2938
- 3. The effective date of the rules:**
April 7, 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. 2576, July 21, 2006
Notice of Proposed Rulemaking: 12 A.A.R. 3685, October 6, 2006
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Mariaelena Ugarte
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The rules outline the provisions that apply to payments, including reimbursement to a provider, transferring payments, contracting with entities for specialized services and when submitting claims.
The rulemaking is intended to update these rules, ensuring that they represent the Agency's current practice.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
No study was reviewed during this rulemaking and the Agency does not anticipate reviewing any studies.
- 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. The summary of the economic, small business, and consumer impact:**
The economic impact is anticipated to be minimal to none since the rules have been repealed and cross-referenced to Chapter 22. The rules in Chapter 28 were duplicative of the rules in Chapter 22, which apply to the acute care population.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
No significant additional changes were made between proposed and final rules. The Administration made the rules more clear, concise, and understandable by making grammatical, punctuation, and structural changes throughout the rules.
- 11. A summary of the comments made regarding the rule and the agency response to them:**
The Administration did not receive any comments regarding the rules.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable
- 13. Incorporations by reference and their location in the rules:**
Not applicable
- 14. Was this rule previously adopted as an emergency rule?**
No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ARIZONA LONG-TERM CARE SYSTEM**

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

- R9-28-701.10. General Requirements
- R9-28-702. Charges to Members Repealed
- R9-28-703. Claims Repealed
- R9-28-704. Transfer of Payments Repealed
- R9-28-705. Payments by Program Contractors Repealed
- R9-28-706. Payments by the Administration for Hospital Services Provided to an Eligible Person Repealed
- R9-28-707. Contractor's Liability to Hospitals for the Provision of Emergency and Subsequent Care Repealed
- R9-28-708. Payment for Non-hospital services Repealed
- R9-28-709. Reinsurantee Repealed
- R9-28-711. Payments Made on Behalf of a Program Contractor; Recovery of Funds Repealed
- R9-28-713. Hospital Rate Negotiations Repealed
- R9-28-714. Payments to Providers Repealed
- R9-28-715. Specialty Contracts Repealed

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-28-701.10. General Requirements

The following Sections of A.A.C. Chapter 22 Articles 2 and 7 are applicable to reimbursement for services provided under the ALTCS program, except that the term "program contractor" shall be substituted for "contractor".

1. Scope of the Administration's and Contractor's Liability, R9-22-701.10;
2. Charges to Members, R9-22-702;
3. Payments by the Administration or by a program contractor, R9-22-703 and R9-22-705;
4. Contractor's Liability to Hospitals for the Provision of Emergency and Post-Stabilization Care, R9-22-709;
5. Payment for Non-hospital services, R9-22-710;
6. Specialty Contracts, R9-22-712 (G)(3), R9-22-712.01 (10) and Article 2;
7. Payments by the Administration for Hospital Services Provided to an Eligible Person, R9-22-712; R9-22-712.01 and R9-22-712.10;
8. Overpayment and Recovery of Indebtedness, R9-22-713;
9. Payments to Providers, R9-22-714;
10. Hospital Rate Negotiations, R9-22-715; and
11. Reinsurance, R9-22-720;

R9-28-702. Charges to Members Repealed

- ~~**A.** Except as provided in subsections (B), (C), and (D), an AHCCCS registered provider shall not do either of the following, unless services are not covered or without first receiving verification from the Administration that the person was not an eligible person on the date of service:~~
- ~~1. Charge, submit a claim to, demand or collect payment from a person claiming to be an eligible person; or~~
 - ~~2. Refer or report a person claiming to be an eligible person to a collection agency or credit reporting service.~~
- ~~**B.** An AHCCCS registered provider that submits a claim shall not charge more than the actual, reasonable cost of providing the covered service.~~
- ~~**C.** An AHCCCS registered provider may charge, submit a claim to, or demand or collect payment from a member as follows:~~
- ~~1. To collect an authorized copayment;~~
 - ~~2. To recover from a member that portion of a payment made by a third party to the member if the payment duplicates AHCCCS paid benefits and is not assigned to a contractor;~~
 - ~~3. To obtain payment from a member for medical expenses incurred during a period when the member intentionally withheld information or intentionally provided inaccurate information pertaining to the member's AHCCCS eligibility or enrollment that caused payment to the provider to be reduced or denied.~~
- ~~**D.** An AHCCCS registered provider may charge, submit a claim to, or demand or collect payment for services from a member if:~~
- ~~1. The member requests the provision of a service that is not covered or not authorized by the contractor or the Admin-~~

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istration; and

2. The provider prepares and provides the member with a document describing the overall services and the approximate cost of the services; and
3. The member signs the document prior to the services being provided, indicating that the member understands and accepts responsibility for payment.

R9-28-703. Claims Repealed

An AHCCCS registered provider shall submit all claims for covered services rendered to:

1. A member enrolled with a program contractor, to the program contractor under A.A.C. R9-22-705 and this Article; or
2. A FFS member, to the Administration for payment under A.A.C. R9-22-703 and this Article.

R9-28-704. Transfer of Payments Repealed

A. Business agent. For purposes of this Section, a business agent is a firm such as a billing service or accounting firm that renders statements and receives payment in the name of the program contractor or AHCCCS registered provider.

B. Allowable transfer of payments. The Administration or a program contractor may make payments to other than an AHCCCS registered provider, and the Administration may make payments to other than a program contractor after considering whether:

1. There is an assignment to a government agency or there is an assignment under a court order; or
2. A business agent's compensation for this service is:
 - a. Related to the cost of processing the statements; and
 - b. Not dependent upon the actual collection of payment.

C. Payment to physicians, dentists, or other health professionals. The Administration or a program contractor shall make payments to a physician, dentist or other health professional as follows:

1. To the employer of the physician, dentist or other health professional, if the physician, dentist, or other health professional is required, as a condition of employment, to relinquish fees to the employer;
2. To a foundation, plan, consortium, or other similar organization, including a health care service organization, that furnishes health care through an organized health care delivery system, if there is a contractual arrangement between the organization and the person furnishing the services under which the organization submits a claim for the services; or
3. To the facility in which the service is provided, if there is a contractual relationship between the facility and the physician, dentist, or other health professional furnishing the services under which the facility submits the claim for the services.

D. Prohibition of transfer of payments for program contractors or AHCCCS registered providers. A program contractor or an AHCCCS registered provider shall not assign all or part of AHCCCS payments for covered services furnished to a member to any party except as specified in this Section.

E. Prohibition of transfer of payments to factors. The Administration shall not make payment for covered services furnished to a member by a contractor, or an AHCCCS registered provider to, or through a factor, either directly, or by virtue of a power of attorney given to the factor.

R9-28-705. Payments by Program Contractors Repealed

A. General requirements. A contractor shall contract with providers as described in A.A.C. R9-22-705.

B. Timely submission of claims. A contractor shall pay timely submitted claims as described in A.A.C. R9-22-705.

C. Date of claim. A contractor shall determine the date of receipt of a claim as described in A.A.C. R9-22-705.

D. Payment for inpatient hospital services. A contractor shall reimburse a provider for inpatient hospital services as described in A.A.C. R9-22-705.

E. Payment for outpatient hospital services. A contractor shall reimburse a provider for outpatient hospital services as described in A.A.C. R9-22-705.

F. Inpatient and outpatient out-of-state hospital payments. A contractor shall reimburse a provider for out-of-state services as described in A.A.C. R9-22-705.

G. Payment for observation days. A contractor shall reimburse a provider for services related to observation days as described in A.A.C. R9-22-705.

H. Review of claims. If a contractor conducts a review of claims, the contractor shall conduct the review as described in A.A.C. R9-22-705.

I. Non-hospital claims. A contractor shall pay claims for services other than hospital services as described in A.A.C. R9-22-705.

J. Payments to hospitals. A contractor shall reimburse a hospital as described in A.A.C. R9-22-705.

K. Interest payment. A contractor shall pay interest on late claims as described in A.A.C. R9-22-705.

R9-28-706. Payments by the Administration for Hospital Services Provided to an Eligible Person Repealed

A. Payment for medically necessary outpatient hospital services.

1. The Administration shall pay for medically necessary outpatient hospital services provided to an eligible person from the effective date of eligibility to the date of enrollment with a program contractor at the negotiated rate, capped fee-

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for service rate, or in the amount of the billed charges, whichever is lowest.

- 2. An eligible person residing in an area that is not served by a program contractor is eligible for ALTCS covered services. The Administration shall make payment for medically necessary outpatient hospital services provided to the person at the negotiated rate, capped fee for service rate, or in the amount of the billed charges, whichever is lowest.
- 3. The Administration shall pay for medically necessary outpatient hospital services provided to an eligible person by an out of state provider at the capped fee for service rate under this Article or the Medicaid rate that is in effect for the state in which the provider is located at the time services are provided, whichever is lower.

B. The Administration shall make payment in accordance with 9 A.A.C. 22, Article 7 for covered hospital services provided to an eligible person on or after March 1, 1993.

R9-28-707. Contractor’s Liability to Hospitals for the Provision of Emergency and Subsequent Care Repealed

A contractor is liable to a hospital for the hospital’s provision of emergency and subsequent care under A.A.C. R9-22-709, R9-28-705, and Article 2 of this Chapter.

R9-28-708. Payment for Non-hospital services Repealed

Capped fee for service for ALTCS services. The Administration shall pay for ALTCS services in accordance with A.A.C. R9-22-710.

R9-28-709. Reinsurance Repealed

A program contractor shall submit to the Administration all reinsurance claims for services rendered to a member enrolled with the program contractor as specified in A.A.C. R9-22-720.

R9-28-711. Payments Made on Behalf of a Program Contractor; Recovery of Funds Repealed

The Administration may make payments on behalf of a program contractor and may recover funds from a program contractor or AHCCCS registered provider according to standards under A.A.C. R9-22-713. For purposes of this Section, the term “contractor” as it appears in A.A.C. R9-22-713 means “program contractor.”

R9-28-713. Hospital Rate Negotiations Repealed

A. A program contractor that negotiates with a hospital for inpatient hospital and outpatient hospital services shall reimburse the hospital for a member’s care under A.A.C. R9-22-715.

B. The Administration may negotiate or contract as described under R9-22-715.

R9-28-714. Payments to Providers Repealed

The Administration shall pay providers under A.A.C. R9-22-714 and Article 2 of this Chapter.

R9-28-715. Specialty Contracts Repealed

The Director may negotiate specialty contracts under A.A.C. R9-22-716.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R07-29]

PREAMBLE

1. Sections Affected

R12-4-102
R12-4-203

Rulemaking Action

Amend
Amend

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

Authorizing statute: A.R.S. § 17-231
Implementing statute: A.R.S. § 17-333 and 17-345

3. The effective date of the rules:

February 6, 2007

Immediately after the Council approves them and files them with the Secretary of State’s Office under A.R.S. § 41-1032(A)(4). These rules will provide a benefit to the public by correcting and reducing fees for licenses, tags, and permits. A penalty is not associated with a violation of the rules.

Notices of Final Rulemaking

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

- Notice of Rulemaking Docket Opening: 12 A.A.R. 2577, July 21, 2006
- Notice of Proposed Rulemaking: 12 A.A.R. 2558, July 21, 2006
- Notice of Termination of Rulemaking: 12 A.A.R. 3241, September 8, 2006
- Notice of Rulemaking Docket Opening: 12 A.A.R. 3242, September 8, 2006
- Notice of Proposed Rulemaking: 12 A.A.R. 3228, September 8, 2006

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

Name: Carlos Ramírez, Rules Analyst
Address: Arizona Game and Fish Department
2221 W. Greenway Rd. DORR
Phoenix, AZ 85023-4399
Telephone: (602) 789-3288
Fax: (602) 789-3677

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

Amendments made to A.R.S. § 17-333 during the 2005 legislative session established new licenses and gave the Commission the authority to prescribe new licenses and accompanying fees for the purposes of wildlife management. The Commission amended its rules earlier this year to implement these statutory changes, but this rulemaking will implement additional necessary changes.

Although statute prescribes the wildlife privileges given under the Class L license, the statute directs the Commission to prescribe the stamps and tags for the Classes M and N licenses. As authorized under A.R.S. § 17-333, purchase of a Class M super conservation hunting license provides the license holder with the same privileges as a Class G general hunting license. Purchase of a Class N super conservation hunting and fishing license provides the license holder with the same privileges as a Class F combination hunting and fishing license and a Class U urban fishing license. The privileges of the Class M and N super conservation licenses also include nonpermit-tags for archery deer, archery turkey, fall bear, and mountain lion, the Unit 12A (North Kaibab) Habitat stamp, the Arizona state migratory bird stamp, and the Arizona migratory waterfowl stamp. Additional nonsubstantive amendments will be made to clearly state the privileges given under statute by purchasing a Class L super conservation fishing license.

Amendments will also be made to correct the fee for a Class I family fishing license prescribed during the previous rulemaking and to clarify the privileges of a Class C and D fishing license. The surcharge authorized under A.R.S. § 17-345 was mistakenly applied to the Class I license twice. The Department will amend the fee for the Classes C and D licenses to clearly state that any additional days purchased for this license must be consecutive.

The Department will amend the rule further by reducing the fee for Class A nonresident general fishing license from \$88.00 to \$70.25. In the Department's previous rulemaking, it charged the maximum fee for the license, plus the \$3.00 surcharge authorized under A.R.S. § 17-345. The Department's intent was to increase the Class A fee by adding 50% of the difference between the statutory fee cap recently amended in statute (\$85.00) and the previous statutory cap (\$49.50), plus the \$3.00 surcharge authorized under A.R.S. § 17-345. The resulting fee would be \$70.25. The Department also wishes to further correct its fees by amending the fee for a fur dealer license. The current fee is \$115.50 and will be amended to \$115.00, reducing it by 50 cents.

The Department will also amend the rule to create new Class F combination hunting and fishing licenses and Class G general hunting licenses for children ages 10 to 13. When the Department last amended this rule, it authorized the Class J family hunting license and the Class K family combination hunting and fishing license. Under these licenses, a parent could obtain a license for their child, age 10 to 13, for an additional fee. The Department wishes to be consistent by creating Class G hunting licenses and Class F combination hunting and fishing licenses for this age group. Eligibility for these licenses and their fees will not depend on parental purchase. Under the authority granted under A.R.S. § 17-333(B), the Game and Fish Commission has the authority to establish subclassifications within a class of license, permit, or tag and set a fee for those subclasses. The resident and nonresident Child Class F license for children age 10 to 13 will cost \$20.00 and the resident and nonresident Child Class G license for children age 10 to 13 will cost \$15.00.

The Department is also amending the fee for the Class U urban fishing license to charge 50% of the fee and 50% of the surcharge if the license is purchased in November or December of the year for which the license is valid. For example, if an individual purchases a 2007 fishing license in December, the individual will pay \$9.25 instead of the full price, \$18.50.

The Department will also amend the list of hunt permit-tags to include pheasant. The fee will be clarified as well as clarification that a hunt permit-tag is not necessary for those hunting pheasant using archery or falconry.

Minor amendments will also be made to the list of stamps for which duplicates are not issued. The list will be amended to include the two-pole stamp, stamps for additional fishing days issued under the Class C and D licenses for both residents and nonresidents, and the Unit 12A (North Kaibab) Habitat Management Stamp.

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The Department will also amend R12-4-203 principally to support the amendments made to R12-4-102. The Department will amend subsections (A)(1) to require possession of a current valid federal waterfowl stamp, as mandated by federal regulation for the take of ducks, geese, or swans. Both subsections (A)(1) and (2) will be amended to clearly state that a Class M or N super conservation license includes a state waterfowl stamp and a state migratory bird stamp. The Department will also delete blue grouse from the rule, because it is no longer necessary to obtain species information through the harvest information program. Both state and federal wildlife agencies have alternative, more effective means of gathering wildlife data on the species. Also, blue grouse is considered to be an upland game bird, not waterfowl nor migratory.

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, and any analysis of each study and other supporting material:

The agency did not rely on any study in its evaluation of or justification for the rules.

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 Department anticipates that the rulemaking will benefit the general public by clearly establishing the privileges given by purchasing a Class L, M, or N super conservation license. The rulemaking will also benefit purchasers by giving them more opportunities to enjoy the state's wildlife resources. By giving purchasers more opportunities, hunters will help the Department more closely meet its management objectives for species for which nonpermit-tags are issued, such as bear or mountain lion. The Department will have to address administrative costs for documenting the sale of migratory bird and waterfowl stamps. However, purchase of a super conservation license will save the consumer \$32 for a Class M license, and \$27.25 for a Class N over purchasing all the tags and stamps separately. Amendments regarding the Class L license will not create significant impact. The amendments regarding the Class C, D, and I licenses will also not create a significant impact. Until the rulemaking becomes effective, the Department is pursuing additional means outside of rulemaking to ensure that the appropriate amount is charged to the regulated community. Reducing the fees for the Class A fishing nonresident license and the fur dealer license will ensure the correct amount is charged to the public. Prescribing new fees for Class F and G child licenses will benefit those eligible to purchase it, because they will not have to pay the youth or adult prices for the same privilege. This will result in a savings of \$6.50 for the resident Class F license, \$17.25 for the resident Class G license, and \$136.25 for the nonresident Class G license. Amendments made to the Class U license, to clarify the list of items for which duplicates are not issued, amendments made to the privileges given by receiving a pheasant hunt permit-tag, and the amendments to R12-4-203 will not affect the general public. The rulemaking will not affect other agencies or businesses, or public or private employment. The Department has determined there are no alternate means of achieving the objective of the rulemaking.

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

Other than minor grammatical and formatting changes recommended by G.R.R.C. staff, no changes have been made between the Notice of Proposed Rulemaking and this notice.

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

The Department did not receive any comments regarding these rules.

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

Not applicable

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

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Notices of Final Rulemaking

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

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

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

Section

R12-4-203. National Harvest Information Program (HIP); State Waterfowl and Migratory Bird Stamp

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

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

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

Hunting and Fishing License Fees		Fees effective for licenses, tags, stamps, and permits to be used beginning in 2007
Class A, General Fishing License		
· Resident	\$18.00	\$23.50
· Nonresident Under A.R.S. § 17-333(A)(1), the fee for this license issued in November or December of the year for which the license is valid is half price; that includes half of the surcharge prescribed as authorized by A.R.S. § 17-345.	\$51.50	\$88.00 <u>\$70.25</u>
Class B, Four-month Fishing License		
· Nonresident	\$37.50	\$39.75
Class C, Five-day Fishing License		
· Nonresident	\$26.00	\$32.00 + \$9.00 for each additional <u>consecutive</u> day
Class D, One-day Fishing License		
· Resident	\$12.50	\$16.25 + \$8.00 for each additional <u>consecutive</u> day
· Nonresident		\$17.25 + 9.00 for each additional <u>consecutive</u> day
Class E, Colorado River Only Fishing License		
· Nonresident	\$42.50	\$48.75
Class F, Combination Hunting and Fishing License		
· Resident Adult	\$44.00	\$54.00
· Nonresident Adult	\$177.50	\$225.75
· Resident or Nonresident Youth. Fee applies before and through the calendar year of the applicant's 20th birthday.	\$25.50	\$26.50
· <u>Resident or Nonresident Child. Fee applies to children who will be at least 10 years of age during the license year but will be less than 14 years of age.</u>		<u>\$20.00</u>
Class G, General Hunting License		
· Resident	\$25.50	\$32.25
· Nonresident	\$113.50	\$151.25

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· <u>Resident or Nonresident Child. Fee applies to children who will be at least 10 years of age during the license year but will be less than 14 years of age.</u>		\$15.00
Class H, Three-day Hunting License		
· Nonresident	\$51.50	\$61.25
· Resident Youth Group Two-day Fishing License	\$25.00	\$25.00
Class I, Resident Family Fishing License		
· For primary adult	\$28.50	\$39.25 <u>\$36.25</u>
· For one additional adult in the immediate family, as prescribed in A.R.S. § 17-333	+ \$22.80	+ \$31.40 <u>\$29.00</u>
· For any child in the immediate family, as prescribed in A.R.S. § 17-333	+ \$2.00 per child	+ \$2.00 per child
Class J, Resident Family Hunting License		
· For primary adult		\$32.25
· For one additional adult in the immediate family, as prescribed in A.R.S. § 17-333		+25.80
· For any child in the immediate family, as prescribed in A.R.S. § 17-333		+\$15.00 per child
Class K, Combination Resident Family Hunting and Fishing License		
· For primary adult		\$54.00
· For one additional adult in the immediate family, as prescribed in A.R.S. § 17-333		+\$43.20
· For any child in the immediate family, as prescribed in A.R.S. § 17-333		+\$20.00 per child
Class L, Super Conservation Fishing License. <u>Gives the same privileges as a Class A General Fishing License, a Class U Urban Fishing License, and a Trout Stamp.</u>		
· Resident		\$53.00
· Nonresident		\$63.00
Class M, Super Conservation Hunting License. <u>Gives the same privileges as a Class G General Hunting License, and includes a nonpermit-tag for archery deer, archery turkey, fall bear, and mountain lion, and a Unit 12A (North Kaibab) Habitat Management Stamp, a State Waterfowl Stamp, and a State Migratory Bird Stamp.</u>		
· Resident		\$118.00
Class N, Combination Super Conservation Hunting and Fishing License. <u>Gives the same privileges as a Class F Combination Hunting and Fishing License and a Class U Urban Fishing License, and includes a nonpermit-tag for archery deer, archery turkey, fall bear, and mountain lion, and a Unit 12A (North Kaibab) Habitat Management Stamp, a State Waterfowl Stamp, and a State Migratory Bird Stamp.</u>		
· Resident		\$163.00
Class U, Urban Fishing License		
· Resident or Nonresident <u>The fee for this license issued in November or December of the year for which the license is valid is half price. That includes half the surcharge prescribed as authorized by A.R.S. § 17-345.</u>	\$16.00	\$18.50
Hunt Permit-tag Fees		

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Antelope		
· Resident	\$65.00	\$77.50
· Nonresident	\$325.00	\$477.50
Bear		
· Resident	\$14.50	\$22.25
· Nonresident	\$200.00	\$237.50
Bighorn Sheep		
· Resident	\$195.00	\$265.00
· Nonresident	\$1,000.00	\$1,400.00
Buffalo		
· Adult Bulls or Any Buffalo		
· Resident	\$750.00	\$1,087.50
· Nonresident	\$3,750.00	\$5,444.75
· Adult Cows		
· Resident	\$450.00	\$652.00
· Nonresident	\$2,250.00	\$3,255.25
· Yearling		
· Resident	\$240.00	\$355.25
· Nonresident	\$1,200.00	\$1,747.25
· Yearling or Cow		
· Resident	\$450.00	\$652.00
· Nonresident	\$2,250.00	\$3,255.25
Deer and Archery Deer		
· Resident	\$19.50	\$34.75
· Nonresident	\$125.50	\$225.25
· Junior, resident and nonresident		\$25.00
Elk		
· Resident	\$78.00	\$114.00
· Nonresident	\$400.00	\$587.50
· Junior, resident and nonresident		\$50.00
Javelina and Archery Javelina		
· Resident	\$12.50	\$21.25
· Nonresident	\$70.00	\$97.50
· Junior, resident and nonresident		\$15.00
Mountain Lion		
· Resident	\$10.00	\$14.50
· Nonresident	\$200.00	\$225.00
<u>Pheasant</u>		
· <u>Resident and nonresident, non-archery, non-falconry</u>		<u>Permit application fee only</u>
Turkey and Archery Turkey		
· Resident	\$11.00	\$18.00
· Nonresident	\$50.50	\$70.25
· Junior, resident and nonresident		\$10.00
Sandhill Crane		
· Resident or Nonresident	\$5.00	\$7.50
Nonpermit-tag and Restricted Nonpermit-tag Fees		

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Notices of Final Rulemaking

Antelope		
· Resident	\$65.00	\$77.50
· Nonresident	\$325.00	\$477.50
Bear		
· Resident	\$14.50	\$22.25
· Nonresident	\$200.00	\$237.50
Bighorn Sheep		
· Resident	\$195.00	\$265.00
· Nonresident	\$1,000.00	\$1,400.00
Buffalo		
· Adult Bulls or Any Buffalo		
· Resident	\$750.00	\$1,087.50
· Nonresident	\$3,750.00	\$5,444.75
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· Resident	\$450.00	\$652.00
· Nonresident	\$2,250.00	\$3,255.25
· Yearling		
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· Yearling or Cow		
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· Resident	\$78.00	\$114.00
· Nonresident	\$400.00	\$587.50
· Junior, resident and nonresident		\$50.00
Javelina and Archery Javelina		
· Resident	\$12.50	\$21.25
· Nonresident	\$70.00	\$97.50
· Junior, resident and nonresident		\$15.00
Mountain Lion		
· Resident	\$10.00	\$14.50
· Nonresident	\$200.00	\$225.00
Turkey and Archery Turkey		
· Resident	\$11.00	\$18.00
· Nonresident	\$50.50	\$70.25
· Junior, resident and nonresident		\$10.00
Sandhill Crane		
· Resident or Nonresident	\$5.00	\$7.50
Stamps and Special Use Permit Fees		
Arizona Colorado River Special Use Permit Stamp. For use by California fishing license holders, resident or nonresident.	\$3.00	\$3.00

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Arizona Colorado River Special Use Permit Stamp. For use as prescribed by R12-4-312.	\$3.00	\$3.00
Arizona Lake Powell Stamp. For use by resident Utah licensees.	\$3.00	\$3.00
Bobcat Permit Tag. For resident or nonresident.	\$2.00	\$3.00
State Waterfowl Stamp, as prescribed in A.R.S. § 17-333.01, resident or nonresident. Validates a hunting license to allow the license holder to take waterfowl as prescribed in R12-4-203.	\$7.50	\$8.75
State Migratory Bird Stamp, as prescribed in A.R.S. § 17-333.03, resident or nonresident. Validates a hunting license to allow the license holder to take migratory game birds as prescribed in R12-4-203.	\$3.00	\$4.50
Trout Stamp. Validates a Class A license to allow the license holder to take trout.		
· Resident	\$10.50	\$15.75
· Nonresident	\$49.50	\$57.75
Two-Pole Stamp, resident or nonresident. Validates a fishing license to allow the license holder to engage in simultaneous fishing, as defined in R12-4-101.	The fee for a two-pole stamp shall be \$4.00 until September 1, 2006. Afterwards, the fee shall be \$5.00.	\$6.00
Unit 12A (North Kaibab) Habitat Management Stamp, resident or nonresident. Sikes Act stamp, validates a hunting license to allow the license holder to take deer in unit 12A as prescribed by R12-4-204.	\$15.00	\$15.00
Other License Fees		
Game Bird Field Trial License	\$5.00	\$6.00
Game Bird Hobby License	\$5.00	\$5.00
Game Bird Shooting Preserve License	\$100.00	\$115.00
Fur Dealer's License	\$100.00	\$115.50 <u>\$115.00</u>
Guide License		
· Resident or Nonresident	\$100.00	\$300.00
License Dealer's License	\$75.00	\$100.00
License Dealer's Outlet License	\$25.00	\$25.00
Live Bait Dealer's License	\$30.00	\$35.00
Private Game Farm License	\$40.00	\$57.50
Sport Falconry License (3-year license)	\$75.00	\$87.50
Taxidermist License	\$50.00	\$150.00
Trapping License		
· Resident	\$10.00	\$30.00
· Nonresident	\$50.00	\$275.00
· Resident Juvenile	\$10.00	\$10.00
White Amur Stocking and Holding License		
· Non-business. Under R12-4-424, an individual that <u>who</u> holds a non-business white amur stocking and holding license does not pay the required fee if renewing the license.	\$200.00	\$250.00
· Business	\$200.00	\$250.00

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Zoo License	\$100.00	\$115.00
Administrative Fees		
Duplicate Fee. Duplicates are not issued for Trout Stamps, Arizona Colorado River Special Use Permits, Arizona Colorado River Special Use Permit Stamps, Arizona Lake Powell Stamps, State Migratory Bird Stamps, or State Waterfowl Stamps, <u>Two-Pole Stamps, Resident Additional Fishing Day Stamps, Nonresident Additional Fishing Day Stamps, and the Unit 12A (North Kaibab) Habitat Management Stamps.</u>	\$3.00	\$4.00
Permit Application Fee.	\$5.00	\$7.50

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

R12-4-203. National Harvest Information Program (HIP); State Waterfowl and Migratory Bird Stamp

- A. An individual who takes ducks, geese, swans, doves, band-tailed pigeons, snipe, coots, or common moorhen, ~~or blue grouse~~ in Arizona shall participate in the National Harvest Information Program.
1. If the individual is taking ducks, geese, or swans, the individual shall possess an Arizona state waterfowl stamp, as prescribed in R12-4-101, and a current, valid federal waterfowl stamp that accompanies a valid Arizona hunting license. The state waterfowl stamp expires on June 30 of each year, except for stamps purchased under Class M and N licenses, which expire on December 31 of each year.
 2. If the individual is taking doves, band-tailed pigeons, snipe, coots, or common moorhen, ~~or blue grouse~~, the individual shall possess an Arizona state migratory bird stamp as prescribed in R12-4-101, that accompanies a valid Arizona hunting license. The state migratory bird stamp expires on June 30 of each year, except for stamps purchased under Class M and N licenses, which expire on December 31 of each year.
- B. The Department shall make state waterfowl stamps and state migratory bird stamps available annually.
1. To obtain a state waterfowl stamp or state migratory bird stamp, an individual shall pay the required fee and submit a completed ~~HIP~~ waterfowl or state migratory bird registration form to a license dealer or a Department office. The individual shall provide on the ~~HIP~~ waterfowl or state migratory bird registration form the individual's name, home mailing address, date of birth, and information on past and anticipated hunting activity.
 2. A license dealer shall submit ~~HIP~~ waterfowl or state migratory bird registration forms for all state waterfowl stamps and state migratory bird stamps sold with the monthly report required by A.R.S. § 17-338.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

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

[R07-39]

PREAMBLE

- 1. Section Affected**
R15-5-1102
- Rulemaking Action**
Amend
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 42-1005
Implementing statute: A.R.S. § 42-5066
- 3. The effective date of the rule:**
February 6, 2007

Because the underlying statutory exemption became effective on September 21, 2006 (see Paragraph 6 *infra*) and the Department believes that the rule will benefit the public by greatly reducing confusion among affected taxpayers that might otherwise occur in seeking to comply with payment of transaction privilege tax under the job printing classification, the Department requests an immediate effective date. A penalty is not associated with a violation of this rule.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notices of Final Rulemaking

Notice of Rulemaking Docket Opening: 12 A.A.R. 3196, September 1, 2006

Notice of Proposed Rulemaking: 12 A.A.R. 3238, September 8, 2006

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

Name: Hsin Pai, Tax Analyst
Address: Tax Policy and Research Division
Arizona Department of Revenue
1600 W. Monroe, Rm. 810
Phoenix, AZ 85007
Telephone: (602) 716-6851
Fax: (602) 716-7995
E-mail: hpai@azdor.gov

Please visit the ADOR web site to track the progress of these rules and other agency rulemaking matters at www.azdor.gov/ResearchStats/Proposedrulesmainmenu.htm.

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

In the December 30, 2005 issue of the *Arizona Administrative Register*, the Department explained in its Notice of Final Rulemaking for rules addressing the job printing classification for transaction privilege tax that "A.R.S. § 42-5066, which addresses the job printing classification does not provide an exemption for gross income derived from ... charges for shipping and handling; consequently, an administrative rule cannot provide for such an exemption." 11 A.A.R. 5493 and 5500. Subsequent to the promulgation of this administrative rule, the Legislature amended A.R.S. § 42-5066, effective September 21, 2006, to provide a specific deduction in the job printing classification for postage and freight charges. See 2006 Ariz. Sess. Laws 105 § 1 (approved by Governor Janet Napolitano on April 12, 2006). Consequently, the Department is amending its administrative rule on a printer's sale of printing to account for the new exemption.

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

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:

This rulemaking is a necessary step toward amending a rule that fails to account for a statutory change, thereby providing clear and understandable guidance to interested parties and the general public on a new transaction privilege tax exemption. It is expected to benefit taxpayers subject to transaction privilege tax under the job printing classification.

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

Minor grammatical or clarifying changes were made at the request of G.R.R.C. staff.

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

No comments were received regarding the rule.

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 rule:

None

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

No

15. The full text of the rule follows:

TITLE 15. REVENUE

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

ARTICLE 11. TRANSACTION PRIVILEGE TAX – JOB PRINTING CLASSIFICATION

Section

R15-5-1102. Printer's Sale of Printing

ARTICLE 11. TRANSACTION PRIVILEGE TAX – JOB PRINTING CLASSIFICATION

R15-5-1102. Printer's Sale of Printing

- A. ~~Gross~~ Except as otherwise provided in subsection (F) or other applicable A.R.S. § 42-5066(B) exemptions, gross income or gross proceeds derived from all of a printer's costs or expenses of filling a customer's printing order are subject to tax under this Article. Examples of costs or expenses include charges for set-up, die cutting, embossing, folding, and binding operations.
- B. Gross income or gross proceeds derived from an Arizona printer's sale of printing within Arizona are subject to tax even when the printer conducts the job printing, engraving, embossing, or copying activity outside the state, unless the printing is shipped or delivered outside the state for use outside the state.
- C. If a printer ships or delivers printing to be used outside the state to a common carrier for transportation to a location outside the state, the common carrier is deemed to be the agent of the printer for purposes of determining whether the printing has been shipped or delivered outside the state, regardless of who is responsible for payment of the freight charges.
- D. A printer may substantiate a shipment or delivery of printing outside the state by one of the following records:
1. An internal delivery order that is supported by receipts for expenses incurred in delivery of printing and signed on the delivery date by the person who delivers the printing;
 2. A common carrier's receipt or bill of lading;
 3. A parcel post receipt;
 4. An export declaration;
 5. A receipt from a licensed broker; or
 6. Proof of export or import, signed by a customs officer.
- E. ~~Gross~~ Except as provided in subsection (F) or other applicable A.R.S. § 42-5066(B) exemptions, gross income or gross proceeds derived from an Arizona printer's charges for the distribution of printing are generally subject to tax under this Article. In the absence of documentation listed in subsection (D), it remains the taxpayer's burden to substantiate that the gross income or gross proceeds derived from a sale of printing are not taxable because the printing is shipped or delivered outside the state for use outside the state, pursuant to A.R.S. § 42-5066(B)(2). A printer substantiates that printing is shipped or delivered outside the state for use outside the state if the printer shows that the address or number to which the printer distributes the printing does not identify or is incapable of identifying an in-state location.
- F. Pursuant to A.R.S. § 42-5066(B)(4), a printer may deduct its gross income or gross proceeds derived from charges for postage and freight if the printer separately states the charges on a customer's invoice and in the printer's records, except that the amount deducted shall not exceed the amount paid by the printer to the United States Postal Service or a commercial delivery service. A printer may not deduct its gross income or gross proceeds derived from charges for delivery of the printing using the printer's own conveyance.